

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

**Substantive Hearing
Monday, 5 – Monday, 19 August 2024**

Virtual Hearing

Name of Registrant: Tracey Beck

NMC PIN 86Y2974E

Part(s) of the register: Nurses part of the register Sub part 1
RN1: Adult nurse, level 1 (16 November 1989)
RNC: Children's nurse, level 1 (1 December 2003)

Midwives part of the register
RM: Midwife (16 November 1992)

Relevant Location: North Ayrshire

Type of case: Misconduct

Panel members: David Evans (Chair, lay member)
Gillian Tate (Registrant member)
Tim Ward (Lay member)

Legal Assessor: Nigel Ingram

Hearings Coordinator: Franchessca Nyame (Monday, 5 – Thursday, 15 August 2024 and Monday, 19 – Tuesday, 20 August 2024)
Eyram Anka (Friday, 16 August 2024)

Nursing and Midwifery Council: Represented by Wafa Shah, Case Presenter

Ms Beck: Not present and unrepresented

Facts proved: Charges 2, 5, 8, 11, 16, 17, 20, 21, 22, 23b, 23c, 24

Facts not proved:	Charges 1, 3, 4, 6, 7, 9, 10, 12, 13, 14, 15, 18, 19, 23a, 25, 26, 27
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim order:	Interim suspension order (18 months)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Ms Beck was not in attendance and that the Notice of Hearing letter had been sent to Ms Beck's registered email address by secure email on 4 July 2024.

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

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Ms Beck's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Ms Beck has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Ms Beck

The panel next considered whether it should proceed in the absence of Ms Beck. It had regard to Rule 21 and heard the submissions of Ms Shah who invited the panel to continue in the absence of Ms Beck as she has voluntarily absented herself.

Ms Shah referred the panel to an email from Ms Beck to the NMC dated 29 July 2024 which states that it is '*...ok for the panel to proceed without [her] there.*'

Ms Shah submitted that the Ms Beck indicated that it is not her intention to attend the hearing, despite knowing that the hearing is being held today, and that is evidence that she has voluntarily absented herself.

Ms Shah reminded the panel that these matters date from some time ago. In addition, witnesses have been warned to attend, and there is a public interest in the expeditious disposal of proceedings, particularly where there is neither an application before this panel from the registrant to adjourn the proceedings.

Ms Shah stated that, if these proceedings were to be adjourned and listed on a different date, it is quite clear that Ms Beck does not intend to attend at any stage, and is content for the panel to proceed without her there.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*'.

The panel decided to proceed in the absence of Ms Beck. In reaching this decision, the panel considered the submissions of Ms Shah, the email from Ms Beck dated 29 July 2024, and the advice of the legal assessor. It had particular regard to the factors set out in

the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- Ms Beck has informed the NMC that she has received the Notice of Hearing and confirmed she is content for the hearing to proceed in her absence;
- No application for an adjournment has been made by Ms Beck;
- There is no reason to suppose that adjourning would secure Ms Beck's attendance at some future date;
- Four witnesses are due to attend to give live evidence;
- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred between 2018 and 2020;
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Ms Beck in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to Ms Beck at her registered email address, she has made no response to the allegations. Ms Beck will not be able to challenge the evidence relied upon by the NMC and will not be able to give evidence. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Ms Beck's decision to absent herself from the hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Ms Beck. The panel will draw no adverse inference from Ms Beck's absence in its findings of fact.

Detail of charges

That you a registered nurse, whilst employed at Cooriedoon Care Home ('the Home') between 2018 & 2020:

- 1) On one or more occasion conducted a manual bowel evacuation of Resident A, without any clinical justification.
- 2) Did not record that you had conducted a manual bowel evacuation in Resident A's patient notes.
- 3) Did not escalate the concerns around Resident A's manual bowel evacuation/constipation to the;
 - i) General Practitioner;
 - ii) Community Nurse.
- 4) On one or more occasion conducted a manual bowel evacuation of Resident E, without any clinical justification.
- 5) Did not record that you had conducted a manual bowel evacuation in Resident E's patient notes.
- 6) Did not escalate the concerns around Resident E's manual bowel evacuation/constipation to the;
 - i) General Practitioner;
 - ii) Community Nurse.
- 7) On one or more occasion conducted a manual bowel evacuation of Resident G without any clinical justification.

- 8) Did not record that you had conducted a manual bowel evacuation in Resident G's patient notes.
- 9) Did not escalate the concerns around Resident G's manual bowel evacuation/constipation to the;
 - i) General Practitioner;
 - ii) Community Nurse.
- 10) On one or more occasions conducted a manual bowel evacuation of Resident H without any clinical justification.
- 11) Did not record that you had conducted manual bowel evacuations in Resident H's patient notes.
- 12) Did not escalate the concerns around Resident H's manual bowel evacuation/constipation to the;
 - i) General Practitioner;
 - ii) Community Nurse.
- 13) On one or more occasions allowed residents to fall into chairs.
- 14) On around 26/27 September 2020, on one or more occasions spoke to Resident B in a rude/inappropriate manner.
- 15) On one or more occasions spoke to Resident C in a rude/inappropriate manner.
- 16) When Resident B requested paracetamol, used words to the effect;
 - a) 'That bloody bitch.'
 - b) 'She's a pain in the butt.'

17) Whilst speaking to Colleague Z about their sickness absence, used words to the effect “You let everybody down”

18) Discussed Colleague’s Z’s sickness absence with other staff members.

19) On one or more occasions made staff members cry at work.

20) Pushed Resident C into a chair.

21) On one or more occasions shook/man handled Resident F.

22) On 5 October 2020 during an investigatory interview with Colleague Y, shouted using words to the effect ‘I’m not here for you or the staff, I’m here for the residents.’

23) On an unknown date;

- a) Refused to feed Resident D.
- b) Grabbed Resident D from her chair/wheelchair.
- c) Pushed/Smashed Resident D into their chair/wheelchair

24) Facilitated the attendance of Person X to the Isle of Arran/the Home in breach of Covid 19 protocols in that you;

- a) Inaccurately informed Colleague W that Person X should be allowed onto the Isle of Arran as Resident I was on palliative/end of life care.
- b) Instructed Colleague W to contact the Port Manager to request for Person X to attend the Isle of Arran on the basis of false information in charge 24 a) above

25) Your actions in one or more of charges 24) a) & 24 b) were dishonest in that you misrepresented the condition of Resident I to facilitate the attendance of Person X in breach of Covid 19 Protocols.

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

Background

On 15 October 2020, Ms Beck was referred to the NMC by Witness 2/Colleague Y.

Ms Beck was dismissed from the Home because allegations were raised that she:

- Carried out manual bowel evacuations on multiple residents dating back two years despite there being no bowel management programs or care plans in place for any residents
- Did not record any of the manual bowel evacuations that she performed
- Pushed a resident with both hands backwards into a chair
- Was '*rude*' and '*close to the bone*' when talking to residents and on one occasion it was overheard that she and a resident were both raising their voices to each other
- When asked for paracetamol for one resident, replied '*that bloody bitch, I have just been up there, she is a pain in the butt*'
- Consistently bullied staff to the point that they felt unable to report her conduct for fear of her response
- Regularly spoke about other members of staff in a derisory tone

Ms Beck had already been demoted and was on a final written warning following an incident in June 2020 where she allegedly allowed a family member to visit from the mainland during the COVID-19 pandemic when the Home was on full lockdown, putting all the residents and staff at risk.

Decision and reasons on application to amend the charges

Ms Shah made an application to amend Charges 24a, 24b and 25.

The proposed amendments read as follows:

‘That you, a registered nurse:

24. Facilitated the attendance of Person X to the Isle of Arran/the Home in breach of Covid 19 protocols. ~~in that you:~~

25. Inaccurately informed Colleague W that Person X should be allowed onto the Isle of Arran as Resident I was on palliative/end of life care.

26. Instructed Colleague W to contact the Port Manager to request for Person X to attend the Isle of Arran on the basis of false information in Charge 25. ~~in charge 24 a) above.~~

27. Your actions in charges 25 and 26 were dishonest in that you misrepresented the condition of Resident I to facilitate the attendance of Person X in breach of Covid 19 Protocols...’

Ms Shah submitted that the proposed amendments better reflect the evidence, and that no prejudice would be caused to either party because the renumbering of the charges does not materially change what is being alleged.

Ms Shah informed the panel that Ms Beck was further contacted on 9 August 2024 regarding this application. Ms Beck did not respond to correspondence from the NMC regarding this application.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of the Rules.

The panel was of the view that such amendments, as applied for, were in the interest of justice. The panel was satisfied that there would be no prejudice to Ms Beck and no injustice would be caused to either party by the proposed amendments being allowed. It was therefore appropriate to allow the amendments to ensure clarity and accuracy.

Detail of charges (as amended)

That you a registered nurse, whilst employed at Cooriedoon Care Home ('the Home') between 2018 & 2020:

- 1) On one or more occasion conducted a manual bowel evacuation of Resident A, without any clinical justification. **[NOT PROVED]**
- 2) Did not record that you had conducted a manual bowel evacuation in Resident A's patient notes. **[PROVED]**
- 3) Did not escalate the concerns around Resident A's manual bowel evacuation/constipation to the;
 - i) General Practitioner; **[NOT PROVED]**
 - ii) Community Nurse. **[NOT PROVED]**
- 4) On one or more occasion conducted a manual bowel evacuation of Resident E, without any clinical justification. **[NOT PROVED]**
- 5) Did not record that you had conducted a manual bowel evacuation in Resident E's patient notes. **[PROVED]**

- 6) Did not escalate the concerns around Resident E's manual bowel evacuation/constipation to the;
 - i) General Practitioner; **[NOT PROVED]**
 - ii) Community Nurse. **[NOT PROVED]**

- 7) On one or more occasion conducted a manual bowel evacuation of Resident G without any clinical justification. **[NOT PROVED]**

- 8) Did not record that you had conducted a manual bowel evacuation in Resident G's patient notes. **[PROVED]**

- 9) Did not escalate the concerns around Resident G's manual bowel evacuation/constipation to the;
 - i) General Practitioner; **[NOT PROVED]**
 - ii) Community Nurse. **[NOT PROVED]**

- 10) On one or more occasion conducted a manual bowel evacuation of Resident H without any clinical justification. **[NOT PROVED]**

- 11) Did not record that you had conducted manual bowel evacuations in Resident H's patient notes. **[PROVED]**

- 12) Did not escalate the concerns around Resident H's manual bowel evacuation/constipation to the;
 - i) General Practitioner; **[NOT PROVED]**
 - ii) Community Nurse. **[NOT PROVED]**

- 13) On one or more occasion allowed residents to fall into chairs. **[NOT PROVED]**

- 14) On around 26/27 September 2020, on one or more occasion spoke to Resident B in a rude/inappropriate manner. **[NOT PROVED]**

15) On one or more occasions spoke to Resident C in a rude/inappropriate manner.

[NOT PROVED]

16) When Resident B requested paracetamol, used words to the effect;

a) 'That bloody bitch.' **[PROVED]**

b) 'She's a pain in the butt.' **[PROVED]**

17) Whilst speaking to Colleague Z about their sickness absence, used words to the effect "You let everybody down" **[PROVED]**

18) Discussed Colleague's Z's sickness absence with other staff members. **[NOT PROVED]**

19) On one or more occasions made staff members cry at work. **[NOT PROVED]**

20) Pushed Resident C into a chair. **[PROVED]**

21) On one or more occasions shook/man handled Resident F. **[PROVED]**

22) On 5 October 2020 during an investigatory interview with Colleague Y, shouted using words to the effect 'I'm not here for you or the staff, I'm here for the residents.' **[PROVED]**

23) On an unknown date;

a) Refused to feed Resident D. **[NOT PROVED]**

b) Grabbed Resident D from her chair/wheelchair. **[PROVED]**

c) Pushed/Smashed Resident D into their chair/wheelchair **[PROVED]**

24)Facilitated the attendance of Person X to the Isle of Arran/the Home in breach of Covid 19 protocols. **[PROVED]**

25)Inaccurately informed Colleague W that Person X should be allowed onto the Isle of Arran as Resident I was on palliative/end of life care. **[NOT PROVED]**

26)Instructed Colleague W to contact the Port Manager to request for Person X to attend the Isle of Arran on the basis of false information in Charge 25. **[NOT PROVED]**

27)Your actions in charges 25 and 26 were dishonest in that you misrepresented the condition of Resident I to facilitate the attendance of Person X in breach of Covid 19 Protocols. **[NOT PROVED]**

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

Decision and reasons on application to admit hearsay evidence

The panel heard an application made by Ms Shah under Rule 31 to allow the following into evidence:

- Evidence from Person A which includes their witness statement dated 18 November 2022, evidence given by Witness 2 of what Person A told them in relation to the charges, Local Interview with Witness 2, Adult Support and Protection ('ASP') Interview with Witness 1 and evidence in the hearsay bundle prepared by the NMC for Person A
- Evidence from Person B which includes a local interview with Witness 2
- Evidence from Person C which includes evidence given by Witness 2 of what Person C told them in relation to the charges, local interview notes with Witness 2, and an ASP interview with Witness 1
- Evidence from Person D which includes evidence given by Witness 2 of what Person C told them in relation to the charges, local interview notes with Witness 2, and an ASP interview with Witness 1
- Evidence of Person E which includes evidence given by Witness 2 of what Person E told them in relation to the charges, local interview notes with Witness 2, an ASP interview with Witness 1, and evidence in the hearsay bundle prepared by the NMC for Person E
- Evidence of Person F which includes evidence given by Witness 2 of what Person F told them in relation to the charges, local interview with Witness 2, and an ASP interview with Witness 1

- Evidence of Person G which includes an ASP interview with Witness 1 and evidence contained in the hearsay bundle prepared by the NMC for Person G
- Evidence of Person H which includes an ASP interview with Witness 1
- Evidence of Person I which includes an ASP interview with Witness 1
- Evidence of Person J which includes evidence given by Witness 2 of what Person J told them in relation to the charges
- Local interview with Resident H

Ms Shah referred the panel to the requirements of relevance and fairness, as set out in Rule 31(1):

'Evidence

31.—(1) Upon receiving the advice of the legal assessor, and subject only to the requirements of relevance and fairness, a Practice Committee considering an allegation may admit oral, documentary or other evidence, whether or not such evidence would be admissible in civil proceedings (in the appropriate Court in that part of the United Kingdom in which the hearing takes place).'

Ms Shah also made reference to the case of *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin) and the following 'essential' factors that must be considered in deciding whether to admit the statements from the non-attending witnesses under Rule 31(1):

'The decision to admit the witness statements despite their absence required the Panel to perform [a] careful balancing exercise. In my judgment, it was essential in the context of the present case for the Panel to take the following matters into account:

- (i) *whether the statements were the sole or decisive evidence in support of the charges;*
- (ii) *the nature and extent of the challenge to the contents of the statements;*
- (iii) *whether there was any suggestion that the witnesses had reasons to fabricate their allegations;*
- (iv) *the seriousness of the charge, taking into account the impact which adverse findings might have on the Appellant's career;*
- (v) *whether there was a good reason for the non-attendance of the witnesses;*
- (vi) *whether the Respondent had taken reasonable steps to secure their attendance; and*
- (vii) *the fact that the Appellant did not have prior notice that the witness statements were to be read.'*

Person A

Ms Shah submitted that this evidence is relevant to Charges 1, 13, 14, 15, 17, 18.

Ms Shah highlighted the hearsay bundle which confirmed Witness 1's account of why Person A did not want to be a witness due to the perceived adverse impact on them and also [PRIVATE]. Ms Shah submitted that this amounts to a good reason for Person A's absence.

Ms Shah further submitted the NMC has taken all reasonable steps in the circumstances to secure Person A's attendance of the witness after attempting to make contact with them via telephone and/or email on 10 August 2023, 13 May 2024, 2 July 2024, 10 July 2024, 22 July 2024, 25 July 2024 and 29 July 2024. When assessing what is reasonable in terms of securing the attendance of a witness, the panel is entitled to take into account all the circumstances and what they know about the witness. Ms Shah informed the panel that Person A is particularly vulnerable as evidenced by the messages and information from Witness 2 confirmed that they were suffering from [PRIVATE]. She therefore submitted

that any other means of securing Person A's attendance, through a summons for example, would be inappropriate in the particular circumstances of this case.

Ms Shah submitted that the evidence is demonstrably reliable. Person A provided a signed witness statement which is consistent with their local accounts given closer in time to the incidents. Person A's account given to Witness 2 as recorded in the contemporaneous note of the local interview is further signed and Witness 2 confirmed this was after Person A had the opportunity to read the notes and check them for accuracy. The minutes of Person A's ASP interview were also confirmed as being a contemporaneous note by Witness 3.

Ms Shah reminded the panel that Ms Beck has not put forward in her communication with the NMC any specific motive for fabrication and Witness 2 confirmed that they were aware of none.

Ms Shah highlighted that Ms Beck has not objected to any aspect of the bundles being used at the hearing, nor has she raised any objection when she was specifically informed via email on 12 August 2024 that the NMC seek to rely on Person A's evidence as hearsay.

In light of the above, when applying the *Thorneycroft* principles, Ms Shah submitted that it is fair to admit Person A's hearsay evidence.

Person B

Ms Shah submitted that the evidence of Person B is relevant to Charges 1, 14 and 15. She submitted it is fair to admit this evidence as hearsay for the following reasons:

- It is demonstrably reliable: The document is a contemporaneous note of the conversation which has been signed by Person B, and Witness 2 confirmed the signature represented Person B reading the document and confirming that this is a

true reflection of the account they gave in interview. Ms Beck has not put forward any reason Person B may have to fabricate their account, and Witness 2 has confirmed they were not aware of any reason for fabrication. Further, it is consistent with the account provided by Person A

- Ms Beck has not raised any objection to the admissibility of this evidence in any of her communications with the NMC
- The panel have evidence that the Home has closed down. It is therefore unsurprising that all those who gave local statements have not been tracked down since the closure of the Home

In the circumstances, Ms Shah submitted it is fair to admit a signed interview note as hearsay evidence in the proceedings, especially in circumstances when Ms Beck has not raised any objection.

Person C

Ms Shah stated that Person C's evidence is relevant to Charges 4, 5, 6, 14, 23. She submitted that it is fair to admit the evidence for the following reasons:

- It is demonstrably reliable: the documentary accounts from Person C appear in contemporaneous notes of interviews, one of which has been signed. The second one which has not been signed is a clear and complete contemporaneous note taken by a minute taker who gave evidence to the panel about how the notes were compiled. Ms Beck has not put forward any reason as to why Person C may fabricate an account against her. Witness 2 also gave evidence that they are unaware of any reason Person C may have to fabricate an account against Ms Beck
- There has been no objection to the admissibility of this document from Ms Beck

- The panel have evidence of the steps taken by the NMC to obtain a witness statement from Person C and contact them to give evidence. It is submitted the NMC have taken all reasonable steps to contact Person C but they have simply failed to respond to the NMC
- The evidence within the two documentary accounts from Person C are consistent however, in any event the panel are in a position to test the reliability of Person C's account having heard from Witness 3, who was present in the ASP interview and took the notes, and Witness 2. The panel is also in a position to test the reliability of the hearsay accounts by comparing the separate interview notes and testing them for consistency.

Person D

Ms Shah said that Person D's evidence is relevant to Charges 19 and 20.

Ms Shah submitted that, despite all reasonable efforts being made by the NMC, Person D simply failed to engage or respond to the NMC. She submitted that all the arguments raised above as to why it is fair to admit Person C's evidence are also applicable to Person D. The panel has been provided with the full log of efforts made to contact Person D by the NMC in Person D's hearsay bundle.

It is submitted therefore that, for all the reasons previously stated for Person C above, it is fair to admit Person D's evidence.

Person E

Ms Shah stated that, although Person E has not made any specific allegations against Ms Beck, it is submitted the evidence is relevant to the context of these allegations and in particular the circumstances in which Ms Beck was working.

Ms Shah further submitted that the evidence is fair to admit for the following reasons:

- Despite all reasonable attempts being made by the NMC to obtain a statement from Person E, they refused to engage with the NMC
- The evidence of Person E assists Ms Beck, thus it would be unfair to Ms Beck if the panel refused to admit the evidence

Person F

Person F's evidence is relevant to Charges 7, 10, 14, 15 and 21.

Ms Shah submitted that, on balance, it is fair that Person F's interview is admitted as evidence in this case. The panel has evidence of attempts by the NMC to contact Person F and have heard that the Home has closed down since these incidents. In the circumstances, Ms Shah submitted the NMC has taken all reasonable steps to secure Person F as a witness in this case.

Ms Shah stated that Ms Beck has not objected to the admission of the evidence, and no reason for fabrication has been raised. She added that the evidence is demonstrably reliable as the panel has two accounts which are contemporaneous notes (one of which has been signed), and, in any event, the panel has the ability to test the evidence by comparing the separate accounts for accuracy.

Ms Shah said that all the arguments raised in favour of the fairness of admitting Person E's evidence also apply to Person F.

Person G

Ms Shah stated that Person G's evidence is relevant to charge 15. However, on one view, it also assists the panel with the context in which these allegations occurred.

Ms Shah submitted that the NMC made all reasonable efforts to secure Person G's attendance. The hearsay bundle confirms that, due to their perceived concerns about the impact of this case in a small island community, Person G has a good reason for their non-attendance.

Ms Shah highlighted that Ms Beck has not objected to admissibility.

In the circumstances, Ms Shah submitted that, bearing in mind the public interest, it is fair to admit the evidence of Person G.

Person H and Person I

The evidence of Person H is relevant to Charge 10 and corroborates other accounts such as Resident H himself and Person F. Person I's evidence is relevant to Charges 14 and 15 and is corroborated by Person F's evidence.

Ms Shah submitted that it is fair to admit their evidence as:

- Ms Beck has not objected to the admissibility of the evidence;
- The NMC have made all reasonable efforts to contact and trace these witnesses;
- The panel has contemporaneous notes taken by a Witness 2 who has never met Ms Beck and therefore has no reason to make an inaccurate note.
- No motive for fabrication has been put forward by Ms Beck or any other witness

Person J

Person J's evidence is relevant to Charges 24, 25, 26 and 27.

Ms Shah said that Ms Beck has raised no objection to the admissibility of this evidence.

Ms Shah also stated that it is conceded by the NMC that no attempt has been made to contact Person J and it is unknown whether there is a good reason for their non-attendance. However, the panel are invited to weigh all the factors affecting fairness in the balance and remind themselves of the guidance in *Mansaray* that the absence of a good reason for a witness not being in attendance is not the only factor for a panel to consider and nor is it a determinative factor.

Ms Shah invited the panel to consider it fair to admit the evidence for the following reasons:

- Ms Beck has raised no objection;
- It is a contemporaneous account
- No motive for fabrication has been raised during the course of witness evidence, nor has it been raised by Ms Beck
- The evidence provides the panel with the whole picture relevant to Charges 24 onwards, including matters that assist Ms Beck
- Witness 2's evidence of what Person J told them gives the relevant context to this evidence, without which the panel would not be able to make a finding on the charges
- It is in the public interest for the panel to hear the evidence

Resident H

Ms Shah stated that Resident H's evidence is clearly relevant to Charge 10.

Ms Shah submitted that it is fair to include the evidence for the following reasons:

- Resident H has passed away
- Ms Beck has not objected to the admissibility of this statement
- No motive for fabrication has come out during the course of witness evidence
- The evidence is demonstrably reliable as it is a contemporaneous note, furthermore it includes matters of assistance to Ms Beck

For all the reasons set out above, Ms Shah invited the panel to admit the hearsay evidence.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 provides that, so far as it is 'fair and relevant', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings.

The panel's determination on hearsay application

In reaching its decision, the panel first considered whether the hearsay evidence was relevant, and secondly whether it would be fair to admit it as evidence.

The panel acknowledged that it should not admit the hearsay as a matter of routine and that it must carefully consider whether it is fair for it to be admitted.

The panel therefore had regard to the following considerations:

- Whether the hearsay evidence was the sole and decisive evidence in relation to the relevant charges;
- The nature and extent of the challenge to the hearsay evidence;
- Whether there was any suggestion that the primary witness had reasons to fabricate the allegation;
- The seriousness of the charge, taking into account the impact which adverse findings might have on Ms Beck's career;
- Whether there was a good reason for the non-attendance of the primary witness;
- Whether the NMC had taken reasonable steps to secure the attendance of the primary witness.

Person A

The panel considered Person A's evidence to be relevant to the allegations and relevant in terms of providing context. The panel also considered Person A to be a prime witness, and it determined that their evidence is sole and decisive in respect of Charge 1.

In a telephone note dated 18 July 2023, it is stated that Person A was '*verbally attacked*' by Ms Beck in public. It is also stated that Person A's [PRIVATE]. The panel therefore accepted Person A's [PRIVATE] and potential intimidation from Ms Beck to be good reasons for their non-attendance.

The panel bore in mind that Ms Beck was aware that Person A's evidence would be relied upon by the NMC as hearsay evidence. As such, the panel determined that there would be no unfairness to Ms Beck if it was minded to admit the evidence as hearsay.

Person B

The panel was of the view that Person B's evidence is relevant to the charges. It also determined that the evidence was not sole or decisive.

The panel noted that the NMC made no attempt to call Person B as a witness, and it was not provided with any reasons for why they could not attend this hearing.

The panel bore in mind that Ms Beck was aware that Person B's evidence would be relied upon by the NMC as hearsay evidence. As such, the panel determined that there would be no unfairness to Ms Beck if it was minded to admit the evidence as hearsay.

Given the seriousness of the charges, and the fact that Person B's evidence addresses some of the abuse allegations, the panel considered it fair to admit this hearsay evidence.

Person C

The panel was of the view that Person C's evidence is relevant to the charges. The panel determined that the evidence was not sole or decisive.

The panel noted that five separate attempts were made to secure Person C's attendance at this hearing, and so reasonable efforts were made by the NMC.

The panel bore in mind that Ms Beck was aware that Person C's evidence would be relied upon by the NMC as hearsay evidence. As such, the panel determined that there would be no unfairness to Ms Beck if it were minded to admit the evidence as hearsay.

Person D

For the same reasons stated above, the panel determined that it would be fair to admit the hearsay evidence of Person D.

Person E

Although Person E rarely worked on the same shifts with Ms Beck, the panel considered their evidence to be relevant with regard to giving insight into the culture at the Home. The panel determined that the evidence was not sole or decisive.

The panel noted that reasonable efforts were made by the NMC to secure Person E as a witness in September 2023, but they were not a direct witness and expressed concerns about the time that had lapsed since the incidents.

The panel bore in mind that Ms Beck was aware that Person E's evidence would be relied upon by the NMC as hearsay evidence. Further, Person E's evidence provides balance as it assists Ms Beck with her case. As such, the panel determined that there would be no unfairness to Ms Beck if it was minded to admit the evidence as hearsay.

Person F

The panel considered Person F's evidence to be relevant to the allegations. The panel determined that Person F's evidence is sole and decisive in respect of Charge 21, however, there is evidence to other charges which is not sole or decisive.

The panel noted that reasonable efforts were made by the NMC to secure Person F as a witness.

The panel bore in mind that Ms Beck was aware that Person F's evidence would be relied upon by the NMC as hearsay evidence. As such, the panel determined that there would be no unfairness to Ms Beck if it was minded to admit the evidence as hearsay.

Person G

The panel was of the view that the evidence is relevant to the allegations in that Person G's evidence addresses contextual matters in this case. The panel determined that Person G's evidence is not sole or decisive.

The NMC attempted to secure Person G as a witness. Having cited several different reasons, the panel noted that Person G did not wish to give evidence at this hearing.

The panel bore in mind that Ms Beck was aware that Person G's evidence would be relied upon by the NMC as hearsay evidence. The panel determined that there would be no unfairness to Ms Beck if it were minded to admit the evidence as hearsay.

Given the seriousness of the charges, the panel considered it fair to admit this hearsay evidence.

Person H

For the same reasons stated above, the panel determined that it would be fair to admit the hearsay evidence of Person H.

Person I

The panel was of the view that Person I's evidence is relevant to the charges in that it provides context. It also determined that the evidence was not sole or decisive.

The panel noted that the NMC made no attempt to call Person I as a witness, and it was not provided with any reasons for why they could not attend this hearing.

The panel bore in mind that Ms Beck was aware that Person I's evidence would be relied upon by the NMC as hearsay evidence. As such, the panel determined that there would be no unfairness to Ms Beck if it was minded to admit the evidence as hearsay.

Person J

For the same reasons stated above, the panel determined that it would be fair to admit the hearsay evidence of Person J.

Resident H

The panel considered Resident H's evidence to be very relevant to the allegations, particularly as they are a direct witness in relation to some of the charges.

The panel took into account that Resident H is now deceased and so unable to give evidence at these proceedings.

The panel bore in mind that Ms Beck was aware that Resident H's evidence would be relied upon by the NMC as hearsay evidence. Further, Resident H's evidence provides

balance as it assists Ms Beck with her case. As such, the panel determined that there would be no unfairness to Ms Beck if it was minded to admit the evidence as hearsay

For all the reasons stated above, the panel was satisfied that it would be fair to admit the hearsay evidence subject to a consideration of the weight it will give to the evidence at the facts stage. The panel therefore accepted the NMC's application.

Decision and reasons on facts

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

The panel drew no adverse inference from the non-attendance of Ms Beck.

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

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

- Witness 1: Social Worker and Council Officer with North Ayrshire Council at the time of the incidents
- Witness 2: Registered Manager at the Home at the time of the incidents
- Witness 3: Social Work Assistant with North Ayrshire Council at the time of the incidents

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

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

Charge 1

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 on one or more occasion conducted a manual bowel evacuation of Resident A, without any clinical justification.”

This charge is found NOT proved.

In reaching this decision, the panel took into account the witness statement of Person A, and Witness 2’s oral evidence and written statement.

The NMC invited the panel to adopt its own definition of manual bowel evacuation which is any procedure involving the use of digits to remove faeces from a resident’s anus.

In their statement, Person A described the procedure as follows:

‘... Resident A was quite constipated and Tracey took her to manually evacuate her bowels. She continued to do the procedure, she kind of put her finger into Resident A’s bottom and tried scooping out the faeces.’

This was corroborated by Witness 2 in their written statement which said that Person A *‘had been asked 2 years previously by Tracey to assist with manual bowel evacuation for a resident.’* and that Person A *‘was in the room whilst Tracey carried out the procedure on Resident A...’*.

The panel was satisfied that there was evidence to support that Ms Beck conducted a manual bowel evacuation on Resident A.

In their written evidence in relation to manual bowel evacuation, Witness 2 stated that:

'Someone would have to be trained how to do the procedure properly, so as not to cause harm to an individual. Tracey had not had this training.'

However, in response to panel questions, Witness 2 conceded that they had insufficient knowledge of Ms Beck's training to support this statement and conceded that the procedure could be learned as part of general nurse training.

Furthermore, although Witness 2 stated *'there are no policy documents on this'* and in response to panel questions that she was unaware of any local or national policy or guidance in relation to manual bowel evacuation. The panel noted in the ASP interview for Resident H that Witness 2 states

'Having read the RCN document Bowel Care-Management of Lower Bowel Dysfunction, including Digital Rectal Examination and Digital Removal of Faeces. this can be carried out by care staff with the appropriate consent or in the case of adults with incapacity the deemed as to be in their best interests.'

The panel therefore concluded that there is no evidence to suggest that Ms Beck is unqualified to undertake the procedure, and that there may be national guidance to support circumstances where it is clinically justified to do so in a care home environment.

The panel did not have any evidence before it to support the allegation that this procedure was not clinically justified.

As such, the panel found this charge not proved.

Charge 2

"That you a registered nurse, whilst employed at Cooriedoon Care Home ('the Home') between 2018 & 2020 did not record that you had conducted a manual bowel evacuation in Resident A's patient notes."

This charge is found proved.

In reaching this decision, the panel considered Witness 2's written statement and oral evidence as well as the oral evidence of Witnesses 1 and 3.

Witness 2 said the following in their written statement:

'Tracey also did not record anywhere that she had done this procedure on residents or that residents were having issues with their bowels... We went back through care notes, and nothing indicated that she should have carried out this procedure.'

This was corroborated by Witnesses 1 and 3 who conducted separate notes reviews and said there was no documentation or care record for Resident A in relation to the manual bowel evacuation.

The panel did not have sight of any care notes recorded by Ms Beck in relation to this procedure for any resident.

In light of the above, the panel found this charge proved.

Charge 3

"That you a registered nurse, whilst employed at Cooriedoon Care Home ('the Home') between 2018 & 2020 did not escalate the concerns around Resident A's manual bowel evacuation/constipation to the:

- i) General Practitioner;
- ii) Community Nurse."

This charge is found NOT proved.

Whilst the panel determined each limb of this charge separately, it considered them together as the sub-charges arise from the same set of facts.

In reaching this decision, the panel took into account Witness 2's written statement and oral evidence, and the Home's policy documents.

In their written statement, Witness 2 stated:

'...Not at any time did Tracey contact a local GP surgery or community nurse team, which she should have done if residents were having issues with their bowels.'

In their oral evidence, Witness 2 told the panel that they were informed by a service manager/care home link nurse that there was an obligation to escalate concerns around residents' bowels to a GP or Community Nurse. The panel considered this evidence to be very weak given that the alleged source of this information remains unidentifiable, and Witness 2 was neither clinically active nor involved in the clinical management of the Home.

The panel noted that there was nothing in the Home's policy documents before it to suggest that Ms Beck had an obligation to escalate such concerns.

The panel determined that the NMC failed to establish that Ms Beck had a duty to escalate the concerns around Resident A's manual bowel evacuation/constipation to a GP or Community Nurse.

The panel therefore found this charge not proved.

Charge 4

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 on one or more occasion conducted a manual bowel evacuation of Resident E, without any clinical justification.”

This charge is found NOT proved.

In reaching this decision, the panel considered the local interview notes of Person C and the written statement of Witness 2.

In both the local interview notes and Witness 2’s written statement, it is stated that:

‘Tracey hoisted [Resident E] off [their] commode and while [they were] in the air, Tracey used a finger to try and remove the blockage and without the use of any lubricant.’

Similar to Charge 1, the panel was satisfied that there was evidence to support that Ms Beck conducted a manual bowel evacuation on Resident E.

However, for all the reasons outlined for Charge 1, the panel did not have any evidence before it to support that this procedure was not clinically justified.

Accordingly, the panel found this charge not proved.

Charge 5

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 did not record that you had conducted a manual bowel evacuation in Resident E’s patient notes.’

This charge is found proved.

In reaching this decision, the panel had regard to Witness 2's written statement and oral evidence as well as the oral evidence of Witnesses 1 and 3.

Witness 2 said in their written statement that Ms Beck '*did not record anywhere*' that she had conducted a manual bowel evacuation on Resident E.

This was also corroborated by Witnesses 1 and 3.

Much like with Charge 2, the panel noted that it did not have sight of any care notes recorded by Ms Beck in relation to this procedure for any resident.

Similarly, the panel found this charge proved.

Charge 6

"That you a registered nurse, whilst employed at Cooriedoon Care Home ('the Home') between 2018 & 2020 did not escalate the concerns around Resident E's manual bowel evacuation/constipation to the:

- i) General Practitioner;
- ii) Community Nurse."

This charge is found NOT proved.

Whilst the panel determined each limb of this charge separately, it considered them together as the sub-charges arise from the same set of facts.

In reaching this decision, the panel took into consideration Witness 2's written statement and oral evidence, and the Home's policy documents.

For the same reasons as Charge 3, the panel determined that the NMC failed to establish that Ms Beck had a duty to escalate the concerns around Resident A's manual bowel evacuation/constipation to a GP or Community Nurse.

The panel therefore found this charge not proved.

Charge 7

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 on one or more occasion conducted a manual bowel evacuation of Resident G, without any clinical justification.”

This charge is found NOT proved.

In reaching this decision, the panel took into consideration the local interview notes for Person F dated 3 November 2020 and the ASP Investigation and Risk Assessment for Resident G dated 23 October 2020.

Again, the panel was satisfied that there was evidence to support that Ms Beck conducted a manual bowel evacuation on Resident G.

However, for all the reasons outlined for Charge 1, the panel did not have any evidence before it to support that this procedure was not clinically justified.

Thus, the panel found this charge not proved.

Charge 8

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 did not record that you had conducted a manual bowel evacuation in Resident G's patient notes.’

This charge is found proved.

In reaching this decision, the panel took into account Witness 2's written statement and oral evidence as well as the oral evidence of Witnesses 1 and 3.

For the same reasons as Charge 2, the panel found this charge proved.

Charge 9

“That you a registered nurse, whilst employed at Cooriedoon Care Home ('the Home') between 2018 & 2020 did not escalate the concerns around Resident G's manual bowel evacuation/constipation to the:

- i) General Practitioner;
- ii) Community Nurse.”

This charge is found NOT proved.

Whilst the panel determined each limb of this charge separately, it considered them together as the sub-charges arise from the same set of facts.

In reaching this decision, the panel had regard to Witness 2's written statement and oral evidence, and the Home's policy documents.

For the same reasons as Charge 3, the panel determined that the NMC failed to establish that Ms Beck had a duty to escalate the concerns around Resident A's manual bowel evacuation/constipation to a GP or Community Nurse.

The panel therefore found this charge not proved.

Charge 10

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 on one or more occasion conducted a manual bowel evacuation of Resident H, without any clinical justification.”

This charge is found NOT proved.

In reaching this decision, the panel took into consideration the ASP interview notes for Person H dated 11 November 2020, and the local interviews notes for Resident H dated 6 October 2020.

In both interview notes, it is said that Ms Beck assisted Resident H with their constipation whilst they were on the toilet. Resident H said that ‘*Tracey used a sticky this to help*’ and that that Resident H had ‘*given permission*’ for Ms Beck to do this. Resident H stated that they were ‘*not in any pain*’ and ‘*Tracey was apologising during the process*’.

Person H said that Resident H ‘*was relieved*’ after the procedure.

The panel was satisfied that there was evidence to support that Ms Beck conducted a manual bowel evacuation on Resident H.

However, the panel did not have any evidence before it to support that this procedure was not clinically justified as per the reasons identified in earlier charges. In fact, the panel was of the view that this evidence provided by the NMC to support this charge was the strongest evidence that, under the circumstances at the time, the procedure would have been clinically justified. It also acknowledged that that Ms Beck seemingly conducted the procedure with great empathy and Resident H was relieved afterwards.

As such, the panel found this charge not proved.

Charge 11

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 did not record that you had conducted a manual bowel evacuation in Resident H’s patient notes.”

This charge is found proved.

In reaching this decision, the panel took into account Witness 2’s written statement and oral evidence as well as the oral evidence of Witnesses 1 and 3.

For the same reasons as Charge 2, the panel found this charge proved.

Charge 12

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 did not escalate the concerns around Resident H’s manual bowel evacuation/constipation to the:

- i) General Practitioner;
- ii) Community Nurse.”

This charge is found NOT proved.

Whilst the panel determined each limb of this charge separately, it considered them together as the sub-charges arise from the same set of facts.

In reaching this decision, the panel took into account Witness 2’s written statement and oral evidence, and the Home’s policy documents.

For the same reasons as Charge 3, the panel determined that the NMC failed to establish that Ms Beck had a duty to escalate the concerns around Resident A’s manual bowel evacuation/constipation to a GP or Community Nurse.

The panel therefore found this charge not proved.

Charge 13

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 on one or more occasion allowed residents to fall into chairs.”

This charge is found NOT proved.

In reaching this decision, the panel had regard to the written statements of Person A and Witness 2.

In their written statement, Person A said:

‘I can’t recall which resident that was. Tracey would be rough with residents, that’s all I can say. On many occasions she wasn’t as gentle as she could’ve been. I was concerned about this, as she would let residents fall into a chair and not be very gentle with them.’

Similarly, Witness 2 stated that *‘[Person A] mentioned that there was a time when Tracey was a bit rough putting a resident into a chair.’*

The panel determined that this evidence was too vague and insubstantial as it does not specify a resident, date, time or circumstances, nor does it give insight to the impact on the alleged resident.

The panel concluded that the NMC failed to meet the requisite standard of proof. The panel therefore found this charge not proved.

Charge 14

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 on around 26/27 September 2020, on one or more occasion spoke to Resident B in a rude/inappropriate manner.”

This charge is found NOT proved.

In reaching this decision, the panel took into account the ASP interview notes for Person A dated 3 November 2020, and their written statement.

In their written statement, Person A said that:

‘Tracey was incredibly rude to [Resident B]. [Resident B] was quite challenging and Tracey found it hard to deal with [them], so she could be quite snappy when [they] asked her something and made her genuinely uncomfortable. It was more about her manner than what she said to [them].’

It was also noted in Person A’s ASP interview that Ms Beck *‘could be verbally nasty to...Resident B.’*

The panel considered this evidence to be weak and unsatisfactory; it does not set out any particulars with regard to what was said and lacks detail in respect of what *‘rude’* and *‘nasty’* meant. The panel noted that it had not been provided with any evidence of the alleged impact on Resident B, or that any of the staff has addressed Ms Beck’s alleged rudeness with her.

The panel therefore determined that the NMC failed to meet the requisite standard of proof and found this charge not proved.

Charge 15

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 on one or more occasion spoke to Resident C in a rude/inappropriate manner.”

This charge is found NOT proved.

In reaching this decision, the panel considered that ASP Investigation and Risk Assessment for Resident C dated 23 November 2020 and the ASP interview notes for Person I.

The ASP investigation notes state:

‘...a number of staff members identified the perpetrator, Tracey Beck, as being verbally and physical abusive towards - no specific time frames noted...’

Staff members also described verbal abuse was when perpetrator was "nasty" towards Resident C...

...Staff members were able to confirm that was subject to verbal abuse and that comments were often "nasty" and "close to the bone". Staff had cited fear of repercussion for reasons as to why they did not report these concerns prior to the internal investigation being undertaken within the home.’

Similarly with Charge 14, the panel considered this evidence to be weak and unsatisfactory; it does not set out any particulars with regard to what was said and lacks detail in respect of what ‘*rude*’ and ‘*nasty*’ meant.

Person I also speaks to Ms Beck’s alleged rudeness to Resident C. However, Person I’s ASP interview notes are undated and they stated that they ‘*never witnessed abuse but*

heard about it. The panel considered this to be weak evidence and therefore afforded it very little weight.

For the above reasons, the panel found this charge not proved.

Charge 16a and 16b

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 when Resident B requested paracetamol, used words to the effect;

- a) *‘That bloody bitch.’*
- b) *‘She’s a pain in the butt.’*”

These charges are found proved.

Whilst the panel determined each limb of this charge separately, it considered them together as the sub-charges arise from the same set of facts.

In reaching this decision, the panel took into consideration the local interview notes for Person C dated 1 October 2020, the local interview notes for Ms Beck dated 5 October 2020, and Witness 2’s written statement.

In the local interview notes, Person C said that:

‘Resident B rang the bell [because they] wanted Paracetamol for pain in leg [sic]. [Tracey responded] that bloody bitch she was just here she’s a pain in the butt.’

This is corroborated in Witness 2’s statement:

‘[Person C] also said [they] had seen Tracey being verbally and physically abusive towards residents and when [they] had been on shift with her and a couple other

members of staff, [they] heard a resident ring a call bell as they wanted paracetamol for their leg. When [they] informed Tracey, she responded to [them] and said 'that bloody bitch', in reference to the resident.'

When asked at the local interview about these comments, Ms Beck replied, '[Resident B] screams all the time. [Resident B] hates me...'. The panel noted that, when asked, Ms Beck did not deny the allegations and seemingly attempted to justify her actions.

The panel considered all of the evidence and determined that it was sufficiently detailed to support the allegations.

As such, the panel found Charge 16 proved in its entirety.

Charge 17

"That you a registered nurse, whilst employed at Cooriedoon Care Home ('the Home') between 2018 & 2020 whilst speaking to Colleague Z about their sickness absence, used words to the effect "You let everybody down."

This charge is found proved.

In reaching this decision, the panel took into account Person A's NMC witness statement.

In their statement, Person A said:

'Tracey swung between being overly nice and quite nasty. She would do things like talk about me. For example...She would kind of punish you about calling in sick and say things like 'you let everybody down.'

The panel considered the above evidence to be strong given that the comment was said directly to Person A and was included in their signed witness statement.

Accordingly, the panel found this charge proved.

Charge 18

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 discussed Colleague’s Z’s sickness absence with other staff members.”

This charge is found NOT proved.

In reaching this decision, the panel took into account Person A’s written statement.

In the same paragraph of their statement, Person A said:

‘Tracey swung between being overly nice and quite nasty. She would do things like talk about me. For example, she would talk about me calling in sick to everyone.’

The panel noted that there are no details explaining how Person A would know that Ms Beck was allegedly discussing Person A’s sick leave with colleagues. The panel also noted that there are no specifics regarding which colleagues were told, what was said or when it happened.

The panel determined that this evidence holds little weight due to how insubstantial it is. Thus, the panel found this charge not proved.

Charge 19

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 on one or more occasion made staff members cry at work.”

This charge is found NOT proved.

In reaching this decision, the panel had regard to the local interview notes for Person A dated 1 October 2020 and Witness 2’s written statement.

In the local interview notes, Person A stated that Ms Beck ‘*made several staff cry at some point.*’

Witness 2 also stated, ‘[Person A] *also said [they were] aware Tracey had made several staff members cry at some point.*’

The panel noted there are no specifics regarding which colleagues were made to cry, what was said or when it happened. The panel considered this to be weak evidence and therefore afforded it very little weight.

For these reasons, the panel found this charge not proved.

Charge 20

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 pushed Resident C into a chair.”

This charge is found proved.

In reaching this decision, the panel considered the local interview notes for Person D dated 6 October 2020, the ASP interview notes for Person D dated 3 November 2020.

At the local interview, Person D stated that:

'[Ms Beck] pushed Resident C into the chair with full force. Never seen anything like that before...Resident C was falling and [Ms Beck] pushed [them] with 2 palms into the chair.'

At the ASP interview, Person D expanded on this:

'[Ms Beck] did a forced push to [Resident C]. [Resident C] was stood up and [Ms Beck] helping...but saw her push [Resident C] and say 'my back, you're hurting my back' then pushed [Resident C] into chair.'

The panel noted that there are some inconsistencies in Person D's account of the incident, and it was mindful that Person D was the only witness to the incident. However, the panel considered the details in Person D's account to be specific and credible.

On the balance of probabilities, the panel found this charge proved.

Charge 21

"That you a registered nurse, whilst employed at Cooriedoon Care Home ('the Home') between 2018 & 2020 on one or more occasion shook/man handled Resident F."

This charge is found proved.

In reaching this decision, the panel had regard to the local interview notes for Person F dated 2 October 2020 and Witness 2's written statement.

Person F stated that Ms Beck was '*physical with Resident F. Shook [them].*' This was reiterated in Witness 2's written statement, '[Person F] *also said [they]'d seen Tracey be physical with a resident and shook [them].*'

The panel noted that it had no details in respect of when this incident took place, or that any harm had come to Resident F. It also noted that it had no evidence before it which indicated Ms Beck's motivation or the amount of force used. However, the panel considered the evidence did have to be clear and sufficient to support the allegation.

On the balance of probabilities, the panel found this charge proved.

Charge 22

"That you a registered nurse, whilst employed at Cooriedoon Care Home ('the Home') between 2018 & 2020 on 5 October 2020 during an investigatory interview with Colleague Y, shouted using words to the effect '*I'm not here for you or the staff, I'm here for the residents.*'"

This charge is found proved.

In reaching this decision, the panel took into account Witness 2's written statement.

In their statement, after questioning Ms Beck about '*the rough handling of a resident*' Witness 2 said:

'[Ms Beck] got angry and shouted that she wasn't here for staff but for the residents. I then stopped the interview and informed her that I would be speaking to the local care inspector.'

The panel considered the above evidence to be strong given that the comment was said directly to Witness 2. The panel also considered the evidence to be clear and sufficient to support the allegation.

As such, the panel found this charge proved.

Charge 23a

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 on an unknown date:

- a) Refused to feed Resident D.”

This charge is found NOT proved.

In reaching this decision, the panel took into consideration Witness 2’s written statement and the local interview notes of Ms Beck dated 5 October 2020.

Witness 2 stated Ms Beck ‘*was spoken to about verbal abuse of a resident and said how she refused to feed as there wasn’t enough staff but wouldn’t hurt anyone.*’

The panel noted that nowhere in Witness 2’s written statement is Resident D referred to in relation to Ms Beck allegedly refusing to feed a resident. In addition, Resident D was not referenced anywhere in the local interview notes for Ms Beck.

The panel had no evidence before it to support that Ms Beck refused to feed Resident D in particular. It concluded that the NMC failed to meet the requisite standard of proof.

The panel therefore found this charge not proved.

Charge 23b and 23c

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 on an unknown date:

- b) Grabbed Resident D from her chair/wheelchair.
- c) Pushed/Smashed Resident D into their chair/wheelchair”

These charges are found proved.

Whilst the panel determined each limb of this charge separately, it considered them together as the sub-charges arise from the same set of facts.

In reaching this decision, the panel considered the ASP Investigation and Risk Assessment for Resident D dated 23 October 2020 and the ASP interview notes for Person C dated 3 November 2020.

The ASP Investigation and Risk Assessment for Resident D states:

‘3rd November 2020 - During interviews with staff as part of the ASP investigation for initial referral received, information was shared that advised that perpetrator, Tracey Beck, had also physically "grabbed" Resident D from [their] chair and "smashed" [them] into a wheelchair when [they did not wish to move, reportedly told staff the next day that this had caused [them] pain...’

This is corroborated in Person C’s ASP interview notes:

‘Resident D was suffering UTI and didn’t want to get up from chair into wheelchair. [Ms Beck] didn’t like that so grabbed Resident D and smashed put down in wheelchair. Next day Resident D told other staff that [Ms Beck] hurt [them].’

The panel considered the evidence to be sufficiently detailed and consistent. The panel also noted the impact the incident had on Resident D and that Ms Beck had harmed them.

For these reasons, the panel found these charges proved.

Charge 24

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 facilitated the attendance of Person X to the Isle of Arran/the Home in breach of Covid 19 protocols.”

This charge is found proved.

In reaching this decision, the panel had regard to an email from Person J to the Home dated 10 June 2020, the Home’s COVID Policy and Witness 2’s supplementary written statement.

The email states:

‘...I am writing to request that Person X be allowed to travel from Ardrossan to Brodick on Saturday 13th June 2020 on the 07:00 ferry and return same day on the 16:40 ex Brodick...[They are] needing to visit [their] partner who is a resident at [the Home] on the advice of... Tracey Beck.’

The Home’s COVID policy states:

‘Due to the COVID-19 pandemic it has been necessary to stop all visitors into the building to reduce the risk of infection hence the building going into lockdown on Monday 16th March 2020...

There will, of course, be exceptional circumstances in which the Scottish

Government have advised that visiting in a safe manner will have to be considered and planned for, for example palliative care or severe impacts to a residents Mental Health where the resident is becoming severely withdrawn, refusing to eat or drink or is vocalising the wish to die.'

Witness 2 wrote in their supplementary statement:

'When I spoke to Tracey and asked her why she had allowed this, she got angry at me. She said that I didn't have to listen to the [Person X], , crying on the phone and how distressed [they were] not seeing [their partner], and worried about [their partner], being shut away in the care home...Tracey couldn't cope with [Person X] being so stressed on the phone, so she assured [them] she would get [them] across on the ferry. I mentioned all of the things about the pandemic and the rules, with no visitors being allowed, and she said she made the decision, I wasn't there, she made decision and she was going to allow [them] visit. That's all she was willing to say about it.'

The panel noted that, as a consequence for her actions, Ms Beck was temporarily demoted and put on warning for this incident.

The panel considered the evidence supporting this charge to be strong. It determined that Ms Beck did facilitate the attendance of Person X to the Isle of Arran/the Home in breach of COVID-19 protocols.

Accordingly, the panel found this charge proved.

Charge 25

“That you a registered nurse, whilst employed at Cooriedoon Care Home ('the Home') between 2018 & 2020 inaccurately informed Colleague W that

Person X should be allowed onto the Isle of Arran as Resident I was on palliative/end of life care.”

This charge is found NOT proved.

In reaching this decision, the panel took into account the email from Person J to the Home dated 10 June 2020 and Witness 2’s oral evidence.

The panel noted that there is no reference to palliative/end of life care in Person J’s email. Moreover, when questioned by the panel, Witness 2 conceded that Ms Beck allegedly telling Colleague W that Person X should be allowed to visit the Home because Resident I was on palliative/end of life care may have been an assumption on the part of Person J based on the Home’s exceptions to its COVID Policy.

For these reasons, the panel found this charge not proved.

Charge 26

“That you a registered nurse, whilst employed at Cooriedoon Care Home (‘the Home’) between 2018 & 2020 instructed Colleague W to contact the Port Manager to request for Person X to attend the Isle of Arran on the basis of false information in Charge 25.”

This charge automatically falls away as it is contingent on Charge 25 being found proved.

This charge is found NOT proved.

Charge 27

“Your actions in charges 25 and 26 were dishonest in that you misrepresented the condition of Resident I to facilitate the attendance of Person X in breach of Covid 19 Protocols.”

This charge automatically falls away as it is contingent on Charges 25 and 26 being found proved.

This charge is found NOT 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 Beck's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

The panel, in reaching its decision, recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it 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 Beck's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council (No. 2)* [2000] 1 AC 311 which defines misconduct as a '*word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.*'

Ms Shah 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.

Ms Shah submitted that, on the basis of the charges found proved, Ms Beck breached the following sections of the Code: 1, 3, 4, 7, 8, 10, 19, 20, 23, 24, 25.

It was Ms Shah's submission that, bearing in mind the number of aspects of the Code that have been breached, the very serious consequences for the residents in the Home and the impact on the reputation of the profession, each of the charges found proved individually amount to misconduct.

Ms Shah submitted that the most serious allegation before the panel relates to the abuse of residents, both verbally and physically but also the breach of COVID-19 protocols. The panel heard from Witness 2 that the Home had very strict COVID guidelines and protocols to protect the vulnerable residents. Ms Shah submitted that Ms Beck breached those protocols, putting not one but all the residents and her colleagues at risk of harm.

In the light of this, Ms Shah invited the panel to find that Ms Beck's conduct in the facts found proved amounts to serious professional misconduct.

Submissions on impairment

Ms Shah moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Ms Shah submitted that the first three limbs of *Grant* are engaged in this case. It was her submission that the charges found proved can be divided into the following themes: Record keeping, verbal abuse of patients, physical abuse of patients, inappropriate behaviour with colleagues and a breach of the Home's Covid policy and protocols at the time. She submitted that each of these thematic areas of concern that has been

highlighted by the charges found proved, puts patients at an unwarranted risk of serious harm.

Ms Shah submitted that the panel has no evidence of further training, a reflective statement considering the impact of Ms Beck's actions or any indication of insight. Further, it was her submission that Ms Beck's responses at the local investigation suggests that there may be an attitudinal problem. Ms Shah said that it is difficult to remediate conduct which stems from attitude as opposed to something that simply relates to lack of clinical skill.

Ms Shah submitted that, in the absence of any evidence to demonstrate insight, and taking into consideration the seriousness of the charges found proved, there is a real risk of significant harm to residents and patients. The fact that these were multiple instances of misconduct that spanned a lengthy period of time coupled with Ms Beck's lack of engagement indicates that she is likely to repeat the misconduct of the kind found proved. Therefore, a finding of current impairment is necessary on public protection grounds.

Ms Shah reminded the panel that there is no evidence before it to suggest that Ms Beck has attempted to remediate her conduct or engaged with the NMC. She submitted that an informed member of the public would expect the regulator to make a finding of impairment in order to maintain public confidence and uphold the standards of the profession.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance, Nandi v General Medical Council* [2004] EWHC 2317 (Admin), *General Medical Council v Meadow* [2007] QB 462 (Admin), *Cohen v GMC* [2008] EWHC 581 (Admin) and *Calhaem v GMC* [2007] EWHC 2606 (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 Beck's actions did fall significantly short of the standards expected of a registered nurse, and that Ms Beck's actions amounted to a breach of the Code. Specifically:

'1 Treat people as individuals and uphold their dignity

To achieve this, you must:

- 1.1 *treat people with kindness, respect and compassion.*
- 1.2 *make sure you deliver the fundamentals of care effectively.'*

'10 Keep clear and accurate records relevant to your practice

To achieve this, you must:

- 10.1 *complete records at the time or as soon as possible after the event, recording if the notes are written sometime 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 these requirements.'*

'13 Recognise and work within the limits of your competence

To achieve this, you must:

- 13.3 *ask for help from a suitably qualified and experienced professional to carry out any action or procedure that is beyond the limits of your competence.*
- 13.4 *take account of your own personal safety as well as the safety of the people in your care.'*

'19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice

To achieve this, you must:

19.3 keep to and promote recommended practice in relation to controlling and preventing infection.'

'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

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

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

'23 Cooperate with all investigations and audits'

'24 Respond to any complaints made against you professionally'

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

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

Charges 2, 5, 8 and 11

In deciding whether these charges amounted to misconduct, the panel considered that there were multiple instances of poor and inadequate record keeping which occurred over a sustained period and affected multiple residents. The panel took into consideration the effects of this on resident care as anyone providing ongoing care to a resident would not have had a full picture which could have impacted the quality of care and could have potentially put residents at risk of significant harm. Furthermore, the absence of relevant

records was to significantly hamper an inquiry by the local care inspector into concerns raised about the Home.

Therefore, the panel found that Ms Beck's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Charge 16

In reaching its decision, the panel considered the following contextual factors:

- It was a single instance of the use of such language.
- The comment was not directed at a resident and was not said within earshot of residents.
- Ms Beck was often the only nurse in charge and working incredibly long hours.
- It was a challenging work environment at the time.

Although the panel found Ms Beck's conduct inappropriate and unprofessional, particularly because she was in a position of leadership, it considered the contextual factors set out above and determined that her conduct was not so serious as to amount to misconduct.

Charge 17

The panel took the view that, although Ms Beck's actions in relation to this charge is a breach of the Code, it does not amount to serious professional misconduct.

Charge 20

The panel considered the vulnerable nature of the residents in Ms Beck's care and took the view that her actions amount to serious professional misconduct.

Charge 21

The panel determined that the shaking and manhandling of Resident F who was a vulnerable patient by Ms Beck amounted to physical abuse. The panel determined that this charge amounts to serious professional misconduct.

Charge 22

The panel determined that the words used by Ms Beck were not unduly concerning and noted that they were said in anger in a private meeting with Witness 2. The panel had regard to Witness 2's oral evidence in which they said,

'I don't blame [Ms Beck] she was incredibly angry at this point; I can only imagine what she felt being faced with these allegations.'

The panel therefore determined that this charge does not amount to serious professional misconduct.

Charge 23b and 23c

The panel determined that Ms Beck's actions in these charges, namely the physical manhandling of Resident D, were witnessed by other staff members who were alarmed and were to raise concerns. The panel found that Ms Beck's actions fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Charge 24

The panel was aware of the risks of COVID from its own experience, and consequentially, the risk to residents and staff at the Home as well as residents of the island community. The panel considered that a registered nurse in a position of authority caring for vulnerable residents would know the dangers of COVID. The panel took the view that in the absence of the manager, Ms Beck was in charge and should have taken a lead in

following the COVID policies and protocols. The panel heard the risks to residents and staff if these policies were not adhered to. It therefore determined that Ms Beck's actions were reckless, putting patients at risk of significant harm and amounted to serious professional misconduct.

Consequently, in light of the determinations made above, the panel considered that the conduct of Ms Beck as a whole amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Ms Beck'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 and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

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

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

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

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

The panel determined that the first three limbs of *Grant* are engaged in this case. The panel found that residents were put at risk as a result of Ms Beck's misconduct. Ms Beck's

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

Regarding insight, the panel considered that there is no evidence to suggest Ms Beck's understanding of how her actions put the patients at a risk of harm or why what she did was wrong and how this impacted negatively on the reputation of the nursing profession. As such, the panel determined that Ms Beck has not demonstrated any insight into her misconduct.

The panel was satisfied that the majority of the misconduct in this case is capable of being addressed, but noted that the acts of physical abuse are particularly difficult and challenging to remediate. The panel had nothing before it to indicate that Ms Beck has taken steps to strengthen her practice or address the concerns identified. Ms Beck's behaviour in the local investigation and subsequent lack of engagement with the NMC proceedings, raise questions for the panel about her attitude.

The panel noted that there is nothing to suggest that in Ms Beck's 30-year career there has been concerns raised about her practice prior to this. However, it determined that there is an ongoing risk of repetition given the lack of information before it. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that a finding of impairment on public interest grounds is required because of Ms Beck's misconduct and the ongoing risk of repetition. 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 finds Ms Beck's fitness to practise impaired on the grounds of public interest.

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

Sanction

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

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

Submissions on sanction

Ms Shah invited the panel to impose a striking-off order.

Ms Shah referred the panel to NMC guidance SAN-2: 'Considering sanctions for serious cases', last updated 27 February 2024, particularly the following passage:

'Abuse or neglect of children or vulnerable people

Safeguarding and protecting people from harm, abuse and neglect is an integral part of the standards and values set out in the Code, and any allegation involving the abuse or neglect of children or vulnerable people will always be treated seriously.

When considering sanctions in cases involving the abuse or neglect of children or vulnerable adults, panels will, as always, start by considering the least severe sanction first and move upwards until they find the appropriate outcome. However, as these behaviours can have a particularly severe impact on public confidence, a professional's ability to uphold the standards and values set out in the Code, and the safety of those who use services, any nurse, midwife or nursing associate who is found to have behaved in this way will be at risk of being removed from the

register. If the panel decides to impose a less severe sanction, they will need to make sure they explain the reasons for their decision clearly and carefully. This will allow people who have not heard all of the evidence in the case, which may include those directly affected by the conduct in question, to properly understand the decision.'

Ms Shah submitted that Ms Beck's actions were not a single instance of misconduct but a pattern of behaviour as more than one resident was subject to physical abuse.

Furthermore, she submitted that there is no evidence of remorse or insight from Ms Beck which demonstrates that there is evidence of harmful deep-seated personality or attitudinal problems. Ms Shah highlighted Ms Beck's comments when confronted with the allegations at the local interview, and that nowhere in the interview was there evidence of reflection, remorse, insight, or even empathy which she submitted was also evidence of harmful deep-seated personality or attitudinal problems.

For the reasons above, Ms Shah submitted that a suspension order would not be appropriate or proportionate in this case.

Ms Shah outlined the following aggravating features:

- The conduct went on for a period of time
- The conduct relates to a number of residents, particularly the physical abuse charges but also the general record-keeping failures
- Ms Beck was in a key leadership role within the Home

Ms Shah also set out the following mitigating features:

- No previous NMC fitness to practise findings against Ms Beck
- Evidence from colleagues that Ms Beck was a hardworking nurse with good clinical skills

However, Ms Shah submitted that multiple instances of physical abuse and a particularly serious breach of COVID-19 protocols which put significant lives in danger all amount to conduct which can properly be described as conduct which is fundamentally incompatible with remaining on the register. Coupled with the lack of insight, lack of remediation or engagement with the NMC, she submitted that this is all demonstrative of a registrant who should not be allowed to practise or remain on the register as to do otherwise would bring the nursing profession into disrepute and fail to uphold public protection and the wider public interest.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Ms Beck's abuse of her position of trust
- Ms Beck's lack of insight into her failings
- The charges involve a pattern of misconduct over a period of time
- Ms Beck's misconduct put residents at risk of suffering harm, and some did suffer actual harm
- Ms Beck failed to engage with the local investigation and with her regulator during these proceedings
- Ms Beck was in a key leadership role
- The charges concern vulnerable residents

The panel also took into account the following mitigating features:

- Ms Beck's previous good character and history
- The long hours Ms Beck worked and the difficult nature of her role
- Ms Beck's testimonials which describe her as being hard-working and having good clinical skills

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 Beck'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 Ms Beck'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 Beck's registration would be a sufficient and appropriate response. The panel was of the view that there are no workable conditions that could be formulated given the nature of the charges in this case. Furthermore, the panel considered that Ms Beck has demonstrated an unwillingness to engage with NMC proceedings, and it determined that engagement is a fundamental prerequisite for a conditions of practice order. The panel therefore concluded that the placing of conditions on Ms Beck's registration would not adequately address the seriousness of this case, protect the public or address the wider public interest in the case.

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

The panel noted that these charges do not relate to a single incident, but rather a series of incidents including residents affected by physical abuse. Furthermore, as a Deputy Manager with a clear leadership role, it was beholden on Ms Beck to set a standard for others to follow. The panel took into consideration the wide-ranging and serious nature of the charges found proved. The panel determined that there are identifiable attitudinal issues such as Ms Beck's unwillingness to engage with the local investigations and NMC proceedings as well as provide insight, remediation or show remorse. While the panel acknowledged that there has not been any known repetition of behaviour, it was mindful that Ms Beck has been suspended and unable to work as nurse since these concerns were raised with the NMC some years ago.

The panel bore in mind Ms Beck's lack of insight and the significant risk of repetition which arises from this. Further, the panel considered that Ms Beck has been subject to an interim suspension order for over four years and would have had ample opportunity to produce reflections which demonstrate remorse and insight.

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

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 Beck's misconduct was a significant departure from the standards expected of a registered nurse and raise fundamental questions about her professionalism. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Ms Beck's actions is fundamentally incompatible with Ms Beck remaining on the register.

The panel determined that the findings in this particular case demonstrate that Ms Beck's actions are particularly serious, and to allow her to remain on the register would undermine public confidence in the profession and in the NMC as a regulatory body, especially given that the events took place over four years ago and Ms Beck has made no attempt to demonstrate remediation or insight, or engage with the NMC throughout these proceedings.

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

The panel considered that this order 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 Ms Beck in writing.

Interim order

As a striking-off order cannot take effect until the end of the 28-day appeal period, the panel considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in your own interests until the striking-off sanction takes effect.

Submissions on interim order

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

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

Decision and reasons on interim order

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

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

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

This will be confirmed to Ms Beck in writing.

That concludes this determination.