

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

**Substantive Hearing
Tuesday, 23 January 2024 to Friday, 9 February 2024
Monday, 28 October 2024 – Friday, 15 November 2024**

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

Name of Registrant: Matilda Jane Farnell

NMC PIN 13A2971E

Part(s) of the register: Registered Nurse – Adult
RNA – 18 October 2013

Relevant Location: Wakefield

Type of case: Misconduct

Panel members: Philip Sayce (Chair, Registrant member)
Terry Shipperley (Registrant member)
Paul Leighton (Lay member)

Legal Assessor: Nigel Ingram

Hearings Coordinator: Hamizah Sukiman (23 January 2024 – 26
January 2024)
Max Buadi (29 January 2024 – 9 February 2024)
Sharmilla Nanan (28 October 2024 – 15
November 2024)

Nursing and Midwifery Council: Represented by Claire Stevenson, Case
Presenter

Represented by Stephen Page, Case Presenter,
28 October 2024 – 15 November 2024)

Mrs Farnell: Present and represented by Laura Bayley,
instructed by Thompsons Solicitors

Facts proved by admission:	Charges 5 (only in relation to saying the statements outlined not that it was inappropriate), 8a and 8b
Facts proved:	Charges 1)a)(i), 1)a)(ii), 2, 3)a)i), 3)a)ii), 3)a)iii), 3)b), 3)c), 3)d)i), 3)d)ii), 3)d)iii), 4, 5)a)i), 5)a)ii), 5)a)iii), 5)a)iv), 6, 7a, 7b, 9, 10, 13, 14 and 15
Facts not proved:	Charges 11 and 12
Fitness to practise:	Impaired
Sanction:	Suspension order (12 months)
Interim order:	Interim suspension order (18 months)

Details of charge (as amended)

That you, a registered nurse:

- 1) On one or more occasions between 2014 and 2018, in relation to Colleague A:
 - a) Informed staff members that Colleague A:
 - i. Was 'not qualified to be in the team' or words to that effect;
 - ii. 'Should not be in the post' or words to that effect.
- 2) Your actions in charge 1 above were intended to bully and/or intimidate Colleague A and/or undermine her position as a Band 6 nurse.
- 3) On one or more occasions, behaved inappropriately towards Colleague B in that you:
 - a) During October 2016, ignored Colleague B by:
 - i. Failing to engage in conversations with Colleague B
 - ii. Leaving Colleague B out of conversations
 - iii. Failed to answer questions from Colleague B
 - b) Argued with Colleague B when orders were given.
 - c) On or around 6 December 2016 stated in Colleague B's presence that you were 'best friends with the boss and when you're best friends with the boss you can do what you want and get away with it' or words to that effect.
 - d) Between October 2016 and April 2017, in relation to Colleague B:
 - i. Questioned Colleague B's decision making
 - ii. Refused to adhere to decisions made by Colleague B and/or going to the matron regarding Colleague B's decision(s).
 - iii. Failed to respond to Colleague B's emails
- 4) Your actions in charge 3 above were intended to bully and/or intimidate Colleague B and/or undermine her position as a Band 6 nurse
- 5) Between 2016 and 2018, made inappropriate comments about ICT and/or management including:
 - a) Saying the following to Colleague C:
 - i. 'I don't know why you chose to work in this team, there is no progression and it's a dead end job' or words to that effect;

- ii. 'ICT have a bad reputation and the other teams do not think highly of us' or words to that effect;
 - iii. 'The DN do not like the senior nurses in ICT who do not have the District Nurse course and should not be given Band 6 like them' or words to that effect;
 - iv. 'All staff are unhappy here due to management and being unfairly treated' or words to that effect.
- 6) Saying the following to Colleague E in relation to Colleague D and/or F respectively:
- a) 'I'm going to take them bitches down' or words to that effect when referring to Colleagues D and F;
 - b) 'Bang, bang' whilst making a gun gesture with your fingers and referring to Colleagues D and F;
 - c) 'If them bitches finish me, my son [Mr 3] will come in and wipe the floor with them' or words to that effect when referring to Colleagues D and F;
 - d) When referring to Colleague D, indicated that you had someone higher up in management who would 'deal with Colleague D' or words to that effect;
 - e) When referring to Colleague F, 'that bitch Colleague F has put all these allegations against me', 'find out where she lives for me and ask that girl that lives in Barnsley who worked at ICT where her kids go to school' and 'oh no am gonna kill Colleague F' or words to that effect.
- 7) Saying to or in the presence of Colleague A in relation to Ms 1:
- a) 'Somebody better call the police because there is going to be a murder' or words to that effect;
 - b) 'my husband is going to come for Ms 1' or words to that effect.
- 8) Saying the following to Colleague B:
- a) That the Trust was 'rubbish' or words to that effect;
 - b) That you wouldn't have any family be taken care of by the Trust and would take them somewhere else.
- 9) Saying to Colleague D that you have reported her to the NMC for 'forcing' you to administer IV therapy at patient's home or words to that effect;

- 10) Your comments in charge 5 above were intended to intimidate Colleague C
- 11) Your comments in charge 6 above were intended to intimidate Colleague E
- 12) Your comments in charge 7 above were intended to intimidate Colleague A
- 13) Your comments in charge 9 above were intended to intimidate Colleague D
- 14) On or before 5 April 2018 requested and/or allowed a colleague to complete your online mandatory training for you.
- 15) Your actions in charge 14 above were dishonest in that you sought to mislead your employer into believing you had completed your own mandatory training when you knew you had not.

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

Decision and reasons on application to amend the charge

The panel heard an application made by Ms Stevenson, on behalf of the Nursing and Midwifery Council (NMC), to amend the wording and numbering of charges numbers 7(c) and 11. She further applied to remove charge 6(f) and add it as a separate charge (charge 9) and add a further charge 13 in relation to charge 9. If both charges 9 and 13 are accepted by the panel, Ms Stevenson submitted that a further amendment to charge 15 should be made to correct the numbering error which would consequently arise.

Ms Stevenson submitted that the proposed amendment which relate to grammatical and numerical errors would provide clarity and more accurately reflect the evidence. With regard to the new charges, she submitted that these charges relate to evidence you and your representative have already seen as part of the proceedings, and consequently would not cause any injustice to you.

The first amendment Ms Stevenson proposed was to renumber charge 7(c) and subsequent charges to charge 8 and its sub-charges, such that the charges would read as follows:

- 7) Saying to or in the presence of Colleague A in relation to Ms 1:
 - a) 'Somebody better call the police because there is going to be a murder' or words to that effect;
 - b) 'my husband is going to come for Ms 1' or words to that effect.

8) Saying the following to Colleague B:

- a) **That the Trust was 'rubbish' or words to that effect;**
- b) **That you wouldn't have any family be taken care of by the Trust and would take them somewhere else.**

She further proposed to reword charge 11, to correct a grammatical error:

- 11) On or before 5 April 2018 requested and/or allowed a colleague ~~completing~~ **to complete** your online mandatory training for you.

The third amendment Ms Stevenson proposed was to amend charge 6f and rewrite it as a standalone charge, which is now charge 9, such that it reads as follows:

- 6) Saying the following to Colleague E in relation to Colleague D and/or F respectively:
 - a. ...
 - b. ...
 - c. ...
 - d. ...
 - e. ...
 - f. ~~Saying to Colleague D that you have reported her to the NMC for 'forcing' you to administer IV therapy at patient's home or words to that effect;~~
- 7) ...
 - a. ...
 - b. ...
- 8) ...
 - a. ...
 - b. ...

9) Saying to Colleague D that you have reported her to the NMC for ‘forcing’ you to administer IV therapy at patient’s home or words to that effect;

The fourth amendment Ms Stevenson proposed was to add charge 13, in relation to charge 9 above:

13)Your comments in charge 9 above were intended to intimidate Colleague D

Ms Stevenson further proposed to amend the numerical error in charge 15 which has emerged as a result of the additional charges above:

15)Your actions in charge 44 ~~14~~ above were dishonest in that you sought to mislead your employer into believing you had completed your own mandatory training when you knew you had not.

Ms Bayley, on your behalf, submitted that there is no injustice to you if the panel were to approve the proposed amendments. She further submitted, with regard to the new charges, whilst these are allegations which have not been previously made by the NMC, there is no injustice to you. With regard to amending the grammatical and numerical errors, Ms Bayley submitted that she supported the application, as it would provide clarity and more accurately reflect the evidence.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of ‘Nursing and Midwifery Council (Fitness to Practise) Rules 2004’, as amended (the Rules).

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

Decision and reasons on application for hearing to be held in private

At the outset of the hearing, Ms Stevenson made a request that this case be partially held in private on the basis that your case involves matters surrounding [PRIVATE]. The application was made pursuant to Rule 19 of the Rules. She submitted that these matters should be relatively straightforward to identify, as and when the issues are raised.

Ms Bayley indicated that she supported the application.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined to go into private session as and when matters surrounding [PRIVATE], when it is not particularised in the charges, are raised.

Decision and reasons on application to admit witness statement

The panel heard an application made by Ms Stevenson under Rule 31 to allow the written statement of Witness 8 into evidence.

Ms Bayley indicated that she did not oppose the application.

In these circumstances, the panel came to the view that it would be fair and relevant to accept into evidence the written statement of Witness 8 but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

Decision and reasons on application of no case to answer

The panel considered an application from Ms Bayley that there is no case to answer in respect of charges 1(a)(i), 1(a)(ii), 2, 3(a)(i), 3(a)(ii), 3(a)(iii), 3(b), 3(d)(i), 3(d)(ii), 3(d)(iii), 4, 5(a)(i), 5a(ii), 5a(iii), 5(a)(iv), 11, 14 and 15. This application was made under Rule 24(7).

Ms Bayley referred the panel to the cases of *R v Galbraith* [1981] 1 W.L.R. 1039 and *Shippey* [1988] Crim LR 767. She submitted that charges 1 and 2 rely on anonymous hearsay evidence and cited the case of *White v Nursing and Midwifery Council* [2014] EWHC 520 (Admin) where the High Court found that, as a general rule, “it is difficult to conceive of circumstances in which the admission of potentially significant evidence about the attitude and conduct of a registrant which is both anonymous and hearsay will not infringe the requirement of fairness”.

Ms Bayley provided the panel with written and oral submissions.

With regards to charges 1 and 2 she stated:

“The evidence in support of these allegations consisted entirely of anonymous hearsay. None of the witnesses gave evidence that they had heard the Appellant say Colleague A was “not qualified to be on the team” or “should not be in the post”. Colleague A gave evidence that she did not recall hearing the Appellant say this, but that it was reported to her by staff and it was an impression that Mrs Farnell felt that way. These allegations were not raised in the contemporaneous interviews.

The highest the committee could conclude on the evidence would be that unidentified staff members reported to Colleague A that Mrs Farnell had said such things. The evidence of anonymous members of staff who cannot have been cross-examined cannot be relied on probatively. There is no evidence that could establish that the anonymous members of staff were being truthful, or merely gossiping.

The evidence in support of this charge is vague, tenuous and inherently unreliable. The panel is invited to find no case to answer in relation to allegations 1 and 2.”

With regards to charges 3 and 4 she stated:

“There is no rationale provided for alleging that it was inappropriate to leave Colleague B out of conversations of a personal nature. Colleague B agreed that Mrs Farnell was not obliged to engage in personal conversations with Colleague B. These allegations are general in nature and Colleague B was unable to provide examples of this conduct occurring.

Charge 3b and 3d(ii) appear to be duplicitous. The only example given of Mrs Farnell refusing to do tasks allocated to her was the CVAC task she was allocated. Colleague B agreed that if Mrs Farnell was not properly trained, she should not undertake CVAC tasks. There is no evidence that Mrs Farnell was signed off as competent. It was asserted by the witness that it "came to light" that Mrs Farnell had signed off another staff member, but there is no evidence to support such an assertion and no evidence the witness had sight of any such evidence herself.

The other example given by Colleague B was that of a discussion about waste management, which was resolved.

There was reference made to a visit Mrs Farnell was asked to carry out which she did not accept. The evidence from Colleague B was that Mrs Farnell "either argued about the visit or refused to do the visit, I can't remember the specifics". This is insufficient for any panel, properly advised, to conclude that Mrs Farnell behaved inappropriately or intended to bully or intimidate Colleague B or undermine her position as a Band 6 nurse.

There is insufficient evidence that Mrs Farnell ignored emails from Colleague B. The single example was given about a task sent to Band 6s, to which it is alleged Mrs Farnell did not respond. This could not amount to inappropriate behaviour or behaviour intended to bully or intimidate Colleague B, or to undermine her position.”

With regards to charge 5 she stated:

“There has been no evidence presented to support the NMC position that any of the above comments were threatening. The Cambridge Dictionary describes threatening as "expressing a threat of something unpleasant or violent". There is no threat involved in the above allegations. The panel is invited to find that "and/or threatening" cannot be proved and amend the allegation accordingly.”

With regards to charge 11 she stated:

“The evidence of Colleague E was that Mrs Farnell believed them to be friends and that she was not directing any language at Colleague E. The evidence is clear that Mrs Farnell believed Colleague E to be a friend, to whom she turned for support on the day she was informed of the investigation.

The Cambridge Dictionary defines "intimidate" as "to frighten or threaten someone, usually in order to persuade them to do something that you want them to do". There is no evidence that Mrs Farnell made any threats to Colleague E. There is no evidence that Mrs Farnell intended to frighten her or that she was seeking to persuade Colleague E to do anything. In the circumstances, the panel is invited to find no case to answer in relation to this charge.”

With regards to charges 14 and 15 she stated:

“There is no evidence to support the allegation that Mrs Farnell requested a colleague to complete her mandatory training. The hearsay evidence suggests that

a healthcare support worker... took it upon herself to do the online training, to help her colleagues out. The NMC's case, at its highest, is that Mrs Farnell gave this colleague her login pass. The panel has the evidence, from Mrs Farnell's investigatory interview, that this was done for an innocent purpose, namely in order that the colleague could download online material. The NMC has called no evidence to undermine that account. No evidence has been called to demonstrate that Mrs Farnell requested or permitted the colleague to complete the training on her behalf.

There is no evidence that Mrs Farnell sought to mislead her employer that the training had been completed by her. The only evidence about the emails is that they were automatically generated and not sent by Mrs Farnell. In any event, it appears from the evidence that Mrs Farnell was required to complete face to face medicines management training. There is no evidence that Mrs Farnell misled her employer about completing that training.”

Ms Bayley invited the panel to find no case to answer in relation to these charges.

Ms Stevenson also provided the panel with written and oral submissions in response to Ms Bayley's application. With regards to charges 1, 2 and 3(d)(iii), Ms Stevenson submitted it is a matter for the panel as to whether the evidence produced by the NMC is sufficient evidence such that a reasonable panel, properly advised, could find the charges proved to the necessary standard.

With regards to 3a, 3b, 3di and 3dii, 4, 11, the stem of 14 (requested and/or) and 15, Ms Stevenson submitted that the NMC has produced sufficient evidence such that a reasonable panel, properly advised, could find the charges proved to the necessary standard.

With regards to the stem of charge 5, namely 'and/or threatening', Ms Stevenson submitted that the NMC concede that it has not produced sufficient evidence in relation to that element of the charge.

With regards to Ms Bayley's point in relation to hearsay evidence, Ms Stevenson in her written submissions stated:

"Although the evidence in relation to some of the following charges is hearsay, it is still evidence before the Panel and no issue has been raised as to its admissibility.

It is matter for the Panel as the end of the fact stage as to assign each piece of evidence the appropriate weight.

Secondly, and following from the first submission, whilst there may not be direct evidence for some of the following charges, it is submitted that there is circumstantial evidence for the Panel to consider and draw inferences from.

Thirdly, the Panel at this stage do not have to consider credibility of a witness but it may be worth noting, as to the reliability of the evidence, whether the witnesses would be untruthful in the accounts given and if they are mistaken in their accounts, consideration may be given to the fact that they are giving evidence some 6-10 years after the incidents occurred and sometimes without the benefit of documentation available to them which may have been closer to the time of the incidents."

With regards to charges 1 and 2, Ms Stevenson referred the panel to the witness statements of Colleague D, Colleague A as well as evidence Colleague A has provided such as a file note dated 7 May 2015, minutes from Investigative Interview dated 8 June 2016, 8 June 2018 and 14 September 2018.

Ms Stevenson in her written submissions stated:

“Although the evidence is hearsay evidence, it remains admissible as per paragraph 10 above. As to what weight should be attached, that is a matter that the Panel can consider when it retires on the fact stage.”

With regard to charges 3a, 3b, 3di, 3dii and 4, Ms Stevenson referred the panel to the witness statement of Colleague B and the minutes of her Investigative interview dated 11 June 2018.

Ms Stevenson in her written submissions stated:

“The Registrant submits that there was ‘there is no rationale provided for alleging that it was inappropriate to leave Colleague B out of conversations of a personal nature.’ Firstly the NMC allege that the Registrant failed to engage in conversations with Colleague B. Secondly, the NMC submit that the Panel have examples of evidence where the conversations are not of a personal nature but rather a professional nature, for example page 140-141, paragraph 28, “you’d be trying to do a handover and you’d say “can you come and handover” and she’d just totally, point blank ignore you.”. The NMC submit it is inappropriate to not engage in professional conversations.

The Registrant submits Charge 3b and 3d(ii) appear to be duplicitous. The charges are clearly not duplicitous, Charge 3b alleges that the Registrant argued with Colleague B and Charge 3d(ii) alleges that the Registrant refused to adhere to decision made by Colleague B and/or going to the matron regarding Colleague B’s decision(s). Firstly, there is a difference between arguing and refusing. Secondly, although some evidence may be applicable to both charges it does not mean they are duplicitous.

In relation to Charges 3a, 3b, 3di, 3dii and 4 the NMC submit there is sufficient evidence such that a reasonable panel, properly advised, could find the charges proved to the necessary standard.”

With regards to charge 3(d)(iii), Ms Stevenson referred the panel to Colleague B's Investigative interview dated 11 June 2018. Ms Stevenson in her written submissions stated:

“...it is a matter for the Panel as to whether there is sufficient evidence presented to find the facts of Charge 3diii proved and whether the facts are neither inherently weak or vague.”

With regards to charge 11, Ms Stevenson referred the panel to the witness statement of Colleague E and the minutes of her investigative interview on 30 May 2018, her interview with Mr 2 on 30 May 2018 and 14 September 2018.

Ms Stevenson reminded the panel in her written submissions that the panel do not have to consider credibility as stated above. In her written submissions she stated:

“It is submitted that ..., Colleague E, has been consistent and has referred to how the Registrant made her feel scared and intimidated.”

With regard to charges 14 and 15, Ms Stevenson referred the panel to the witness statement of Colleague H, Colleague D, Colleague F, Colleague G, her investigation report and the minutes of your investigation interview on 13 June 2018. Ms Stevenson in her written submissions stated:

"There is evidence that the Registrant requested a colleague to complete her mandatory training. Furthermore, inferences can be drawn from the evidence and although the evidence contains hearsay, hearsay is admissible.

There is evidence that the Registrant sought to mislead her employer that the training had been completed by her.

Although the evidence is hearsay evidence, it remains admissible as per paragraph 10 above. As to what weight should be attached, that is a matter that the Panel can consider when it retires on the fact stage.

The Panel will be aware that contemporaneous documents are of the utmost importance as memories fade. The witnesses have given oral evidence in relation to events that occurred some 6-10 years ago. Therefore, the Panel are invited to consider the date of witness statements, local statements, interview minutes and any other documents relied upon.

It is academic as to whether certain aspects of the training were mandatory. The Registrant had to complete online mandatory training in both information governance and medicines management. Although, some witnesses recall that the medicines management had to be face to face, based on the evidence, the Registrant was of understanding that it had to be completed online and so requested and/or allowed a colleague to complete that online training for her.”

Panel Decision

The panel took account of the submissions made and accepted the advice of the legal assessor.

In reaching its decisions, the panel made an initial assessment of all the evidence that had been presented to it at this stage. It considered the evidence at its highest, taking into account its strength and its weaknesses. The panel was solely considering whether sufficient evidence had been presented, such that a properly directed panel could find the charge proved and therefore whether you had a case to answer.

Charges 1(a) and 1a(ii)

1) On one or more occasions between 2014 and 2018, in relation to Colleague A:

- a) Informed staff members that Colleague A
 - i) Was 'not qualified to be in the team' or words to that effect;
 - ii) 'Should not be in the post' or words to that effect.

Colleague D in her witness statement stated:

"From many conversations with her, I am aware that [Colleague A] (staff nurse) found it particularly hard to work with the Registrant because the Registrant was very inappropriate and very challenging with her. The Registrant used to tell new staff members that [Colleague A] was rubbish, that she was not a good Band 6 nurse and was useless and so new members of staff wanting to fit in the team would believe the Registrant."

Colleague A in her witness statement stated:

"...when I first met the Registrant, she wasn't very kind or respectful towards me. She didn't feel that I should have been a Band 6 or that I was qualified for being in such a post because I did not have a district nursing qualification. There were times when she had outbursts and she would tell staff members that I would be monitored by the matron [Colleague D] and that I was under investigation."

In relation to being managed by staff who were not district nurses, in cross examination, Colleague A stated that she believed she heard it from you and knew she heard it from others.

The panel also took account of the contemporaneous 'Minutes from Investigative Interview on 8 June 2016' where Colleague A stated, in relation to you:

“She turned round and said that me, as a Band 6 that because I’m not a [District Nurse], I wasn’t qualified to be making some of these decisions, to decide that somebody wasn’t suitable for our service”. “That it should be a [District Nurse]”; and I’m not a [District Nurse]. It was just many things on the list.”

The panel do not consider the witness statements of Colleague D to be solely anonymous hearsay evidence as it appears that you told her words to the effect of those described in charge. Further, it noted that there appears to be contemporaneous additional evidence to support the charge at this stage. As a result, the panel reached the conclusion that a panel, properly directed, could find charges 1(a)(i) and 1a(ii) proved.

In these circumstances, you have a case to answer in respect of this charge.

Charge 2

2) Your actions in charge 1 above were intended to bully and/or intimidate Colleague A and/or undermine her position as a Band 6 nurse.

The panel bore in mind that it cannot make a finding on charge 2 until it comes to a decision in relation to charge 1(a)(i) and 1a(ii). It had already considered that Colleague D and Colleague A support charge 1(a)(i) and 1a(ii) and concluded that a panel, properly directed, could find these charges proved, namely that you informed staff members that Colleague A was ‘not qualified to be in the team’ and ‘Should not be in the post’ or words to that effect.

While the panel noted that it has yet to hear your evidence, based on the evidence it has heard so far in relation to charge 1a(i) and 1a(ii), it concluded that a panel, properly directed, could interpret that your actions as described in those charges were intended to bully and/or intimidate Colleague A and/or undermine her position as a Band 6 nurse.

In these circumstances, you have a case to answer in respect of this charge.

Charge 3a(i)

- 3) On one or more occasions, behaved inappropriately towards Colleague B in that you:
 - a) During October 2016, ignored Colleague B by:
 - i) Failing to engage in conversations with Colleague B

Colleague B in her witness statement stated:

“When I started my Band 6 role in October 2016, I noticed a change in the Registrant's behaviour towards myself. I noticed that the Registrant started ignoring me and it became quite clear that she wouldn't engage with conversations, she would leave me out of conversations and wouldn't answer any questions that I had.

... Sometimes the Registrant would ask a question and if I answered she would ignore me and ask the same question to someone else and wait until they answered. Other staff members also stated that it was quite obvious how the Registrant was being different towards me.

... I felt that the way the Registrant wouldn't engage with me, wouldn't sit near me and go out of her way to ignore me...”

In the minutes of Colleague B's investigative interview on 11 June 2018, she stated:

“you'd be trying to do a handover and you'd say “can you come and handover” and she'd just totally, point blank ignore you.”

The panel noted that Colleague B supports this charge and it noted that there appears to be contemporaneous additional evidence. As a result, the panel reached the conclusion that a panel, properly directed, could find charge 3(a)(i) proved.

In these circumstances, you have a case to answer in respect of this charge.

Charge 3a(ii)

- 3) On one or more occasions, behaved inappropriately towards Colleague B in that you:
- a) During October 2016, ignored Colleague B by:
 - ii) Leaving Colleague B out of conversations

Colleague B in her witness statement stated:

“When I started my Band 6 role in October 2016, I noticed a change in the Registrant's behaviour towards myself. I noticed that the Registrant started ignoring me and it became quite clear that she wouldn't engage with conversations, she would leave me out of conversations and wouldn't answer any questions that I had.

...Sometimes the Registrant would ask a question and if I answered she would ignore me and ask the same question to someone else and wait until they answered”

In the minutes of Colleague B's investigative interview on 11 June 2018, she stated:

“...the way she spoke to me or the way she didn't speak to me, the way she would totally ignore me to the point of if I was sat next to a phone, asking somebody at the other side of the office and it's a big office for that phone number. I felt it was really aimed at me and deliberate.

...I felt that when she was having conversations with other members of staff in the office, I was left out of those conversations and possibly, personally left out.”

The panel noted that Colleague B supports this charge and it noted that there appears to be contemporaneous additional evidence. As a result, the panel reached the conclusion that a panel, properly directed, could find charge 3(a)(ii) proved.

In these circumstances, you have a case to answer in respect of this charge.

Charge 3a(iii)

- 3) On one or more occasions, behaved inappropriately towards Colleague B in that you:
 - a) During October 2016, ignored Colleague B by:
 - iii) Failed to answer questions from Colleague B

Colleague B in her witness statement stated:

“I noticed that the Registrant started ignoring me and it became quite clear that she wouldn’t engage with conversations, she would leave me out of conversations and wouldn’t answer any questions that I had...”

In the minutes of Colleague B’s investigative interview on 11 June 2018, she stated:

“... you’d be trying to do a handover and you’d say “can you come and handover” and she’d just totally, point blank ignore you.”

The panel noted that Colleague B supports this charge and it noted that there appears to be contemporaneous additional evidence. As a result, the panel reached the conclusion that a panel, properly directed, could find charge 3(a)(iii) proved.

Charge 3b

- 3) On one or more occasions, behaved inappropriately towards Colleague B in that you:
 - b) Argued with Colleague B when orders were given.

Colleague B in her witness statement stated:

“Additionally, if I gave an order for something to be done, the Registrant would argue with me about it.”

In the minutes of Colleague B’s investigative interview on 11 June 2018, she stated:

“...She once refused to take down a Chemotherapy pump, she told me that she wasn’t competent; she’d not had her CVac Training”

“...when I’ve been speaking to another member of staff about waste management, she’s overruled and said “no, you don’t have to do that you can do this”

“...and that’s when she overruled me and said “no it can go in any sharp’s bin”

“...so again, I just challenged that and asked her if she felt that we weren’t competent and I would look at sending a member of staff with her and then she back tracked and said “no I’ll be fine, I will go out and do these visits”.

The panel noted that Colleague B supports this charge and it noted that there appears to be contemporaneous additional evidence. As a result, the panel reached the conclusion that a panel, properly directed, could find charge 3(b) proved.

Charge 3d(i)

- 3) On one or more occasions, behaved inappropriately towards Colleague B in that you:
 - d) Between October 2016 and April 2017, in relation to Colleague B:
 - i) Questioned Colleague B’s decision making

In the minutes of Colleague B’s investigative interview on 11 June 2018, she stated:

“...when I’ve been speaking to another member of staff about waste management, she’s overruled and said “no, you don’t have to do that you can do this..”

“...and that’s when she overruled me and said “no it can go in any sharp’s bin”

“I feel that she was trying to demean my work, to pick apart my work. She would question my decision making...”

The panel noted that there appears to be contemporaneous evidence that supports the charge. As a result, the panel reached the conclusion that a panel, properly directed, could find charge 3(d)(i) proved.

Charge 3d(ii)

- 3) On one or more occasions, behaved inappropriately towards Colleague B in that you:
 - d) Between October 2016 and April 2017, in relation to Colleague B:
 - ii) Refused to adhere to decisions made by Colleague B and/or going to the matron regarding Colleague B’s decision(s).

In the minutes of Colleague B’s investigative interview on 11 June 2018, she stated:

“She once refused to take down a Chemotherapy pump, she told me that she wasn’t competent; she’d not had her CVac Training”

“...Instead of asking myself about why I have made a particular decision she stormed straight to the matron”

The panel noted that there appears to be contemporaneous evidence that supports the charge. As a result, the panel reached the conclusion that a panel, properly directed, could find charge 3d(ii) proved.

Charge 3d(iii)

- 3) On one or more occasions, behaved inappropriately towards Colleague B in that you:
 - d) Between October 2016 and April 2017, in relation to Colleague B:
 - iii) Failed to respond to Colleague B's emails

Colleague B in her oral evidence spoke directly to this charge. She stated that she was expecting a reply to her email but did not get one, in the panel's view this was a realistic expectation in the prevailing circumstances.

In light of the above, the panel reached the conclusion that a panel, properly directed, could find charge 3d(iii) proved.

Charge 4

- 4) Your actions in charge 3 above were intended to bully and/or intimidate Colleague B and/or undermine her position as a Band 6 nurse

The panel bore in mind that it cannot make a finding on charge 4 until unless it comes to a decision in relation to the sub-charges in charge 3. It had already considered that Colleague B's evidence supports charges 3(a)(i), 3(a)(ii), 3(a)(iii), 3(b), 3(d)(i), 3(d)(ii) and 3(d)(iii) and concluded that a panel, properly directed, could find these charges proved.

While the panel noted that it has yet to hear your evidence, based on the evidence it has heard so far in relation to the aforementioned charges, it concluded that a panel, properly directed, could interpret that your actions as described in those charges were intended to bully and/or intimidate Colleague A and/or undermine her position as a Band 6 nurse.

In these circumstances, you have a case to answer in respect of this charge.

Charge 5

5) Between 2016 and 2018, made inappropriate and/or threatening comments about ICT and/or management including:

The panel bore in mind the NMC's concession that it has not produced sufficient evidence in relation to the stem of the charge, namely that the comments were 'threatening'. This was a concession with which the panel agreed.

With regards to whether the comments were 'inappropriate', Colleague C in her witness statement stated:

"The Registrant was quite inappropriate at times with staff members and did not particularly like Colleague F.

...when I was getting to know the Registrant, she said to me "Why did you come from Leeds for a Band 6 position here, nobody respects ICT in comparison to the other teams at the Trust, there is no future progression here"

In an email dated 4 April 2018, Colleague C stated:

"With the impression of 'being friendly' towards me, she will on occasions mention several things that I feel are inappropriate. These include phrases such as:

'I don't know why you chose to work in this team, there is no progression and it is a dead end job'

'ICT have a bad reputation and the other teams do not think highly of us.'

The panel noted that Colleague C supports the this charge and it noted that there appears to be contemporaneous additional evidence. As a result, the panel reached the conclusion that a panel, properly directed, could find charge 5 proved.

In these circumstances, you have a case to answer in respect of this charge, namely that the comments were inappropriate.

Charge 11

11)Your comments in charge 6 above were intended to intimidate Colleague E

The panel bore in mind that it cannot make a finding on charge 11 until comes to a decision in relation to the sub-charges in charge 6.

Colleague E, in her witness statement, stated:

“...when the Registrant was talking about Colleague D and Colleague F, she made a gun gesture with her fingers and said “bang bang”. I didn’t say anything or ask the Registrant what she meant by this because I had to work 12 hour shifts with her and I was quite intimidated by her.”

Colleague E, in a local statement dated 10 April 2018, stated:

“I find Tilly [you] a very intimidating person and its very hard when you work on one to one as we do on a night to confront Tilly on the way she speaks and her behaviour.”

In the minutes of Colleague E’s investigative interview on 30 May 2018, she stated:

“Because I probably wouldn’t have said anything because, I suppose I was a bit scared really because you don’t want any comeback...”

... I just want to portray over how, like, how she makes you feel. You can't describe how like, it's scary the way she makes you feel..."

While the panel noted that it has yet to hear your evidence, based on the evidence it has heard so far, it concluded that a panel, properly directed, could interpret that your actions as described in those charges were intended to intimidate Colleague E.

In these circumstances, you have a case to answer in respect of this charge.

Charge 14

14) On or before 5 April 2018 requested and/or allowed a colleague to complete your online mandatory training for you.

Colleague D in her witness statement stated:

"As a Band 5 nurse, the Registrant had to take online mandatory medicine management level 2 training...."

... The Registrant left her SystemOne card for the HCA to complete the training for her. The SystemOne card is a physical card which users can plug into a computer to gain access to patient records and training programmes. The user is prompted to enter a unique PIN number. The Registrant should have been aware that a HCA wasn't supposed to complete this training online because as a Band 5 staff nurse, you have to have face to face training in the community with a practice educator.

The HCA in question was investigated and she admitted that she completed online training for the Registrant and another member of staff as well."

Colleague G in her witness statement stated:

“Appendix J to my report contains screenshots of the Registrant's online training competency log. The documents show that the Registrant has completed some training modules but...(HCA) admitted that she had completed the Registrant's online Information Governance training and online Medicine Management training for her.”

Colleague G's investigation report stated:

3.17 Training Record of [Mrs Farnell] - This is a record showing that [Mrs Farnell] completed online Information Governance training 05.04.18 at 00:59pm and online Medicine Management training 05.04.18 and 00:29pm.

3.18 [Mrs Farnell] was not on duty at this time.

The panel noted that Colleague D and Colleague G support this charge and it noted that there appears to be contemporaneous additional evidence. As a result, the panel reached the conclusion that a panel, properly directed, could find charge 14 proved.

In these circumstances, you have a case to answer in respect of this charge.

Charge 15

15) Your actions in charge 14 above were dishonest in that you sought to mislead your employer into believing you had completed your own mandatory training when you knew you had not.

In your investigative interview on 13 June 2018 it stated:

[Colleague G]: We've received an allegation that you didn't complete your own online mandatory training in Medicines Management and Information Governance. Is that allegations true?

[Mrs Farnell]: Yes it is true....She told us to get that mandatory training done and doesn't care how it's done...I stupidly at the time because I was watching everything I did, I approached a member of staff who I'd been told was doing everybody else's and I asked her for help just because I was looking for it and I couldn't find it to put it on the thing so I could run the programme to do it. I asked her for help to help me to find it so I could do it. And she said to me 'I'll do it for you I've been doing everybody else's' she said '[Colleague F] knows all about it, it's all right'. So I said 'Oh right' so stupidly I gave her my card. I didn't want her to do it for me I just wanted to get help to do it and then she did it and told me she'd done it. But I was aware before she even did mine that there was a collection going round for this girl that was doing everybody's mandatory training....

[Colleague G]: Once you realised this girl had done your training for you did you do anything about it?

[Mrs Farnell]: No

The panel noted that there appears to be contemporaneous evidence to support charge 15. While the panel has yet to hear your evidence in respect of this charge, it reached the conclusion that a panel, properly directed, could find this charge proved.

In these circumstances, you have a case to answer in respect of charge 15.

The panel was of the view that there had been sufficient evidence to support the charges at this stage and, as such, it was not prepared, based on the evidence before it, to accede to an application of no case to answer. What weight the panel gives to any evidence remains to be determined at the conclusion of all the evidence.

Decision and reasons on application to amend the charge

The panel invited submissions from Ms Stevenson and Ms Bayley relating to amending charge 5 to remove 'and/or threatening'. Neither Ms Stevenson nor Ms Bayley opposed the amendment.

The panel therefore decided to amend the charge to strike out 'and/or threatening' from it.

Therefore charge 5 will now read:

- 5) Between 2016 and 2018, made inappropriate ~~and/or threatening~~ comments about ICT and/or management including:

The application for an adjournment

[PRIVATE]

This case was adjourned part heard on 9 February 2024 and resumed on 28 October 2024.

Decision and reasons on application to admit expert report for panel to consider its 'relevance and fairness'

The panel heard an application made by Ms Bayley, on your behalf, under Rule 31 to allow the expert report of Dr 1 into evidence. [PRIVATE] She submitted that the panel would need to consider the report to decide if it is admissible. She submitted that it would be fair and relevant to admit Dr 1's report. She submitted that if the report was not admitted into evidence then this would be unfair to you. She submitted that the report would provide context in light of the allegations. She submitted that the report should be adduced for the panel to consider. [PRIVATE] She submitted that the NMC had to instruct their own expert. Further, the NMC has an opportunity to cross examine Dr 1.

Mr Page submitted that the NMC object to the report by Dr 1 being admitted into evidence. He submitted that the contents of the report are not relevant to the determination that the panel has to consider. Further, he submitted that the report is not compliant with the Civil Procedure Rules (CPR), Part 35, Rule 22, regarding the Statement of Truth. He submitted that the panel may need to view the report so it can assess whether it is fair or relevant to be admitted into evidence.

Ms Bayley submitted that the CPR rules do apply in these proceedings.

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 accepted the advice of the legal assessor that it should consider Dr 1's report to determine whether it is fair and relevant to admit the report into evidence. It noted that a potential remedy, to admit the report into evidence would be for Dr 1 to provide a new statement of truth for their report.

Decision and reasons on application to admit expert report into evidence

[PRIVATE]

Background

The charges arose whilst you were employed as a registered nurse as part of a community care team, the Integrated Care Team ("ICT") with the Mid Yorkshire NHS Hospitals Trust (the Trust).

The concerns in this case relate to bullying and/or intimidating members of staff, behaving inappropriately by making inappropriate comments about ICT and/or management, requesting and/or allowing a colleague to complete your online mandatory training for you and the associated dishonesty regarding the completion of that on-line mandatory training.

Colleague A alleges that you were reporting to Colleague D and told the ICT that Colleague A should not be in post and was not qualified to be in the team as she was not a District Nurse. Colleague A also alleges that she heard other inappropriate comments that were said in her presence but that they were not said directly to her.

Colleague B alleges that on one or more occasions you behaved inappropriately with her in that you ignored her, would not engage with Colleague B in conversations, left Colleague B out of conversations and would not answer any of Colleague B's questions. Colleague B alleges that you stated in her presence that you were *'best friends with the boss and when you're best friends with the boss you can do what you want and get away with it'* or words to that effect. Colleague B also alleges that you would question her decision making, refuse to adhere to decisions she made and failed to reply to her emails. Colleague B also alleges that you made negative verbal comments about the Trust.

Colleague C alleges that the comments you made to her about the Trust were inappropriate.

Colleague E alleges that you made a number of comments to her about members of staff including Colleague D and Colleague F. Colleague E alleges that on one occasion, in April 2018, when you were speaking about Colleague D and Colleague F you made a gun gesture with your fingers and said *"bang bang"*. She stated that she did not clarify with you what you meant by this as she worked 12 hour shifts with you and felt intimidated by you.

Colleague D alleges that you said that you had contacted the NMC saying that she had forced you to administer IV therapy at home. She said that it was explained to you that

when you moved to the rapid response team that you would have to administer IV therapy at patients' homes because it was a requirement of the role in that team.

As a Band 5 nurse, you are required to complete an online mandatory medicine management level 2 training however, it is alleged that you requested and/or allowed a colleague, a Healthcare Assistant ("HCA"), to complete your online mandatory training for you.

It is the NMC's case that if the allegations are found proved, it would indicate a pattern of behaviour of bullying and/or intimidating, behaving inappropriately and making inappropriate comments. Additionally, there is an allegation of dishonesty.

Decision and reasons on facts

At the outset of the hearing, the panel heard from Ms Bayley, who informed the panel that you made admissions to making the statements outlined in charge 5 but denied that it was inappropriate. Ms Bayley also informed the panel that you admitted charges 8a and 8b in their entirety.

The panel therefore finds charges 8a and 8b proved in their entirety, by way of your admissions. It concluded that when it reaches its decision making for facts it will consider whether the statements you made as outlined in charge 5 were inappropriate.

In reaching its decisions on the remaining facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Page and by Ms Bayley.

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/Colleague C: At the material time was employed as a Band 6 Nurse Coordinator at the Trust and worked with you in the ICT. She knew you only in a professional capacity.
- Witness 2/Colleague D: At the material time she was employed as a Locality Matron for Adult Community Services and worked with you in the ICT. She knew you in a professional capacity.
- Witness 3/Colleague A: Employed as a Band 6 Nursing Coordinator at the Trust and worked with you in the ICT. She knew you in a professional capacity.
- Witness 4/Colleague F: At the material time she was employed as a Team Leader for Adult Community Services and worked with you in the ICT. She knew you in a professional capacity.
- Witness 5/ Colleague G: At the material time she was employed as the Matron for Nurse Staffing for the Trust. She took over the Trust's investigation in relation to the concerns regarding your

conduct. She did not know you at the time of taking over the investigation.

- Witness 6/Colleague B: At the material time she was employed as a Band 6 Nursing Coordinator and worked with you in the ICT. She knew you in a professional capacity.
- Witness 7/Colleague E: At the material time, she was employed as a healthcare support worker and worked with you in the ICT. She knew you in a professional capacity.
- Witness 8/Colleague H: At the material time, she was employed as a Clinical IT Manager. She did not work alongside you and had no direct involvement with you but knew you for 10 years as she was a team leader when you in post as a health care support worker.

The panel also heard evidence from you under oath.

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

- Witness 9: Employed by the Trust and represented you during your meetings with management at the Trust.

- Witness 10: Health care support worker in the ICT at the Trust and who worked with you.
- Witness 11: Registered nurse in the ICT at the Trust and who worked with you.
- Witness 12: Registered nurse who worked in the Trust. She did not work with you directly.
- Witness 13: Registered nurse. You worked together at Mid Yorkshire Hospital.

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 both the NMC and Ms Bayley on your behalf.

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

Charges 1)a)(i) and 1)a)(ii)

“That you, a registered nurse:

1) On one or more occasions between 2014 and 2018, in relation to Colleague A:

a) Informed staff members that Colleague A:

i. Was ‘not qualified to be in the team’ or words to that effect.

ii. ‘Should not be in the post’ or words to that effect.”

These charges are found PROVED.

In reaching this decision, the panel took into account Colleague A’s evidence.

In Colleague A's NMC witness statement she stated *'I can't pinpoint any particular dates or which staff members were present, but it was always the same pattern of events; the Registrant would say that she was reporting to [Colleague D] and telling the ICT that I shouldn't be in the post and I wasn't qualified to be in the team because I'm not a district nurse.'* The panel took into account that Colleague A's oral evidence was consistent with her NMC statement.

The panel considered Colleague A's file note, dated 7 May 2015, which contained her experiences with you. She stated in the file note *'Spoke to another member of staff – [Mr 4], who felt that today's out burst [sic] from Tilly was just another of her many verbal attacks. [Mr 4] also advised me that he feels that Tilly has a personal vendetta against [sic] me and regular bad mouths me to other staff. She tells staff that [Colleague D] is aware that I am lazy and don't do anything. [Mr 4] stated that he feels that Tilly is jealous [sic] that I am a band 6 and that she isn't.'* The panel took into account that this was a contemporaneous record.

The panel considered the 'Investigative Interview with: [Colleague A] held 8 June 2016. Colleague A said *"I used to even get things like I wasn't qualified to be a Band 6."* She clarified that *"It was practically face to face, in the sense that she felt it was, I was saying that the palliative patients, we need to be getting the District Nurse, who is in charge of that caseload for that patient, they also need to be triggering to commissioning that they are not suitable for our service, that they need DST, that they need to start doing the paperwork. She turned round and said that me, as a Band 6 that because I'm not a DN, I wasn't qualified to be making some of these decisions, to decide that somebody wasn't suitable for our service". "That it should be a DN"; and I'm not a DN. It was just many things on the list."*

The panel considered the 'Investigative Interview with: [Colleague A] held 8 June 2018. During this interview, when asked *"Has Tilly ever made you feel intimidated or uncomfortable?"* Colleague A said *"So it was very much that I'd no right to be there, I'd no*

right to be part of that team. I clearly wasn't experienced in the Community because I didn't have a District Nursing qualification. It was disgraceful I'd been given a Band 6 post when I wasn't a District Nurse." In the same interview, Colleague A said *"She used to tell me and she used to tell people that [Colleague D] knew I was lazy and that [Colleague D] was monitoring me and that I was being performance managed, that Tilly was feedbacking back my inadequacies of leading the team... She didn't think I was qualified to make such decisions and thought it was disgraceful I was telling District Nurses to go and review things."* Further, Colleague A said in the interview *"Previous to that, when I first came in post, Tilly would be quite vocal about my ability, my right to be in the team, she was very vocal to other people that I wasn't capable of working in the team. She didn't like my decisions. She could be very challenging and that caused me a lot of upset."*

The panel considered your oral evidence. You told the panel that you didn't make these statements and that you were just taking part in conversations at work.

The panel considered the evidence before it and concluded that on one or more occasions between 2014 and 2018, in relation to Colleague A, you informed staff members that Colleague A was 'not qualified to be in the team' or words to that effect. It also found that you informed staff members that Colleague A 'Should not be in the post' or words to that effect. The panel therefore found charges 1)a)(i) and 1)a)(ii) proved.

Charge 2

"2) Your actions in charge 1 above were intended to bully and/or intimidate Colleague A and/or undermine her position as a Band 6 nurse."

This charge is found PROVED.

In reaching this decision, the panel took into account the Trust's policy on 'Bullying and Harassment Policy' dated 29 November 2016 (the Trust's Policy) and 'The code: Standards of conduct, performance and ethics for nurses and midwives (2015)' (the

Code). The panel also considered the evidence outlined at charge 1 and your oral evidence.

The panel took into account the Trust's Policy. It states *"ACAS defines bullying is 'offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient'"*.

The panel took into account that you had a duty as set out in the Code that you must work cooperatively.

The panel considered your oral evidence. You told the panel that you didn't make these statements and that you were just taking part in conversations at work.

The panel considered the evidence before it. The panel took into consideration that you were junior to Colleague A and you made these statements to her and other staff members. The panel took into consideration that your comments did not provide constructive feedback for Colleague A and it could find no other reason why you would make these statements to Colleague A other than to intimidate and undermine her position as a Band 6 nurse. Further, the panel was of the view that an informed member of the public and fellow registered professional would consider that your statements as outlined in charge 1 were made to intimidate and undermine Colleague A's position as a Band 6 nurse. The panel therefore found charge 2 proved.

Charges 3)a)i), 3)a)ii) and 3)a)iii)

"3) On one or more occasions, behaved inappropriately towards Colleague B in that you:

- a) During October 2016, ignored Colleague B by:
 - i. Failing to engage in conversations with Colleague B
 - ii. Leaving Colleague B out of conversations

iii. Failed to answer questions from Colleague B”

These charges are found PROVED.

In reaching this decision, the panel took into account the evidence of Colleague B and your oral evidence.

In Colleague B’s NMC witness statement, she stated “When I started my Band 6 role in October 2016, I noticed a change in the Registrant’s behaviour towards myself. I noticed that the Registrant started ignoring me and it became quite clear that she wouldn’t engage with conversations, she would leave me out of conversations and wouldn’t answer any questions that I had... Sometimes the Registrant would ask a question and if I answered she would ignore me and ask the same question to someone else and wait until they answered. Other staff members also stated that it was quite obvious how the Registrant was being different towards me.”

The panel considered the ‘Investigative Interview with: [Colleague B] held 11 June 2018. Colleague B said during this interview that *“Her issues were, she would not speak to me, she wouldn’t acknowledge me, and she was quite unprofessional around me. When we were in the same room, I felt that things that she was saying were to intimidate me, to make me feel, to even upset me if you like.”*

In the same interview, Colleague B said *“So she would enter the office, she would sit as far away as possible from me, you’d be trying to do a handover and you’d say “can you come and handover” and she’d just totally, point blank ignore you.”*

The panel took into account Minutes from [Colleague B]'s interview with Mr 2 on 14 September 2018. Colleague B said *“Tilly’s behaviour towards myself, I feel, altered in October 2016... I thought, there is something not right there, there is something wrong, that’s not... and also we hadn’t been close friends, but we would have had conversations*

previously. And I felt very shut down straight away. And then the hostilities just continued throughout October and into November and onwards really. She would ignore speaking to me. She would ignore requests that I might make. I felt very isolated around her. I felt that when she was having conversations with other members of staff in the office, I was left out of those conversations and possibly, purposefully left out.”

The panel considered Colleague B’s oral evidence and that her account was consistent with her NMC witness statement and documentary evidence outlined above.

The panel took into account your oral and documentary evidence.

The panel considered the evidence before it and took into consideration that these conversations that Colleague B referred to were professional conversations which related to work. The panel was of the view that cooperation with colleagues is necessary in a workplace when working within a team to ensure the safety of patients. The panel accepted the evidence of Colleague B. The panel concluded that on one or more occasions, you behaved inappropriately towards Colleague B, during October 2016, you ignored Colleague B, by failing to engage in conversations with her, leaving her out of conversations and failed to answer questions from her. The panel therefore found charges 3)a)i), 3)a)ii) and 3)a)iii) proved.

Charge 3)b)

“3) b) Argued with Colleague B when orders were given.”

This charge is found PROVED.

In reaching this decision, the panel took into account the evidence of Colleague B and your oral evidence.

In Colleague B's NMC witness statement, she stated *"Additionally, if I gave an order for something to be done, the Registrant would argue with me about it."*

The panel had regard to Colleague B's oral evidence. It noted that her account was consistent with her NMC witness statement.

The panel considered your evidence. You said that you did not argue with Colleague B.

The panel considered the evidence before it. The panel accepted the evidence of Colleague B and it determined that on one or more occasions, you behaved inappropriately towards Colleague B in that you argued with Colleague B when orders were given. The panel therefore found charge 3)b) proved.

Charge 3)c)

"3) On or around 6 December 2016 stated in Colleague B's presence that you were 'best friends with the boss and when you're best friends with the boss you can do what you want and get away with it' or words to that effect."

This charge is found PROVED.

In reaching this decision, the panel took into account Colleague B's evidence and your oral evidence.

The panel considered the 'Investigative Interview with: [Colleague B] held 11 June 2018. Colleague B said during this interview that *"This was roughly roundabout the 6th December. I was told that [Ms 5] would have had a meeting with Tilly and discuss my issues and her conduct; and just to see how it went from there. It was only a few days after that though that she came into the office declaring that she was best friends with the boss and when you're best friends with the boss, you can do what you want and get away with it."*

The panel considered Colleague B's oral evidence. It noted that Colleague B's account was consistent with her account provided during the Trust's investigation.

The panel took into account Minutes from [Colleague B]'s interview with Mr 2 on 14 September 2018. Colleague B said *"[Ms 5] did tell me that she would speak to Tilly, that she would bring my issues and concerns to her and get her point of view. Very soon after that, Tilly came into the office where I was, and announced that "it's great when your best friend is the manager because you can get away with anything and do what you want"."*

The panel took into account your oral and documentary evidence.

The panel considered the evidence before it and bore in mind that Colleague B had been consistent across all her accounts, during the Trust's local investigation and during the NMC's regulatory process. The panel concluded that on or around 6 December 2016, you stated in Colleague B's presence that you were 'best friends with the boss and when you're best friends with the boss you can do what you want and get away with it' or words to that effect. The panel therefore found charge 3c proved.

Charges 3)d)i), 3)d)ii) and 3)d)iii)

- "3) d) Between October 2016 and April 2017, in relation to Colleague B:
- i. Questioned Colleague B's decision making
 - ii. Refused to adhere to decisions made by Colleague B and/or going to the matron regarding Colleague B's decision(s).
 - iii. Failed to respond to Colleague B's emails"

These charges are found PROVED.

In reaching this decision, the panel took into account the evidence of Colleague B and Colleague E. The panel also had regard to the evidence outlined at charge 3)a). It had regard to your evidence.

The panel considered the evidence of Colleague E. In her NMC witness statement she said *“The Registrant also said that [Colleague B] (former Band 6 nurse) was disgusting and wasn’t good at her job, while I was present.”*

The panel took into account Minutes from [Colleague B]'s interview with Mr 2 on 14 September 2018. Colleague B said *“Another little issue that continued where I feel that she was trying to demean my work, to pick apart my work. She would question my decision making. She would send emails, and when I have seen those emails and the timing of those emails, she was sat directly in front of me when she had sent those. Instead of asking myself about why I have made a particular decision, she stormed straight to the Matron, [Colleague D], about how all the Band 6s had been asked to do a particular job, and then when I sent an email back as a reply, “can you please tell me who you have asked about the job, as I wasn’t aware, is there something I can deal with now”, I got no reply.”*

The panel took into account your oral and documentary evidence.

The panel considered the evidence before it. The panel concluded that between October 2016 and April 2017, in relation to Colleague B, you questioned Colleague B’s decision making, refused to adhere to decisions made by Colleague B, going to the matron regarding Colleague B’s decision(s) and failed to respond to Colleague B’s emails. The panel therefore found charges 3)d)i), 3)d)ii) and 3)d)iii) proved.

Charge 4

“4) Your actions in charge 3 above were intended to bully and/or intimidate Colleague B and/or undermine her position as a Band 6 nurse”

This charge is found PROVED.

In reaching this decision, the panel took into account the evidence outlined at charge 2 in relation to the Trust's Policy and The Code. It had regard to its findings outlined at charge 3.

The panel took into account your oral and documentary evidence.

The panel considered the evidence before it. The panel took into consideration that you were junior to Colleague B and you behaved inappropriately toward her for several months, from October 2016 up until April 2017. The panel could find no other reason for your conduct towards Colleague A, other than to intimidate and undermine her position as a Band 6 nurse. Further, the panel was of the view that an informed member of the public and fellow registered professional would consider that your conduct as outlined in charge 3 were made to intimidate and undermine Colleague B's position as a Band 6 nurse. The panel therefore found charge 4 proved.

Charges 5)a)i), 5)a)ii), 5)a)iii) and 5)a)iv)

"5) Between 2016 and 2018, made inappropriate comments about ICT and/or management including:

- a) Saying the following to Colleague C:
 - i. 'I don't know why you chose to work in this team, there is no progression and it's a dead end job' or words to that effect;
 - ii. 'ICT have a bad reputation and the other teams do not think highly of us' or words to that effect;
 - iii. 'The DN do not like the senior nurses in ICT who do not have the District Nurse course and should not be given Band 6 like them' or words to that effect;
 - iv. 'All staff are unhappy here due to management and being unfairly treated' or words to that effect."

These charges are found PROVED.

In reaching this decision, the panel took into account that you have made admissions to saying the words outlined in the charge. It had regard to the evidence of Colleague C.

The panel considered the evidence of Colleague C. In her NMC witness statement she stated *“The Registrant was quite inappropriate at times with staff members and did not particularly like [Colleague F] (former Band 7 team leader)... when I was getting to know the Registrant, she said to me “why did you come from Leeds for a Band 6 position here, nobody respects the ICT in comparison to the other teams at the Trust, there is no future progression here”. I used to constantly defend myself and my role and I would say that the Trust offers good training and has good staff members. The Registrant would make negative comments about the Trust and it was constantly draining to the point where I decided to not speak to her. Whilst I didn’t feel bullied by the Registrant, I found her to be a negative and intimidating person. I saw her try to manipulate others to her way of thinking.”*

The panel had regard to an email dated 4 April 2018 from Colleague C to Colleague F. In the email Colleague C stated *“During the last few months I have worked with Tilly Farnell on several occasions, especially on night shifts. On these shifts I have been surprised by her attitude towards myself, the workplace and other staff. With the impression of ‘being friendly’ towards me, she will on occasions mention several things that I feel are inappropriate. These include phrases such as: ‘I don’t know why you chose to work in this team, there is no progression and it is a dead end job.’ ‘ICT have a bad reputation and the other teams do not think highly of us.’ ‘The DN nurses do not like the Senior Nurses in ICT who do not have the District Nurse course and should not be given a band 6 like them.”*

The panel took into consideration that this was a contemporaneous note of your interactions with each other. The panel considered that Colleague C felt so strongly that these comments were inappropriate that she sent an email about it to a senior colleague.

The panel took into account the Minutes of Colleague C's interview with Mr 2 on 14 September 2018. In the interview Colleague C said *"Well, it has had an effect on me. I did not particularly enjoy working with her. I kept it very professional because I knew I would be questioned and also I would have to listen to some negativity. I felt a bit demoralised, especially when the questions concerned "why I had come to the Trust", because I actually, as I said to her, I have had quite a lot of support in the Trust, lots of teaching and you know, the fact she made me feel that, she generally thought this Trust was not as good as Leeds, where I don't feel like that, so I felt a bit demoralised."*

The panel considered the submissions made on your behalf. The panel rejected these submissions.

The panel considered the evidence before it. The panel considered that your comments to Colleague C were not made on a single day but were made over a period of time between 2016-2018. The panel bore in mind that Colleague C, who you made these comments to, said she found the comments inappropriate and that she found them *'draining'*. The panel took into consideration that not everyone was unhappy at the Trust which made your comments inaccurate and unprofessional. The panel noted the corrosive effect on the environment that you worked in.

The panel concluded that between 2016 and 2018, you made inappropriate comments about ICT and/or management to Colleague C saying 'I don't know why you chose to work in this team, there is no progression and it's a dead end job' or words to that effect, 'ICT have a bad reputation and the other teams do not think highly of us' or words to that effect, 'The DN do not like the senior nurses in ICT who do not have the District Nurse course and should not be given Band 6 like them' or words to that effect, 'All staff are unhappy here due to management and being unfairly treated' or words to that effect. The panel therefore found charges 5)a)i), 5)a)ii), 5)a)iii) and 5)a)iv) proved.

Charge 6

“6) Saying the following to Colleague E in relation to Colleague D and/or F respectively:

- a) ‘I’m going to take them bitches down’ or words to that effect when referring to Colleagues D and F;
- b) ‘Bang, bang’ whilst making a gun gesture with your fingers and referring to Colleagues D and F;
- c) ‘If them bitches finish me, my son [Mr 3] will come in and wipe the floor with them’ or words to that effect when referring to Colleagues D and F;
- d) When referring to Colleague D, indicated that you had someone higher up in management who would ‘deal with Colleague D’ or words to that effect;
- e) When referring to Colleague F, ‘that bitch Colleague F has put all these allegations against me’, ‘find out where she lives for me and ask that girl that lives in Barnsley who worked at ICT where her kids go to school’ and ‘oh no am gonna kill Colleague F’ or words to that effect.”

This charge is found proved.

In reaching this decision, the panel took into account evidence of Colleague E and Colleague D.

The panel considered the evidence of Colleague E. In her NMC witness statement she stated *“The Registrant never made any comments about me directly. The comments were mainly aimed at other members of staff, including [Colleague D] (Locality Matron) and [Colleague F] (Band 7 team leader). When I used to work with the Registrant on night shifts she used to say that [Colleague D] and [Colleague F] had mistreated her. The Registrant would quite often also say “I’m going to take them bitches down” and would refer to [Colleague D] and [Colleague F] by name.”*

Colleague E also stated in her NMC statement *“One[sic] one occasion in April 2018 when the Registrant was talking about [Colleague D] and [Colleague F], she made a gun*

gesture with her fingers and said “bang bang.”... She also used to say “if them bitches finish me, my son will come in and wipe the floor with them”... She also used to say she had a friend who was a higher up manager at the Trust who would give her insider information about things and who would “deal with [Colleague D]” but she never gave the identity of this person.”

The panel also noted in her statement, she stated “...the Registrant showed me the list and said “I am going to kill her [Colleague E] – that [Colleague F].” I looked at the Registrant and then she asked me to find out which school [Colleague F]’s children went to. The Registrant asked me to “find out where she [Colleague F] lives for me and ask that girl that lives in Barnsley who worked at the ICT where her kids go to school” and “I’m gonna kill that [Colleague F].””

The panel took into account the Investigative Interview with [Colleague E] held on 30 May 2018. During the interview Colleague E said ““I can’t stand ‘em both, I’m going to make sure they get it.” And that’s when she said “I’m going to take ‘em down, I’m gonna take it to the top and get [Colleague F] sacked and [Colleague D]. She just used to, like, go off on a tangent really, just constantly. And it’s just, it was just a bit uncomfy, you know?... Everytime I was with her. Not just to me, she says it to others as well. But, I’d heard her say that comment ‘bang bang,’ so yeah, she does every night. It’s a bit draining to be honest.”

Colleague E said in relation to the gun gesture that “She was talking about, again, “I’m going to have them two, I’m gonna take ‘em down’.” I mean this was back in June that she said it... And she just made a gesture with her fingers as though she’d got a gun and just went ‘bang, bang, bang.’... She did it in the car, yeah she went ‘bang, bang, bang”

Colleague E said that she was on her own when you told her that “if I lose my job my son will come up and wipe the floor with the two of them.” She said that someone else told her you had said in the office “‘he’ll come up and go mad with them and wipe the floor with them.’ if she gets the sack”.

The panel considered the Minutes from [Colleague E]'s interview with [Mr 2] on 14 September 2018. Colleague E said during this interview *“Then it wasn’t until I think [Colleague F] approached me and said, we have heard that Tilly’s made this allegation and that she is going to take me and [Colleague D] down and she had made a gun sign and said bang, bang, bang. Other people had heard it and asked about it and I didn’t really take it seriously to begin with, but [Colleague F] said that it was quite serious. It is really, but in a way, I was quite glad that [Colleague F] had said something, because then, it was like, God, finally I can say something, if you know what I mean.”*

During this interview, Colleague E also said *“And then she looked at me, and says to me, “I am going to kill [Colleague F] and I will find out where her kids go to school.”*

It considered Colleague E’s oral evidence and noted that she did not embellish her account. She showed the panel the gesture of the gun that you made when you made the statement. It noted that Colleague E was your friend you had confided in at the material time. The panel was of view that her oral evidence was consistent with her other evidence.

The panel considered the Minutes from [Colleague D]'s interview with [Mr 2] on 14 September 2018. During the interview Colleague D stated *“So [Colleague F] is in post, and she is now starting to focus her attention on [Colleague F]. Saying that, she was telling a Health Care Support Worker, she is going to have [Colleague F] killed because of how she is managing her. She also said to a Health Care Support Worker, but this has come through other channels, other staff, that her husband and son would be coming up to deal with me and [Colleague F] and then did a gun sign. Somebody asked her what did that mean, and she said “Bang, Bang””*

The panel considered the evidence before it. It noted that you had repeatedly made some of these statements to several different people. The panel considered the cogency of the evidence and found that you did make the statements as outlined in the charge.

The panel therefore found charges 6a, 6b, 6c, 6d and 6e proved.

Charge 7a and 7b

“7) Saying to or in the presence of Colleague A in relation to Ms 1:

- a) ‘Somebody better call the police because there is going to be a murder’ or words to that effect;
- b) ‘my husband is going to come for Ms 1’ or words to that effect.”

These charges are found PROVED.

In reaching this decision, the panel took into account Colleague A’s evidence and your oral evidence.

The panel had considered Colleague A’s NMC witness statement she stated *“The Registrant had to attend a sickness meeting and, when in the staff office, she said something along the lines of “somebody better call the police because there’s going to be a murder”. I heard this but she did not say it directly to me. The Registrant said this openly in the staff office when there were other staff members around; I cannot recall the individuals who were present. The Registrant said her husband was going to come for Ms 1 who was our team leader at the time. Ms 1 left before the investigation into the Registrant’s conduct started.”*

The panel took into account that Colleague A stated in ‘Statement of events – Re Tilly Farnell’ dated 17 May 2016, *“I was asked by Tilly if I was on duty the following day. I responded that I was on duty. Tilly then informed me that she might be late for work tomorrow evening as she had a meeting... She then went onto say, this was a sickness meeting and that the police may be involved as their might be a Murder, as [redacted] her husband) was very unhappy with the situation and was planning on attending with Tilly. However somebody is trying to talk him out of attending. Tilly was voicing this in a jolly/ jovial manor. This was voiced in an open office with other members of staff present who must have heard all or some of the conversation, as it was not a 1:1 private conversation.”*

The panel bore in mind that this was a contemporaneous note made by Colleague A at the material time of the incident.

The panel considered Colleague A's oral evidence. It bore in mind Colleague A said that you were not speaking to her directly and that you were speaking in a jovial manner when you made these comments. The panel took into account that Colleague A's account was consistent throughout the NMC process and the Trust's investigation.

The panel considered your oral evidence. You said that you said these statements as a joke.

The panel considered the evidence before it and concluded that you said in the presence of Colleague A, in relation to Ms 1, 'Somebody better call the police because there is going to be a murder' or words to that effect and 'my husband is going to come for Ms 1' or words to that effect. The panel therefore found charges 7a and 7b proved.

Charge 9

"9) Saying to Colleague D that you have reported her to the NMC for 'forcing' you to administer IV therapy at patient's home or words to that effect"

This charge is found PROVED.

In reaching this decision, the panel took into account Colleague D and Colleague A's evidence. It also had regard to your oral evidence.

The panel considered Colleague D's NMC witness statement which stated *"Additionally, the Registrant told me that she had contacted the NMC saying that I had forced her to administer IV therapy at home. I explained to the Registrant multiple times when she wanted to move into the Rapid Response Team that she would have to administer IV therapy at patients' homes because this is a requirement of the role in this team. For quite*

a while I was waiting for an NMC referral to come through for me so I was becoming very stressed. I didn't know who to approach because the Registrant had been telling staff members that she knew senior people who would get me out of the trust. I was never contacted by the NMC in relation to this matter."

The panel considered the 'Investigative Interview with: [Colleague A] held 8 June 2018. In the interview, Colleague A said, *"She's said lots of negative things over the years about [Colleague D], again, through one of the investigations that she was reporting [Colleague D] to the NMC because we were been encouraged to give controlled drugs on our own in Community."*

The panel had regard to the minutes of Colleague D's interview with Mr 2 on 14 September 2018. Colleague D said *"She also refused to do IV in ICT (we have IV therapy in there), stating that this is dangerous and shouldn't be done. She has spoken to our Chief Nurse about it who agrees that we shouldn't be doing IVs at home... She threatened that she had spoken to the NMC and they were going to do something about me because I was putting her registration at risk and the Chief Nurse was involved again"*.

The panel took into account your oral and documentary evidence.

The panel considered the evidence before it and concluded that you said to Colleague D that you have reported her to the NMC for 'forcing' you to administer IV therapy at patient's home or words to that effect. The panel therefore found charge 9 proved.

Charge 10

"10) Your comments in charge 5 above were intended to intimidate Colleague C"

This charge is found PROVED.

In reaching this decision, the panel took into account the evidence outlined at charge 5 in relation to the Trust's Policy and the Code. It had regard to the evidence and its findings outlined at charge 5.

The panel took into account your oral and documentary evidence.

The panel considered the evidence before it. The panel took into consideration that Colleague C did not appear to have had a similar experience to you at the Trust. Colleague C spoke positively of the training and support she had received at the Trust whilst you were dismissive about the Trust. The panel was of the view that you made these comments to challenge Colleague C's experience at the Trust. The panel could find no other reason for your comments to Colleague C other than to intimidate her. Further, the panel was of the view that an informed member of the public and fellow registered professional would consider that your comments as outlined in charge 5 were made to intimidate Colleague C. The panel therefore found charge 10 proved.

Charge 11 and 12

“11) Your comments in charge 6 above were intended to intimidate Colleague E
12) Your comments in charge 7 above were intended to intimidate Colleague A”

These charges are found NOT PROVED.

In reaching this decision, the panel took into account that the comments outlined in relation to charges 6 and 7 were made to Colleague E and Colleague A respectively. It noted that the comments you made in charges 6 and 7 are serious and inappropriate. However, the panel took into account that Colleague E and Colleague A were not the subject of the comments that you made. The panel took into consideration that the high bar required to make a finding of intimidation and was not satisfied that you made these

comments with the intention to specifically intimidate Colleague E and Colleague A. The panel therefore found charges 11 and 12 not proved.

Charge 13

“13) Your comments in charge 9 above were intended to intimidate Colleague D”

This charge is found PROVED.

In reaching this decision, the panel took into account the evidence outlined at charge 9 in relation to the Trust’s Policy and the Code. It had regard to the evidence and its findings outlined at charge 9.

The panel considered the evidence before it and concluded that it could find no other reason for your comments to Colleague D other than to intimidate her. Further, the panel was of the view that an informed member of the public and fellow registered professional would consider that your conduct as outlined in charge 9 was to intimidate Colleague D. The panel therefore found charge 13 proved.

Charge 14

“14) On or before 5 April 2018 requested and/or allowed a colleague to complete your online mandatory training for you.”

This charge is found PROVED.

In reaching this decision, the panel took into account the documentary evidence of Colleague G and your evidence.

The panel had regard to the Trust's Investigatory Report. It stated *"TF admitted that she had not completed her own online Mandatory training in Medicine Management and Information Governance. She said that she had been made aware of a staff member completing training for other colleagues and asked her to download the training for her because she was struggling to load it up. TF said she gave the HCA her System One card and log in details but when she came back onto shift she realised rather than just download the training the HCA had completed it. However she had not escalated this to anyone and did email [Colleague F] to confirm she had completed the training. When asked why she didn't escalate that an HCA was completing training for the whole team she said she didn't feel it was up to her to do that."*

The panel took into account the 'Investigative Interview with: Tilly Farnell' dated 13 June 2018. It took into consideration that you made the following comments in the interview *"I stupidly at that time because I was watching everything I did, I approached a member of staff who I'd been told was doing everybody else's and I asked her for help just because I was looking for it and I couldn't find it to put it on the thing so I could run the programme to do it. I asked her for help to help me to find it so I could do it and she said to me I'll do it for you I've been doing everybody else's she said '[Colleague F] knows all about it, its all right.'* So I said 'Oh right' so stupidly I gave her my card. I didn't want her to do it for me I just wanted to get help to do it and then she did it and told me she'd done it.'

You clarified in the interview that you did not ask this person to do the training for you. You said *"No I asked her to help me find it because I couldn't find it. That's how I approached her it was driving me stir crazy and somebody said 'you need to speak to this person because she's been doing everybody's she'll help you'"*. You confirmed that once you realised that this person did the training for you, you did not do anything about it.

The panel considered your oral evidence. You said that you had only found out about it later, that your colleague had completed the mandatory training for you.

The panel considered the evidence before it. It took into account that you gave your System One card and log in details to your colleague to download the training for you and you later realised that your colleague had completed the training for you. The panel bore in mind that you knew that this colleague was completing training for other members of staff. The panel took into account that once you realised that your colleague had completed the training for you, you did not take any steps to remedy the situation and complete the training yourself. The panel concluded that on or before 5 April 2018, you allowed a colleague to complete your online mandatory training for you. The panel therefore found charge 14 proved.

Charge 15

“15) Your actions in charge 14 above were dishonest in that you sought to mislead your employer into believing you had completed your own mandatory training when you knew you had not.”

This charge is found PROVED.

In reaching this decision, the panel took into account its findings outlined in charge 15 and it also had regard to the judgment and test set out for dishonesty in the case of *Ivey v Genting Casinos Ltd t/a Crockfords* [2017] UKSC 67.

The panel, in considering the test, was of the view that you knew that someone else should not have completed your training. You told the panel you understood the importance of completing this mandatory training yourself and the impact it would have on patient safety. You also told the panel that you were clear that you did not want your colleague to complete the training for you. Notwithstanding, that you were aware that this colleague had completed the training for other members of staff you chose to give your colleague your System One card and took no steps to check the purpose for which the card would be used. Further, the panel bore in mind that once you knew that your

colleague had completed the training for you, you did not take any steps to remedy the situation nor escalate the matter to the Trust.

The panel was of the view that a fellow professional and a well informed member of the public would find your actions at charge 14 dishonest and as a consequence the Trust had been misled that you had completed your mandatory training. It concluded that your actions in charge 14 above were dishonest in that you sought to mislead your employer into believing you had completed your own mandatory training when you knew you had not. The panel therefore found charge 15 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 your fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

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

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

Submissions on misconduct

Mr Page provided the panel with written submissions. He referred the panel 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.' Mr Page referred to relevant case law and relevant NMC guidance.

Mr Page invited the panel to take the view that the facts found proved amount to misconduct. He referred the panel to the Code in making its decision and identified the specific, relevant standards where he submitted your actions amounted to misconduct. He addressed each charge found proved in relation to the Code, case law and NMC guidance.

Ms Bayley provided the panel with written and oral submissions. She referred the panel to relevant case law and NMC guidance. She submitted that the allegations should be considered as historic and noted they occurred over a four-year period. She submitted that there is no evidence of patient harm and very little (or no evidence) of risk of patient harm. She submitted that it is for the panel to assess the nature and seriousness of the misconduct.

Submissions on impairment

Mr Page provided the panel with written submissions. He addressed the panel on the issue of impairment and 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 applying the principles outlined in the judgment of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) and reference to other relevant cases. He also referred the panel to relevant NMC guidance.

Mr Page submitted that you could have caused harm to members of the public and placed them at risk of unwarranted harm on a number of occasions over a significant period of time. He submitted that there is no evidence that you have addressed the concerns and strengthened your practice. He submitted that your conduct outlined in the charges was repeated and the cumulative effect amounts to serious professional misconduct. He submitted that your fitness to practise is currently impaired on both public protection and public interest grounds.

Ms Bayley provided the panel with written and oral submissions. She referred the panel to relevant case law and NMC guidance. She submitted that a finding of current impairment on the grounds of public protection and public interest is not necessary. She referred the panel to your witness statement, oral evidence, testimonials, training record and [PRIVATE]. She submitted that if misconduct is found that it must surely be capable of remediation. She invited the panel to find that any misconduct has been addressed since it occurred, has not recurred and is highly unlikely to be repeated. She submitted that you are not currently impaired, and you have demonstrated a period of good practice at Leeds Community Healthcare, from October 2019 to February 2022, when none of the misconduct was repeated. She submitted that you have demonstrated insight, strengthened practice, engagement with your regulator despite the delays encountered and that you have served 9 months of an interim suspension order which marks the public interest. She submitted that the charges found proved occurred under specific circumstances and reminded the panel of the evidence it heard regarding the 'toxic' work environment and [PRIVATE]. She submitted that there are no concerns about your attitude to people in your care. She invited the panel to make a finding of no current impairment.

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

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 your actions did fall significantly short of the standards expected of a registered nurse, and that your actions amounted to a breach of the Code. Specifically:

‘8 Work co-operatively

To achieve this, you must:

- 8.1 *respect the skills, expertise and contributions of your colleagues, referring matters to them when appropriate*
- 8.2 *maintain effective communication with colleagues*
- 8.3 *keep colleagues informed when you are sharing the care of individuals with other health and care professionals and staff*
- 8.4 *work with colleagues to evaluate the quality of your work and that of the team*
- 8.5 *work with colleagues to preserve the safety of those receiving care*
- 8.6 *share information to identify and reduce risk*

9 Share your skills, knowledge and experience for the benefit of people receiving care and your colleagues

To achieve this, you must:

- 9.2 *gather and reflect on feedback from a variety of sources, using it to improve your practice and performance*
- 9.3 *deal with differences of professional opinion with colleagues by discussion and informed debate, respecting their views and opinions and behaving in a professional way at all times*

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

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

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

20.10 use all forms of spoken, written and digital communication (including social media and networking sites) responsibly, respecting the right to privacy of others at all times'

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

The panel first took into consideration the contextual factors of this case in its decision making as to whether your conduct amounts to misconduct. It considered the evidence it has heard that there were difficulties in communication within the ICT and that the amalgamation of three different services into one unit (ICT) was not universally welcomed, including by you. The panel was of the view that there were challenges in the management of this change, however the panel also heard evidence from others working at the Trust in similar roles who stated that they were well supported.

The panel considered your oral evidence that it was your perception that you were being bullied at the Trust and the evidence of Witness 9 who supported your assertions in this regard. The panel accepted that this may have impacted on your conduct.

[PRIVATE]

[PRIVATE]

The panel considered that your conduct found proved in charges 1, 2, 3, 4, 5 and 10, are not sufficiently serious, individually, to amount to misconduct. However, when your

conduct in these charges is considered cumulatively, the panel determined that your conduct is sufficiently serious to amount to misconduct. The panel considered the evidence of Colleague A, Colleague B and Colleague C, who each indicated that your behaviour and your statements affected them negatively.

The panel considered your conduct found proved in charge 6. The panel noted that these threatening statements were not directed at Colleague E but that the content of the comments were unkind, inappropriate, unacceptable and wholly unprofessional from a registered nurse. The panel determined that your conduct in charge 6 was sufficiently serious to amount to misconduct.

The panel considered your conduct as found proved in charge 7. The panel was of the view that the words outlined in the charge are inappropriate and unprofessional however, the panel bore in mind that it heard evidence regarding your 'jovial' manner when you made the comments. The panel determined that your conduct in relation to charge 7 was not sufficiently serious to amount to misconduct.

The panel was not satisfied that the comments you made as outlined in charge 8 was sufficiently serious to amount to misconduct.

The panel considered your conduct in charges 9 and 13. The panel had no other reason as to why you would say to Colleague D 'that you have reported her to the NMC for 'forcing' you to administer IV therapy at patient's home or words to that effect' other than to intimidate her. The panel was of the view that your conduct in these charges are sufficiently serious to amount to misconduct.

The panel considered charges 14 and 15. The panel bore in mind that you gave your System One card and log in details to your colleague who you knew had completed training for others. When you found out that your colleague had completed your training for you, you took no steps to remedy or rectify the situation and in consequence you mislead your employer that you had completed your training. The panel determined that

your conduct in these charges is sufficiently serious to amount to misconduct. The panel was satisfied that fellow professionals would find this misconduct extremely serious. Honesty is the bedrock of the nursing profession.

The panel found that your actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, your fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

‘The question that will help decide whether a professional’s fitness to practise is impaired is:

“Can the nurse, midwife or nursing associate practise kindly, safely and professionally?”

If the answer to this question is yes, then the likelihood is that the professional’s fitness to practise is not impaired.’

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

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

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

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

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/ 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 limbs a), b), c) and d) of Dame Janet Smith's "test" were engaged in this case. In particular, the panel looked at the facts in respect of the dishonesty and that limb d) was engaged.

The panel noted your explanation provided during your Investigative Interview with the Trust dated 13 June 2018.

The panel also took into account your statement, 2 January 2024, you stated:

“I would never give my smartcard to anyone again I know it was not right this was a breach of security. I would never repeat this. My actions were not right as I am fully aware, we should never give out our passwords, I only ever intended for her to download the learning not to complete it. I always carried out my own on-line training. We were all informed by [Colleague F] on-line training for the team had to be at 100% she instructed us all to achieve this and she stated she didn't care how we did this. The Member of staff who completed my on-line training was completing most of the team members and management were aware. have reflected on the allegations made against me, I can see that these allegations are not professional. This is not how I would want patients to think of me. I am in a trusted position, and I should always be professional...”

The panel finds that patients and colleagues were put at risk of harm when you allowed your colleague to complete your online mandatory training for you and therefore you did not update your professional knowledge and skills in this matter. You deprived your employer and your patients of the surety your knowledge was up to date and contemporaneously assessed. Your misconduct has breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. Honesty and professionalism with colleagues are fundamental tenets of the nursing profession. The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find the charge relating to dishonesty very serious.

The panel then considered the issue of insight, having made a specific enquiry as to whether you would provide a reflective statement in light of the panel's broader findings on

facts and you elected not to do so. Your representative indicated that you wished for the hearing to be concluded as soon as possible and that you did not want to make an application, or seek time, for an adjournment in order to complete a reflective piece. Your representative however chose instead to refer the panel to the earlier reflective elements in your evidence.

The panel considered that you have not demonstrated an understanding of how your actions put patients at a risk of harm nor have you demonstrated an understanding of why your conduct was wrong and how this impacted negatively on your colleagues and the reputation of the nursing profession. The panel was not satisfied that you have sufficiently demonstrated how you would handle similar situations differently in the future [PRIVATE].

The panel was of the view that whilst you have shown some elements of reflection, it was limited. The panel determined that you have demonstrated limited insight in relation to the charges found proved.

The panel was satisfied that the misconduct in this case is capable of being addressed but was of the view there was insufficient evidence of insight before it. The panel bore in mind that your misconduct did not directly relate to your care of patients and that witnesses have attested to your clinical ability and manner with patients. It took into consideration that the misconduct in this case related to concerns regarding your attitude in the workplace and your dishonesty, neither of which are easily remediable.

Therefore, the panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice. The panel took into account the mandatory training you have undertaken. However, it considered that this training did not address the broader conduct outlined in the charges found proved. The panel noted the supervisions that you completed in 2019 whilst working as a registered nurse however these did not cover the most recent period of your clinical practice. The panel also noted that you have not worked as a registered nurse since 2022.

The panel took into account the testimonials, when dated between 2018-2020, which you provided and demonstrated kind and effective care toward patients alongside recognition from others of the challenges you face communicating in the workplace.

However, the panel is of the view that there is a risk of repetition based on your lack of insight and the lack of evidence in relation to your strengthened practice. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that a finding of impairment on public interest grounds is required because you did not uphold proper standards of conduct as expected of a registered nurse. It considered that fellow nursing professionals and informed members of the public would find your conduct, as found proved in the charges, to be unacceptable. In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a suspension order for a period of 12 months. The effect of this order is that the NMC register will show that your registration has been suspended.

In reaching this decision, the panel has had regard to all the information 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

Mr Page provided the panel with written submissions. He submitted that in light of the panel's findings that your fitness to practise is currently impaired, the NMC's sanction bid is a striking off order. He referred the panel to the relevant NMC guidance and case law. He submitted that any sanction which is imposed should be appropriate and proportionate. He provided the panel with submissions on the mitigating and aggravating features of the case. He also provided submissions on the appropriateness of each of the available sanctions and invited the panel to impose a striking off order.

Ms Bayley provided the panel with written and oral submissions. She invited the panel to take no further action and, in the alternative, encouraged the panel to impose a caution order. She referred the panel to your witness statement, testimonials and oral evidence as well as your reflection on dishonesty when considering what sanction to impose, if any. She referred the panel to the relevant articles of the Nursing and Midwifery Order (2001), case law and NMC guidance. She provided the panel with submissions on the mitigating factors in this case. She submitted that if the panel were not with her on no further action or a caution order, she invited the panel to find that a conditions of practice order or short suspension order, with a review, would be appropriate and proportionate in this case and that the public interest has been largely satisfied by this conclusion given all that has gone before.

Decision and reasons on sanction

Having found your fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any

sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Your limited insight.
- Your misconduct put patients at potential risk of harm.

The panel also took into account the following mitigating features:

- No concerns have been raised in relation to your care of patients at any time.
- [PRIVATE]
- Some challenges and disharmony present during the merger of three teams into one unit.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case and public protection concerns. 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 your 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 your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel considered the factors outlined in the SG where a conditions of practice order might be appropriate. The panel considered the context of the charges found proved and concluded that had it not been for the finding of your dishonest conduct, your misconduct might have been addressed by way of a conditions of practice order.

The panel therefore determined that there are no practical or workable conditions that could be formulated, given the finding of dishonesty in this case.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The panel considered that the SG states some of the factors where a suspension order may be appropriate. The panel was of the view that your dishonest conduct was a single incident of misconduct where a lesser sanction is not sufficient to address public protection and the public interest. The panel took into account that there has been no evidence of repetition since the incident although it bore in mind that you have not been working as a registered nurse since 2022.

The panel bore in mind its finding that you have limited insight, and it also took into consideration your reflective statement that you, belatedly, provided at the sanction stage which addressed your dishonest conduct. The panel was of the view that you lent yourself to the common 'online mandatory training' existing practises, which were neither authorised or acceptable.

The panel was therefore satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded

that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in your case to impose a striking-off order.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause you. However, this is outweighed by the public interest in this case.

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

In making this decision, the panel carefully considered the submissions of Mr Page in relation to the sanction, namely a striking off order, that the NMC was seeking in this case. However, the panel considered that you have the potential to strengthen your practice with regard to your insight if given the opportunity to reflect on your behaviour and the determination of this panel to ensure acceptable standards of professional conduct in the future.

The panel determined that a suspension order for a period of 12 months was appropriate in this case to mark the seriousness of the misconduct. The panel was of the view that the public would be safeguarded in this time whilst you have time to address the concerns identified in this case.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Your continued engagement with the NMC and attendance at any future review hearing.
- A record of your supervision addressing your professional behaviour.
- A fresh reflective statement covering the following:
 - Insight into your dishonest conduct.
 - The impact of your actions on patients, fellow professionals, the nursing profession and the wider public.
 - [PRIVATE]
- Testimonials from your colleagues which refer to your integrity and professional behaviour.

This will be confirmed to you in writing.

Interim order

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

Submissions on interim order

The panel took account of the written submissions made by Mr Page. He submitted that an interim suspension order on the grounds of public protection and public interest was necessary for a period of 18 months. He submitted that this would cover any potential period of appeal.

Ms Bayley submitted that she has no objection to the imposition of an interim order.

Decision and reasons on interim order

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

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

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

That concludes this determination.