# Nursing and Midwifery Council
# Fitness to Practise Committee

**Substantive Hearing**
**Monday, 28 October 2024 - Tuesday, 5 November 2024**
**Thursday 27 February 2025**

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

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| **Name of Registrant:** | Angela Unufe-Eguakhide |
| **NMC PIN:** | 15F0050C |
| **Part(s) of the register:** | Nurses Part of the Register Sub Part 1<br>RN5: Learning Disabilities Nurse, Level 1 (June, 2015) |
| **Relevant Location:** | Nottinghamshire |
| **Type of case:** | Misconduct |
| **Panel members:** | Peter Fish (Chair, Lay member)<br>Kathryn Smith (Registrant member)<br>Kiran Musgrave (Lay member) |
| **Legal Assessor:** | Attracta Wilson |
| **Hearings Coordinator:** | Eleanor Wills (28 October 2024)<br>Jessie Miller (30 October 2024 – 5 November 2024)<br>Sophie Cubillo-Barsi (27 February 2025) |
| **Nursing and Midwifery Council:** | Represented by Grace Khaile, Case Presenter<br>Alastair Kennedy (27 February 2025) |
| **Mrs Unufe-Eguakhide:** | Present and represented by Silas Lee instructed by the Royal College of Nursing (RCN) |
| **Facts proved by way of admission:** | Charges 2a, 2b, 3, 4b (i) and 4b (ii) |
| **Application for no case to answer:** | Successful in relation to charge 1e |

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| **Facts found proved:** | Charges 1f, 4a (i) and 4a (ii) |
| **Facts not proved:** | Charges 1a, 1b (i), 1b (ii), 1c, 1d |
| **Fitness to practise:** | Impaired |
| **Sanction:** | **Conditions of practice order – 12 months** |
| **Interim order:** | **Interim conditions of practice order – 18 months** |

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

At the outset of the hearing, Ms Khaile on behalf of the Nursing and Midwifery Council (NMC) made a request that this case be held partly in private on the basis that proper exploration of your case involves reference to [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', (the Rules).

Mr Lee, on your behalf, indicated that he 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 in connection with [PRIVATE] as and when such issues are raised in order to protect yours and other parties' privacy.

**Details of charge**

That you, a registered nurse:

1. On an unknown date,
    a. Restricted patient shower times.
    b. Asked Colleague 1 to:
        i. Write a patient care plan that allowed the patient to run against a wall and bang their head.
        ii. Change the time recorded for a patient restraint to avoid having to complete an additional section on the patient DATIX.
    c. Made inappropriate promises to patients.
    d. Used derogatory language and/ or behaviour towards patients and staff.

e. Made unprofessional comments about patients in front of staff.
f. Overrode the decision by a consultant psychiatrist to rescind a patient's community leave.

2. In February 2021, failed to maintain professional boundaries with Patient A, namely that you,
   a. Provided your personal email and telephone number to them.
   b. Exchanged a number of text messages with them that were outside of your professional capacity.

3. On 17 February 2021, during a community meeting, behaved inappropriately by referring to the person who complained about you as a coward.

4. On 18 February 2021, in relation to Patient B,
   a. Caused distress by instructing staff to:
      i. Remove their soft toy from them.
      ii. Restrain them.
   b. Did not consult with the multi-disciplinary team before instructing staff to:
      i. Remove their soft toy from them.
      ii. Restrain them.

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

**Withdrawal of Witness 4's evidence**

The panel was scheduled to receive evidence from Witness 4, with all arrangements previously confirmed. However, on the day, the NMC, despite their best efforts, was unable to secure the attendance of Witness 4 and applied that his witness statement be withdrawn as evidence.

Ms Khaile, on behalf of the NMC, applied to have exhibits AA/1 and AA/2, being

documents exhibited by Witness 4, excluded. She went on to state that these documents have also been exhibited and referred to by other witnesses, and as such, should remain.

Mr Lee did not oppose this position.

After careful consideration, the panel determined the NMC had made all reasonable attempts to secure the attendance of the witness and allowed the application for his evidence to be withdrawn. The panel concurred with the approach of Ms Khaile in relation to the exhibits.

**Decision and reasons on an application for no case to answer**

The panel considered an application from Mr Lee that there is no case to answer in respect of charges 1e and 4a (ii). This application was made under Rule 24(7). Mr Lee referred to the test as set out in the case *R v Galbraith* [1981] 1 WLR 1039 and the two limbs on which 'no case to answer' could be found.

Mr Lee submitted that there is no evidentiary support for charge 1e and noted that none of the witnesses called have provided any evidence of unprofessional comments, made by you, about patients in front of staff. He went on to submit that whilst some references were made to your derogatory language in general, this related to charge 1d and not to charge 1e.

Mr Lee submitted that in relation to charge 4a (ii), although Patient B was visibly upset by the soft toy's (Floppity) removal, there is no evidence before the panel to support the allegation that Patient B was distressed by the restraint used. Mr Lee noted that witness accounts and CCTV footage indicate the hold was minimal and non-distressing, with Patient B's agitation being clearly linked to the loss of Floppity rather than the physical intervention.

Ms Khaile submitted that she did not have any observations in relation to application for charge 1e.

Ms Khaile submitted that in relation to charge 4a (ii), there is a case to answer. She submitted that Witness 2, who was working that day but not on the ward and was the primary care nurse for Patient B, was called to assist. She submitted that in Witness 2's oral evidence, it was stated that Patient B had a coping mechanism, a soft toy named Floppity who they had owned since before their admission. When examined, Witness 2 stated using restraint/holding techniques are only necessary and appropriate when a patient poses an immediate risk of harm to themselves of others. Ms Khaile went on to submit that the CCTV footage shows Patient B entering the area calmly and sitting in the corner. When shown this footage under examination, both Witness 2 and Witness 3 concluded that the hold was unnecessary.

Ms Khaile submitted that the distress stemmed from the intervention and removal of Floppity, however this does not negate the possibility that the restraint also caused further distress.

The panel carefully considered the submissions made in relation to the application before it and applied the test in the case of *R v Galbraith* [1981] 1 W.L.R. 1039. Specifically:

> *'(1) If there is no evidence that the crime alleged has been committed by the defendant there is no difficulty - the judge will stop the case.*
>
> *(2) The difficulty arises where there is some evidence but it is of a tenuous character, for example because of inherent weakness or vagueness or because it is inconsistent with other evidence.*
>
> > *(a) Where the Judge comes to the conclusion that the prosecution evidence, taken at its highest, is such that a jury properly directed*

*could not properly convict upon it, it is his duty, upon a submission being made, to stop the case.*

*(b) Where however the prosecution evidence is such that its strength or weakness depends on the view to be taken of a witness's reliability, or other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence upon which a jury could properly come to the conclusion that the defendant is guilty, then the Judge should allow the matter to be tried by the jury..'*

**Charge 1e**

The panel bore in mind all of the written and oral evidence before it, particularly that of Witness 2 and Witness 5.

The panel had sight of Witness 2's statement in which they said:

*'….It is difficult to remember whether I ever witnessed the Nurse using derogatory language towards patients and staff. I recall the Nurse would swear if a patient knocked on the office door, they would say 'oh fuck off'. The patients would laugh so I assumed it was the Nurse's personality and banter.'*

The panel also had sight of Witness 5's statement in which they said:

*'Finally, the Nurse was generally unprofessional to other staff members. For example, they would pull faces in zoom meetings and say one thing to staff and another to manages* [sic]*. With the staff the Nurse would be direct or talk about them in derogatory way to others. The Nurse was picky and horrible to staff if they did not like them. I was fortunate that*

*the Nurse was alright with me. I did not confront the Nurse about the way they spoke to other staff members.'*

The panel noted that there has been no evidence provided of any accounts to support the charge that you made unprofessional comment about patients in front of staff.

As a result, the panel concludes that there is no evidence to support the charge, leading to the determination that there is no case to answer in relation to charge 1e.

**Charge 4a (ii)**

The panel bore in mind the oral and written evidence before it, particularly that of Witness 2 and Witness 4.

The panel reviewed the CCTV footage but found it unhelpful due to the lack of sound and frame of the camera. However, it identified three pieces of evidence suggesting that both the removal of the toy *and* the hold may have caused Patient B distress.

The panel noted Witness 2's statement in which she stated:

*'…I went and saw Patient B and they were crying. They hold* [sic] *me that they had been put in a restraint and Floppity had been taken away from them by the Nurse. Patient B was scared that Floppity would be lost. Because I could not challenge the Nurse's decision, I told Patient B I would put Floppity on top of the filing cabinet in the office so they could see it through the big glass window. I went in to the office to put Floppity in sight and they grabbed it and put it in the drawer.'*

The panel also noted an IRIS Self Harm report in which Witness 4 stated:

*'Ward Manager AU (S4007778) spoke to him about what he held on to but he refused to give it up, he was put in fore arm holds to remove the property perceived as risk to himself. This triggered a further agitation and patient was supported in MVA until he was led to the de-escalation room.'*

The panel further noted an entry on 18 February 2021 in Patient B's clinical notes which consisted of the same information as found in the IRIS Self Harm report above.

Whilst the panel acknowledged that this evidence could be considered hearsay, it noted that for the purposes of the *Galbraith* test, it was nonetheless evidence, and the matter of weight to be attached to that evidence is a matter for a later stage. Ultimately, after reviewing all the information presented, the panel determined that the identified pieces of evidence were not weak or tenuous, within the meaning of *Galbraith*, and that there is a case to answer in relation to charge 4a (ii).

**Background**

You were employed from 13 January 2020 to 24 April 2021 as the Ward Manager at Aster Ward (the Ward) on the Farndon Unit, part of Elysium Healthcare (Elysium) which is a high dependency unit for women who are at significant risk of self-harm.

A referral was made in relation to the following alleged incidents that involve you.

On 11 February 2021, an anonymous referral was made to the CQC (the CQC referral) about your alleged use of profanities and derogatory language towards patients and junior staff on several occasions. Further complaints were made about you allegedly inappropriately implementing procedures, including restricting shower time to specific times on the ward.

On 17 February 2021, you discussed the CQC referral in a community meeting on the Ward and allegedly referred to those who made the referral as *"cowardly and evil".*

You allegedly failed to maintain professional boundaries by disclosing your personal contact details to a patient (Patient A) at Elysium and engaging in conversations with Patient A about work related matters including the NMC investigation.

On 18 February 2021, you planned and instructed other nurses to remove from a patient (Patient B) a soft comfort toy, knowing that this could potentially cause distress to the patient, and without good cause. You failed to await a multi-disciplinary team (MDT) decision in relation to this step and proceeded to remove the soft toy and restrain Patient B which was deemed unnecessary in the circumstances.

The alleged incidents, as described above, led to your dismissal from Elysium's employment, effective from 24 April 2021 and this decision was upheld on appeal on 19 May 2021.

**Decision and reasons on application to amend the charge**

The panel heard an application made by Ms Khaile to amend the wording of charges 4a (i) and 4a (ii).

It was submitted by Ms Khaile that the proposed amendment would provide clarity and more accurately reflect the evidence.

The amended charges are as follows:

*"That you, a registered nurse,*

1. *On an unknown date,*
    a. *Restricted patient shower times.*

*b. Asked Colleague 1 to:*

*i. Write a patient care plan that allowed the patient to run against a wall and bang their head.*

*ii. Change the time recorded for a patient restraint to avoid having to complete an additional section on the patient DATIX.*

*c. Made inappropriate promises to patients.*

*d. Used derogatory language and/ or behaviour towards patients and staff.*

*e. Made unprofessional comments about patients in front of staff.*

*f. Overrode the decision by a consultant psychiatrist to rescind a patient's community leave.*

*2. In February 2021, failed to maintain professional boundaries with Patient A, namely that you,*

*a. Provided your personal email and telephone number to them.*

*b. Exchanged a number of text messages with them that were outside of your professional capacity.*

*3. On 17 February 2021, during a community meeting, behaved inappropriately by referring to the person who complained about you as a coward.*

*4. On 18 February 2021, in relation to Patient B,*

*a. Caused distress by instructing staff to:*

*i. Remove their soft toy from them*

*ii. Restrain them*

***without clinical justification***

*b. Did not consult with the multi-disciplinary team before instructing staff to:*

*i. Remove their soft toy from them.*

*ii. Restrain them.*

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

Mr Lee submitted that he did not oppose the application and that your position is neutral. He noted that if the application was successful, he would be withdrawing the admission in relation to charge 4a (i) on your behalf.

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

The panel was of the view that such 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 provide clarity and accuracy.

**Decision and reasons on facts**

The panel heard from Mr Lee, who informed the panel that you made full admissions to charges 2a, 2b, 3, 4a (i), 4b (i) and 4b (ii). As a result of the successful application to amend charges 4a (i) and 4a (ii), Mr Lee withdrew admissions to charge 4a (i) on your behalf.

The panel therefore finds charges 2a, 2b, 3, 4b (i) and 4b (ii) proved in their entirety, by way of your admissions.

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: Consultant Psychiatrist at Elysium at the relevant time
- Witness 2: Staff Nurse at Elysium on the Ward at the relevant time
- Witness 3: Lead Nurse for Elysium at the relevant time
- Witness 5: Staff Nurse, then Charge Nurse at Elysium on multiple wards at the relevant time

The panel also heard evidence from you under oath.

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 Ms Khaile and Mr Lee and all the written and oral evidence before it.

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

**Charge 1a**

*On an unknown date,*

a. *Restricted patient shower times.*

**This charge is found NOT proved.**

The panel interpreted the charge as referring to a general approach or practise of inappropriately restricting showers for all patients to or from specific timeslots during the day. This was the basis on which the parties approached the charge, and the panel considered that this is how the charge should be read. The panel noted that there was a degree of consensus amongst the witnesses that some restrictions may be needed on when individual patients take showers based on risk and available staffing levels and therefore was not the mischief at which this charge was directed.

The panel noted that there was no clear or consistent evidence from the witnesses and documents as to what the alleged restrictions were. Witness 2 referred to you restricting shower times between 1800 and 2000 but also said that she and other staff did not follow these restrictions. The allegation put to you at your local interview in March 2021 was that showers could only take place between the hours of 1700 and 1900. Witness 3 stated that she was unaware of restrictions on shower times but had since learnt about them as a result of the investigation, but she was not aware of who raised the complaint and did not give specific details about the dates or times of the alleged restrictions. Witness 1 indicated that he was aware that you restricted shower time to specific times on the Unit, but he considered that this was an appropriate measure for risk-reducing purposes.

In your evidence, you stated that you did not impose general restrictions on the times that patients could take showers and that this depended on risk and staff availability. You also stated that there had been discussions at a community meeting about difficulties in receiving postage due to staffing pressures and suggested that this may have had a bearing on patient shower times.

Given the lack of clarity about the alleged restrictions and whether in practice any restrictions were being applied, the panel concluded that the NMC had not discharged the burden of proof in relation to this allegation and accordingly found the charge that you restricted patient shower times not proved on the balance of probabilities.

**Charge 1b (i)**

*On an unknown date,*

*b. Asked Colleague 1 to:*

*i. Write a patient care plan that allowed the patient to run against a wall and bang their head.*

**This charge is found NOT proved.**

The panel noted the written statement of Witness 5 which she confirmed in her oral evidence.

In her witness statement, dated 20 May 2022, she stated:

> *'Firstly, I recall being asked to write a care plan for a patient which allowed them to run against walls and bang their head. I refused to write the care plan because the Service does not practice safe self-harm and I did not consider it to be in the patient's best interests. The Nurse however, felt that safe self-harm worked for patients…This is a very serious concern because allowing a patient to bang their head against a wall could ultimately result in death and I could have effectively been writing up their death certificate…'*

When asked in oral evidence, Witness 5 confirmed that she did not make any contemporaneous notes or record what date she was asked to do this. She further admitted that she raised this with her manager as an issue some months after the alleged event took place.

In your oral evidence, you stated that you recall a discussion in your office about a care plan for this patient in a previous setting, but did not at any time instruct or request Witness 5 to incorporate safe self-harm into a patients care plan as you knew that this went against Trust policy.

The panel carefully considered the evidence before it. It noted that there are no contemporaneous documents to either substantiate or refute this charge. The panel further noted that the oral evidence consists of conflicting accounts, with no substantial evidence to shift the balance in either direction. It therefore looked very carefully at the evidence in the round to determine whether it was likely that the events as charged occurred as described.

The panel took into account the wording of the charge which was that you asked a colleague to write in a patient's care plan that they were allowed to run against a wall and bang their head. The panel also took into account that such a practice would create a high risk of serious harm to the patient and further, that any such direction recorded in a care plan would be seen by the multidisciplinary team who would not authorise it. Taking into account these factors, the panel determined that it was highly unlikely that you would have asked that such an approach be recorded in a patient care plan. Therefore, it finds that the NMC has not discharged its duty and on the balance of probabilities, cannot be satisfied that the alleged incident occurred as set out in the charge and, therefore finds this charge not proved.

**Charge 1b (ii)**

*On an unknown date,*

*b. Asked Colleague 1 to:*

*ii. Change the time recorded for a patient restraint to avoid having to complete an additional section on the patient DATIX.*

**This charge is found NOT proved.**

The panel noted that Witness 5's written statement, dated 20 May 2022, was consistent with her oral testimony, in which she recounted an incident where she was instructed to adjust the recorded duration of a patient restraint, though could not specify a date when this allegedly occurred. Witness 5 stated that the restraint lasted approximately 14 to 15 minutes, but she was told by you to alter the recorded time to under 10 minutes to prevent the need for additional documentation on the DATIX form. Whilst Witness 5 maintained that she did not make this change, she acknowledged that she did not document the conversation at the time or report it until several months later.

In your own oral evidence, you acknowledged a prior discussion with staff, including Witness 5, about recording instances of restraint following a new policy introduced, but denied ever requesting that anyone alter the timings of any episode of restraint. You went on to state that you did not ask for any documentation changes to avoid further DATIX reporting.

The panel noted that there was no contemporaneous documentation to assist in resolving the conflict of evidence between you and Witness 5. However, in your oral evidence, you provided technical information regarding the patient management system, explaining that time entries for patient restraints could not be altered once recorded. When asked about this limitation, Witness 5 admitted she was initially unaware but acknowledged that her current system operates similarly.

After carefully weighing the conflicting evidence, the panel determined on the balance of probabilities, that once an incident was recorded on DATIX, it could not be altered. The panel therefore was not satisfied, on the balance of probabilities, that you had asked

Witness 5/Colleague 1 to change the time recorded for a patient restraint to avoid having to complete an additional section on the patient DATIX, because that would have been impossible. The panel finds this charge not proved.

**Charge 1c**

*On an unknown date,*

c. *Made inappropriate promises to patients.*

**This charge is found NOT proved.**

The background to this charge is that a patient was promised a smoking break as an incentive to refrain from self-harm. It is not disputed that the promise was made or that the smoking break had been earned. The conflict is whether the promise, which was made as an incentive, should have been withdrawn for a reason unrelated to self-harm.

The panel noted in your oral evidence that you explained that a promise of 'smoking leave' was rescinded following a risk assessment after an event involving the patient kicking a door and causing damage. You stated that upon reassessment, it was determined that allowing a smoking break at that time posed safety risks, which outweighed the promise of a smoking break. You asserted that the decision to withdraw the promise was appropriate given the circumstances.

The panel noted Witness 5's oral evidence in which she stated that setting goals and incentives for patients is a common practice in care settings and is acceptable to encourage them to reach their goals. When asked if it was appropriate to withdraw such a promise, Witness 5 stated that it was not and that the incident in question was minor and did not warrant withdrawing it. You accept the value of incentivisation, but do not accept that the incident, leading to withdrawal of a smoking break, was minor. You described a distressing phone call involving the patient which triggered a reaction causing them to kick the door and cause damage.

The panel had sight of a written statement from Person 1, dated 26 October 2024. Whilst the panel acknowledges that this evidence was not tested under cross-examination, it accepts Person 1's statement. He stated:

> *'I never heard the Registrant make inappropriate promises to patients.'*

The panel noted that there were no patient notes or contemporaneous documentation available to corroborate the claims regarding the appropriateness of the promise or its withdrawal. Given the lack of supporting documentation, the panel was required to consider the evidence very carefully. Having done so, the panel found that the burden of proof had not been discharged. As a result, the panel concluded that the charge was not proved.

**Charge 1d**

*On an unknown date,*

d. *Used derogatory language and/ or behaviour towards patients and staff.*

**This charge is found NOT proved.**

In Witness 3 witness statement, dated 8 March 2022, she stated:

> *'Even if language used in my office was slightly inappropriate I had told staff they could let out their emotion so we could reflect on it and talk about things to make the Service a better place to work. The Nurse came to my office quite often to rant about having a bad day and would use swear words. But I never saw anything of concern on the Ward and I had allowed staff to vent so I did not think anything of it at the time.'*

In Witness 2 witness statement, dated 4 May 2022, she stated:

> *'It is difficult to remember whether I ever witnessed the Nurse using derogatory language towards patients and staff. I recall the Nurse would swear if a patient knocked on the office door, they would say 'oh fuck off'. The patients would laugh so I assumed it was the Nurse's personality and banter.'*

In Witness 5 witness statement, dated 20 May 2022, she stated:

> *'The nurse used derogatory language to patients and staff all the time. The nurse would swear to be "cool" with patients...'*

The panel had sight of a written statement from Person 1, dated 26 October 2024, in which he stated:

> *'I never heard the Registrant use derogatory language or behave in an appropriate manner towards anyone. She never swore at patients or our colleagues.'*

The panel had sight of the Elysium Incident Investigation Report in relation to the Care Quality Commission (CQC) referral in which it was reported that you used derogatory language towards patients.

The panel noted that claims of you using derogatory language were contradicted by from various staff members who did not support the allegations. The panel acknowledged that in a safe space, swearing might occur as part of an accepted workplace culture. However, they found that there were no staff documentary evidence to corroborate the accusations against you, with only one individual asserting that derogatory language was used. This lack of supporting evidence and the consistency of the evidence given by Witnesses 2 and 3, contributed to

the panel's not being satisfied on the balance of probabilities that you used derogatory language and/or behaviour towards patients and staff. The evidence of Witness 2 and 3 is supported by the statement of Person 1. Person 1 did not give evidence, and their statement was considered in that context. However, it was adopted by agreement of the parties, contains a certificate of truth and does corroborate the evidence of Witness 2 and 3. The panel determined that the NMC has not discharged its duty and on the balance of probabilities, it found this charged not proved.

**Charge 1f**

*On an unknown date,*

*f. Overrode the decision by a consultant psychiatrist to rescind a patient's community leave.*

**This charge is found proved.**

In Witness 1 witness statement, dated 8 March 2022, he stated:

*'I had to insist that the Nurse ensured information about patients were shared with the relevant colleagues and meetings with the Multi-Disciplinary Team ("MDT") were arranged to discuss admissions and to develop good initial care plans. The Nurse at times found this change difficult and they continued to make some decisions without adequate consultation. I had to advise them on many occasions to involve other members of the team to share information and that they should not make decisions about patients without speaking to other members of the MDT.'*

and

*'On one occasion, the Nurse overrode my rescinding of a patient's community leave. I had rescinded the patient's request for leave*

*because, although they had been permitted unescorted leave, they had recently gone to the service station close to the Service and bought razors. The patient brought the razors back to the Unit, evaded the search requirements and self-harmed by cutting. Due to this change in the patient's mental state and risk level, I rescinded their s17 community leave. I then became aware that the Nurse had overwritten my decision and allowed the patient community leave. I do not believe the patient came to any harm by going out but I was not pleased, because I had the legal responsibility for authorising leave to all patients detained under the Mental Health Act and the Nurse would have known that.'*

Before Witness 1 gave his oral testimony, he was asked if he wished to make any changes to the statement before it was admitted as his evidence. He stated that the only change he wished to make was to correct a typographical error by changing the word *'overwritten'* to *'overridden'*. This was in the paragraph where this allegation was discussed.

When questioned about this charge, under oath, you stated that you were on leave and not at work at the time of this event and that it was a colleague who was the Deputy Ward Manager at the time who overrode the consultant psychiatrist decision. You went on further to state that Witness 1 subsequently called and apologised to you for confusing you with the Deputy Ward Manager. This evidence was not tested, and Witness 1 was not questioned on your behalf on this contention.

When making its decision, the panel took into account that Witness 1 made an amendment to a typographical error in his statement; however, he did not mention mistaking you for the deputy ward manager, nor did he refer to the phone call in which you claimed he apologised for said mistake. The panel determined, on the balance of probabilities, if such an important amendment was

needed to his statement, Witness 1 would have ensured that it was made. Additionally, the panel noted that no colleague was identified as the deputy ward manager.

The panel also took into account the evidence from Witness 1 (cited above) to the fact that he had to insist that you ensured information about patients was shared with the relevant colleagues and that he had to advise you on many occasions that you should not make decisions about patients without speaking to other members of the MDT.

The panel prefers the evidence provided by Witness 1, as it is clear and there is a consistent thread running through it of you making decisions about patients without consultations. It further noted that Witness 1 was given the opportunity to amend his statement before declaring it true to the best of his knowledge, and he did not add further details of a phone call, or an apology mentioned by you in your evidence.

While the panel acknowledges your explanation of events, it has considered the totality of the evidence and is of the view that it is more likely than not that you overrode the decision by a consultant psychiatrist to rescind a patient's community leave and as such, find this charge proved.

**Charge 4a (i)**

*On 18 February 2021, in relation to Patient B,*

*a. Caused distress by instructing staff to:*

*i. Remove their soft toy from them*

*without clinical justification*

**This charge is found proved.**

During your oral evidence, you acknowledged that you directed staff to remove the soft toy, ‘Floppity’, which resulted in distress for Patient B, a fact corroborated by Witness 2. Witness 2 described observing Patient B in the de-escalation room crying and expressing fear of losing Floppity, which underscored the distress caused by its removal. This account was further supported by the Patient B’s care notes.

The panel noted that the central point of dispute was whether there was clinical justification for the removal of Floppity. Your evidence was that following the pen incident, the risk of self-harm had increased, and that Patient B’s bedroom had to be *‘risk-minimised’* and this included the removal of Floppity because of the dangers posed by beading on Floppity. You identified a risk that Patient B would insert these beads into their open wound.

There was a conflict of evidence between you and other witnesses as to the extent of the beading on Floppity. It was your case that in addition to beaded eyes, Floppity also had a beaded bracelet. Evidence from other witnesses was that only the eyes were beaded and this was consistent with the documentary evidence as found in the investigation report which was prepared by the Trust. This stated:

> *‘The Investigating Officer has had sight of the said teddy, the teddy does have single beaded eyes, however does not “all beads on it” as suggested by WM AU’.*

The evidence presented by Witness 1 and Witness 2 indicated that Floppity was a protective factor for Patient B and essential for their emotional well-being. Witness 1 stated that while the soft toy could theoretically pose a risk, the team believed its protective role far outweighed any potential danger, particularly since there had been no incidents of self-harm involving the toy. The patient’s care plan specifically identified Floppity as a coping mechanism, confirming its

importance in managing Patient B's emotional state. In Witness 1 witness statement, dated 8 March 2022, he stated:

> *'I cannot see any reason why it would have been appropriate for the Nurse to remove the soft toy from Patient B as, from my knowledge of them, it would have been very distressing and likely to have cause their relationship with staff to deteriorate.'*

Additionally, the panel observed that, despite the incident involving the use of a pen to self-harm and a prior risk assessment, Floppity was deemed to remain a safe and vital element of Patient B's care. Even after the pen incident, Witness 2 did not recommend removing access to Floppity, highlighting its significance. On 19 February 2021, following a discussion among the multidisciplinary team (MDT), Floppity was returned to Patient B, contributing positively to their mental state.

The panel also reviewed CCTV footage but found it unhelpful in clarifying the reasons for the toy's removal. In your evidence, you claimed that the decision was made based on an increased risk following the pen incident but accepted that the on-call registrar did not specifically instruct the removal of Floppity. Instead, you raised concerns about the toy's beaded eyes, which were not deemed a risk by other witnesses, reinforcing the idea that the toy's removal lacked clinical justification.

The panel compared your evidence with the evidence of Witness 1 and 2. Overall, the evidence presented by Witness 1 and Witness 2 was consistent and supported the view that the removal of Floppity was not justified given its role as a protective factor. The panel did not accept your evidence that the beading of Floppity posed a risk of harm. The panel heard evidence that Floppity had been relied upon by Patient B for a considerable period of time, pre-dating the patients transfer to Astor ward and was never used by the patient as a means of self-harm. The cherished position of Floppity for the patient was emphasised by Witness 1 and 2 (and indeed acknowledged by yourself). The evidence of Witness 1 and 2 was, in the light of this, Patient B would never damage Floppity in order to

self-harm. The panel accepted this evidence.

The panel therefore concluded on the balance of probabilities, that your actions did not have the necessary clinical backing to support the decision to remove the toy, which ultimately caused distress to Patient B.

Accordingly, the panel find this charge proved.

**Charge 4a (ii)**

*On 18 February 2021, in relation to Patient B,*

*a. Caused distress by instructing staff to:*

*ii. Restrain them*

*without clinical justification*

**This charge is found proved.**

The panel determined that, based on the evidence before it, this circumstance did not justify the response, as the actions of multiple staff members did not adhere to the principle that such restraint should only be used as a last resort, when either the patient is an immediate danger to themselves or others. As the panel concluded that Floppity did not present a danger and its removal was not clinically justified, it concluded that, for those reasons also, your instruction to use restraint, which caused distress to Patient B, was also without clinical justification. The panel therefore finds this charge proved.

**Fitness to practise**

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether 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**

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

Ms Khaile invited the panel to take the view that the facts found proved amount to misconduct.

Ms Khaile submitted that serious misconduct, as defined by *Roylance v. General Medical Council*, involves actions or omissions that fail to meet expected standards of conduct in a given situation. She went on to submit that this standard of conduct can typically be determined by looking at the rules and norms generally expected of medical practitioners in similar circumstances.

Ms Khaile submitted that the NMC's position is that charges 1f, 2a, 2b, 3 and all parts of

charge 4, meet the definition of misconduct as set by the Roylance and General Medical Council.

Mr Lee stated that he did not wish to make submissions in relation to misconduct on your behalf.

**Submissions on impairment**

Ms Khaile moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) and *Cohen v General Medical Council* [2008] EWHC 581 (Admin).

Ms Khaile submitted that, in this case, the context of your past actions is critical. She went on to state that the panel should determine if these failures are remediable, if they have indeed been remedied, and if they are unlikely to recur. Ms Khaile went on to submit that, notably, you have provided testimonials and training certificates, but no specific training on patient restraints or risk assessments, especially relevant to charge 4a. Ms Khaile submitted that this absence raises questions about whether you have fully addressed the identified issues.

Ms Khaile submitted that there remains a risk to patient safety and that impairment should be found on public interest grounds to uphold public confidence and professional standards. Ms Khaile concluded by submitting that the panel should consider your awareness of the seriousness of your actions and the likelihood of recurrence.

Mr. Lee submitted that charges 2a, 2b and 3, which are grouped under unprofessional behaviour, occurred during a period [PRIVATE] and within the particularly demanding

environment of your workplace. He noted that you were managing a challenging ward where other staff struggled, yet you demonstrated dedication by working early and finishing late. Mr Lee submitted that, whilst there were instances of unprofessionalism, they were exceptions in what was otherwise a strong record of commitment to your role.

Mr Lee went on to submit that the clinical incidents related to charges 1f and 4 in its entirety. He stated that whilst mistakes had been made, these occurred in the context of a high-stress environment where you prioritised patient safety. He submitted that whilst it has been found that your actions, such as the removal of a Floppity from Patient B, lacked clear clinical justification, they were made to mitigate risks in a ward dealing with serious behavioural and self-harm challenges. Mr Lee went on to submit that no lasting harm resulted from these incidents, although you have acknowledged that Patient B may have experienced some distress.

Mr Lee made reference to several positive testimonials from colleagues, including doctors and senior nurses, who described you as *'committed'*, *'professional'*, and *'caring'*. He referenced further testimonials from former workplaces that described you *'warm, conscientious, and an asset to the profession'*. Mr Lee also noted that a colleague had described you as an '*inspiration'* and emphasised that the incidents in question were out of character for you.

Mr Lee concluded his submissions by stating that, although you have not worked in a nursing capacity since 2022 (due to Disclosure and Baring Services restrictions related to the case) your reflections and admissions demonstrated insight and a commitment to addressing your mistakes. He submitted that you have candidly accepted wrongdoing, such as unprofessional contact with a patient, and acknowledged the panel's concerns, thereby demonstrating an openness to improving your professional conduct. Mr Lee submitted that your record is other otherwise exemplary, and this combined with your willingness to learn and grow, indicates a strong commitment to nursing and a low likelihood of future misconduct.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, and *Sayer v The General Osteopathic Council* [2021] EWHC 370 (Admin).

**Decision and reasons on misconduct**

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

The panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015 (the Code) in making its decision.

The panel 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:

***'1 Treat people as individuals and uphold their dignity.***
***To achieve this, you must:***
*1.1 treat people with kindness, respect and compassion*

***2 Listen to people and respond to their preferences and concerns.***
***To achieve this, you must:***
*2.6 recognise when people are anxious or in distress and respond compassionately and politely*

***4 Act in the best interests of people at all times.***
***To achieve this, you must:***
*4.1 balance the need to act in the best interests of people at all times…*

***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*
*8.5 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:***
*9.3 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*
*20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress*
*20.6 stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers'*

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

The panel find that in relation to:

**Charge 1f**

The panel is of the view that your actions as set out in charge 1f are serious enough to amount to misconduct as you have demonstrated a failure to respect the authority and

clinical judgment of a senior medical professional. It noted that this action could jeopardise patient safety, compromise care standards, and undermine the collaborative nature of healthcare, thereby violating the professional standards expected of nurses and potentially causing harm to the patient.

**Charges 2a and 2b**

The panel is of the view that your actions as set out in charges 2a and 2b are serious enough to amount to misconduct as providing personal contact details and exchanging text messages outside of a professional capacity, violate the ethical standards for a nurse and patient relationship. It further considered that such action can result in a compromise to patient safety, create an inappropriate dynamic and blur what should be clear professional boundaries.

**Charge 3**

The panel does not consider that your actions as set out in charge 3 are serious enough to amount to misconduct. The panel are satisfied that this comment was made in a context that did not directly affect patient care or professional responsibilities and did not see evidence of this being part of a pattern of unprofessional behaviour. The panel are of the view that whilst this may be considered highly inappropriate and unacceptable within a professional setting, it does not reach the high bar set to amount to misconduct and does not need to be dealt with by your regulator to ensure safety or public confidence in the profession.

**Charges 4a (i) and 4a (ii)**

The panel considers that your actions as set out in these charges to be a of a very serious nature that amount to misconduct.

The panel is of the view that by removing Floppity and using restraint in this situation, you caused unnecessary distress to Patient B, a vulnerable patient. The panel found that these actions were not clinically justified, and noted that you did so without providing a clear rationale to colleagues or Patient B.

**Charges 4b (i) and 4b (ii)**

The panel considers that your actions as set out in these charges amounts to misconduct. It noted that by failing to consult with the MDT before instructing staff to remove Floppity and to restrain them, demonstrated a lack of collaboration and consideration for Patient B's needs and care. The panel are of the view that this oversight not only disregards protocols for patient safety and well-being, but also undermines the importance of teamwork in clinical decision-making.

In all the circumstances, the panel was of the view that that your actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct as set out above.

**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 and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. 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 considers that limbs a, b and c are engaged the above test in relation to the charges.

The panel finds that patients were put at risk of harm as a result of your misconduct. Your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find the charges, as proved, extremely serious.

In relation to charges regarding professional boundaries, the panel consider that your insight is well developed. You have provided evidence of training and understanding of your learnings.

In relation to charges regarding working with MDT and the removal of Floppity, the panel consider that your insight is still developing. It had regard to your detailed reflection and note that you have considered the impacts that this situation has had upon you [PRIVATE], however you have not mentioned the impacts your actions have had upon patients, colleagues and the profession.

The panel was satisfied that the misconduct in this case is capable of being addressed. The panel had sight of several testimonials in which you and your practise has been described as *'empathetic'*, always ready to support your patients and *'diligently committed'*

to helping those less fortunate than yourself. The testimonials are from colleagues in different roles and workplaces and speak to your character and professionalism as a nurse. The panel also took into account that you have undertaken training modules in 'Communication Skills for Professionals' and 'Professional Boundaries in Health and Social Care', however did not see evidence of training in relation to dealing with vulnerable patients or working with multidisciplinary teams.

However, the panel is of the view that there is a risk of repetition based on your developing insight in relation to MDT, the removal of Floppity and restraint without clinical justification. It is also of the view that there remains a risk due to your limited remediation. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel was of the view that a reasonable and well-informed member of the public would be concerned if a finding of impairment was not found, and as such, determined that a finding on public interest grounds is also necessary.

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 conditions of practice order for a period of 12 months. The effect of this order is that your name on

the NMC register will show that you are subject to a conditions of practice order and anyone who enquires about your registration will be informed of this order.

**Submissions on sanction**

Mr Kennedy, on behalf of the NMC, informed the panel that the sanction bid is that of a striking off order. He next highlighted what, in the NMC's view, were aggravating and mitigating factors in your case.

Mr Kennedy submitted that taking no action or imposing a caution order would not be appropriate in the circumstances in your case. In relation to a conditions of practice order, Mr Kennedy noted that the panel had previously determined that the misconduct found proved is capable of been remediated. However, he submitted that there appears to be an attitudinal issue in your case, which is more difficult to remediate, in that you overrode the decision of a consultant, ignored professional boundaries and instructed that a patient be restrained without clinical justification.

Mr Kennedy further submitted that a suspension order would not be a sufficient, appropriate or proportionate response given that the misconduct found proved was not an isolated incident and that your behaviour was a significant departure from the standards expected of a registered nurse.

In light of this, Mr Kennedy invited the panel to find that your actions are fundamentally incompatible with you remaining on the register and allowing you to do so would undermine the public confidence in the nursing profession and the NMC as a regulator.

Mr Lee informed the panel that you currently work for an insurance company, using your background in healthcare to assist you in this role. He stated that you are a month away from graduating with a masters degree in Public Health. Mr Lee told the panel that you are currently undertaking some international work, which is also healthcare related, in that you link companies with opportunities in Africa and Asia. He stated that whilst you are not

currently working in a nursing role, you maintain a comprehensive interest in health care and that, going forward, you would like to be able to return to nursing practice and may well combine your practice with lecturing.

Mr Lee invited the panel to make its own assessment as to whether there is a deep seated attitudinal issue in your case. He submitted that there is no clear evidence to support this submission and referred the panel to the positive testimonials before it in this regard. Mr Lee reminded the panel that it had heard evidence during the course of these proceedings that at the time the charges arose, you were working under substantial pressure with staff members feeling 'overwhelmed'.

Mr Lee submitted that a conditions of practice order would be an appropriate and proportionate response to the concerns identified in your case. He explained that such an order would protect the public and uphold the public confidence in the nursing profession. Mr Lee suggested conditions preventing you from being the lead nurse on shift, that you be indirectly supervised, that you meet with your line manager regularly, creating a Personal Development Plan (PDP) and a further condition requiring you to complete training in relation to vulnerable patients and working collaboratively.

Mr Lee submitted that imposing a suspension order and/or striking off order would be wholly inappropriate.

**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 Sanction Guidance (SG). The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Your behaviour was an abuse of position of trust in that at the time the charges arose, you were a senior member of staff; and
- A vulnerable patient was caused distress as a result of your misconduct.

The panel also took into account the following mitigating features:

- You made admissions to some of the charges at the outset of these regulatory proceedings;
- You have demonstrated insight into some of your failings;
- The panel has heard evidence that the working environment at the time was difficult and stressful; and
- The panel have before it a number of positive testimonials attesting to your good character and practise as a registered nurse.

The panel next considered the NMC's submission that your misconduct is indicative of a deep seated attitudinal issue. The panel noted its previous determination that you have demonstrated insight into breaching professional boundaries and that your insight was developing in relation to working with MDT and the removal of the patient's soft toy. The panel had before it a number of positive testimonials, attesting to your good character, including one from a Consultant Psychiatrist who had worked with you previously. It considered the fact that, at the time the misconduct arose, you were newly promoted and working within newly established ward, which the panel heard evidence was challenging. Additionally, the panel noted that no previous concerns have ever been raised regarding your attitude whilst you were practicing as a registered nurse. In light of this information, and when considering the context surrounding your behaviour, the panel determined that the misconduct was ill informed and as a result of poor judgement rather a consequence of any deep seated attitudinal issue.

The panel next considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict 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 took into account the SG, in particular:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *No evidence of general incompetence;*
- *Potential and willingness to respond positively to retraining;*
- *…;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force; and*
- *Conditions can be created that can be monitored and assessed.*

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel accepted that you would be willing to comply with conditions of practice, given your engagement with these proceedings, your ongoing interest in health care and your hope to return to nursing practice. It also had regard to the fact that, other than these incidents, there is no evidence of any previous concerns having ever been raised regarding your practice as a registered nurse. The panel was of the view that it was in the public interest that, with appropriate safeguards, you should be able to return to practise as a nurse.

Balancing all of these factors, the panel determined that that the appropriate and proportionate sanction is that of a conditions of practice order.

The panel did seriously consider imposing a suspension order given the seriousness of the case and the public interest in this regard. However, the panel determined, on balance, that the public interest concerns identified in your case, can be addressed by way of a lesser sanction.

Having regard to the matters it has identified, the panel has concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession, and will send to the public and the profession a clear message about the standards of practice required of a registered nurse. The panel determined that a fully informed member of the public would be satisfied by the imposition of a conditions upon your practice.

The panel determined that the following conditions are appropriate and proportionate in this case:

> ‘For the purposes of these conditions, ‘employment’ and ‘work’ mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, ‘course of study’ and ‘course’ mean any course of educational study connected to nursing, midwifery or nursing associates.

1. You must not be the nurse in charge on any shift.

2. You must be indirectly supervised, working at all times on the same shift as, but not always directly observed by another registered nurse.

3. You must meet with your line manager, mentor and/or supervisor on a monthly basis to discuss the following areas of your practice:

    a) Working with vulnerable patients
    b) Working within a multidisciplinary team

4. You must work with your line manager, mentor and/or supervisor to create a personal development plan (PDP). Your PDP must address the concerns about:

    a) Working with vulnerable patients
    b) Working within a multidisciplinary team

5. You must send a copy of your PDP to the NMC before any review hearing.

6. You must keep us informed about anywhere you are working by:

    a) Telling your case officer within seven days of accepting or leaving any employment.
    b) Giving your case officer your employer's contact details.

7. You must keep us informed about anywhere you are studying by:

a) Telling your case officer within seven days of accepting any course of study.
b) Giving your case officer the name and contact details of the organisation offering that course of study.

8. You must immediately give a copy of these conditions to:
   a) Any organisation or person you work for.
   b) Any agency you apply to or are registered with for work.
   c) Any employers you apply to for work (at the time of application).
   d) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.
   e) Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity

9. You must tell your case officer, within seven days of your becoming aware of:

   a) Any clinical incident you are involved in.
   b) Any investigation started against you.
   c) Any disciplinary proceedings taken against you.

10. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:

    a) Any current or future employer.

b) Any educational establishment.
c) Any other person(s) involved in your retraining and/or supervision required by these conditions

The period of this order is for 12 months.

Before the order expires, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- Your attendance at the hearing;
- Any up to date testimonials; and
- An up to date reflective statement.

This will be confirmed to you in writing.

**Interim order**

As the conditions of practice 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 conditions of practice sanction takes effect.

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

**Submissions on interim order**

The panel took account of the submissions made by Mr Kennedy who invited the panel to impose an interim conditions of practice order in order to cover any potential appeal period. He submitted that such an order was necessary for the protection of the public and was otherwise in the public interest.

Mr Lee did not oppose the application.

**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 the only suitable interim order would be that of a conditions of practice order, as to do otherwise would be incompatible with its earlier findings. The conditions for the interim order will be the same as those detailed in the substantive order for a period of 18 months to allow for the possibility for an appeal to be made and determined.

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

That concludes this determination.