Nursing and Midwifery Council  
Fitness to Practise Committee  
Substantive Hearing  
13-16 May 2019

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

Name of registrant: Carol Anne Rodda  
NMC PIN: 92Y0206O

Part(s) of the register: Registered Nurse – sub part 1  
RN1: Adult Nurse (December 1992)

Area of Registered Address: England  
Type of Case: Misconduct

Panel Members: John Penhale (Chair, Lay member)  
Frances Clarke (Registrant member)  
Alison Lyon (Lay member)

Legal Assessor: John Bromley-Davenport QC  
Panel Secretary: Anita Abell

Ms Rodda: Not present and not represented  
Nursing and Midwifery Council: Represented by Dulcie Piff, Case Presenter

Facts proved: Charges 1-13 inclusive  
Fitness to practise: Impaired

Sanction: Suspension order for 12 months  
Interim order: Suspension order for 18 months
Decision on Service of Notice of hearing:

Ms Rodda was not in attendance. Written notice of this hearing had been sent to her registered address by recorded delivery and by first class post on 11 April 2019. The notice contained details of the hearing including time, date and place.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Ms Rodda has been served with notice of this hearing in accordance with the requirements of Rules 5 and 34 of The Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004 (“the Rules”).

Decision on proceeding in the absence of the registrant

The panel then considered continuing in the absence of Ms Rodda.

Ms Piff submitted that the panel should proceed in the absence of Ms Rodda. She produced documentation which demonstrated that the NMC had made several attempts to contact Ms Rodda by post, email and telephone. At least two letters sent to Ms Rodda’s WISER address had been returned marked “addressee unknown”. Both telephone numbers on the WISER system were “not recognised”. An enquiry agent had been employed but was not able to provide an alternative address for Ms Rodda. The NMC had also contacted the referrer who was not able to help, apart from stating that Ms Rodda may have left the country.

The panel heard and accepted the advice of the legal assessor.
The panel concluded that the NMC had made many attempts to contact Ms Rodda, using the contact details she had provided to the NMC. The panel took into account that whilst these attempts to contact Ms Rodda have been unsuccessful, it is Ms Rodda’s duty to keep her contact details up to date. The tracing agent has been unable to trace an alternative address. The panel has concluded that Ms Rodda has not engaged with the NMC investigation process and an adjournment is unlikely to secure her attendance at a future date. Further, there is a public interest in the expeditious disposal of these hearings and the matters in this case are now three years old. For these reasons the panel has decided to proceed in the absence of Ms Rodda.

**Decision to amend the charges**

Ms Piff informed the panel that there was a discrepancy between the dates in some of the charges and the dates on the ICT audit schedule which formed exhibit 3. She therefore applied to amend the dates in charges 4, 6 and 13 as follows:

Charge 4:  8 February 2016 be amended to 8 March 2016

8 September 2016 be amended to 13 September 2016

Charge 6:  8 September 2016 be amended to 13 September 2016


Ms Piff submitted that these amendments would ensure the charges more accurately reflect the evidence before the panel. She submitted that the amendments were not prejudicial to Ms Rodda as she disputed all the charges, and there was no dispute as to particular dates.

The panel heard and accepted the advice of the legal assessor.
The panel considered there was no prejudice to Ms Rodda in amending the charges to include the correct dates, and directed that the charges be amended.

**The charges (as amended):**

That you, while employed as a band 7 manager at the University Hospitals Coventry and Warwickshire NHS Trust:

1. On 15 January 2016, accessed colleague A’s medical records on the Trusts CRRS.

2. On 15 January 2016 disclosed confidential information about colleague A’s health to Colleague H.

3. On 11 February 2016, accessed Colleague B’s medical records on the Trusts CRRS.

4. On 3 February, 8 March, 22 March and 13 September 2016, accessed Colleague C’s medical records on the Trusts CRRS.

5. On a date unknown, discussed information that you had obtained from Colleague C’s medical records with Colleague H.

6. On 13 September 2016, provided Colleague C with information about her health when you were not authorised to do so.

7. On 11 May 2016, accessed Patient A’s medical records on the Trusts CRRS.

8. On 18 May and 27 July 2016, accessed Patient B’s medical records on the Trusts CRRS.


11. On one or more occasion, between 13 May and 4 August 2016, accessed Colleague F’s medical records on the Trusts CRRS.

12. On 05 and/or 06 July 2016, accessed your own medical records in the name of Carol Rodda on the Trusts CRRS.


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

Application to admit two witness statements as evidence

Ms Piff applied for the witness statements of Colleague J and Colleague K to be admitted as evidence.

Colleague J was Head of Information Governance and Data Protection Officer. Her statement was purely factual relating to Trust polices and procedures in relation to the use of computers and data security.

Colleague K was Ms Rodda’s line manager. Her evidence was additional to evidence given by other witnesses who were attending the hearing.
Ms Piff informed the panel that the evidence of Colleague J and Colleague K was not sole and decisive evidence but was supportive of other evidence the panel would hear from other witnesses attending the hearing. In these circumstances Ms Piff asked that the witness statements be admitted in evidence.

The legal assessor advised that the panel had the discretion to admit the statements, provided it was satisfied that their admission was relevant and fair to all parties.

The panel concluded that the evidence of Colleague J was relevant. Further it was purely a factual statement about Trust policies and procedures. The panel concluded that it would not be prejudicial to Ms Rodda to admit Colleague J’s statement.

The panel next considered the statement of Colleague K. The panel noted that Colleague K has been referred to several times by Ms Rodda in her investigation interview and was Ms Rodda’s line manager. Her statement was therefore relevant. However, having considered Colleague K’s statement and the investigation interview given by Ms Rodda, the panel is of the opinion that Colleague K may be able to provide it with information, additional to that contained in her statement, on Ms Rodda’s behaviour and on “common practice” at the Trust. The panel therefore have refused the request to admit the document and requested Colleague K give evidence on day 2 of the hearing.

Application to hear evidence remotely

Ms Piff informed the panel that Colleague I had recently given birth. Ms Piff applied for Colleague I to be allowed to give evidence by the GoToMeeting videolink. Ms Piff
also applied for Colleague K to give evidence by the GoToMeeting videolink. She cited the case of Polanski v Condé Nast Publications Ltd [2005] 1 WLR 637. She stated that the use of a videolink was efficient and effective and the panel would be able to see the witnesses and assess their demeanour.

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

The panel concluded that Colleague I had a good reason for non-attendance and agreed that she could give evidence by videolink.

The panel concluded that it had not been appraised of any convincing reason for why Colleague K cannot attend the hearing and why she should be permitted to give evidence remotely. The panel concluded that Colleague K should attend the hearing on day 2 to give evidence in person.

**Application under Rule 19 for part of the hearing to be held in private**

During the course of Colleague C’s and Colleague H’s evidence reference was made to health matters. Ms Piff applied for those parts of the hearing that refer to health matters to be held in private.

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

The panel agreed to hear those parts of the hearing that refer to health in private, but that all other parts of the hearing will be held in public.
Background

Ms Rodda began working at the University Hospitals Coventry and Warwickshire NHS Trust (the Trust) in 2009. In October 2015 she was appointed/seconded to a band 7 post as the manager of the enhanced care team. The enhanced care team consisted of 20-23 health care assistants and provided additional support for vulnerable patients, mostly on a one to one basis, throughout the Trust. The enhanced care team shared an office with the Temporary Staffing Services (TSS) bank team.

On 3 September 2016 Colleague H, a health care assistant, sent an email to Colleague J, Head of Information Governance and Data Protection Officer. The text stated that in January 2016 Ms Rodda had accessed the Trust Clinical Results Reporting System (CRRS) to look at a colleague’s medical records to find out why he had reported as sick. Colleague H stated that Ms Rodda had sent her a text message which included the phrase “….I cannot believe what I have found out about him”. In the email, Colleague H explained that although she knew she had a duty to report this matter she had not done so “due to fear of losing my own job”. Colleague H had recently found another post and was about to leave Trust employment. Colleague H was asked to provide further information to the Trust about this matter.

Subsequently, Ms Rodda was asked to attend a meeting with Colleague K, her line manager, and the Associate Director of Nursing in the latter’s office. Ms Rodda was told of an allegation against her that she had accessed a number of medical records without authorisation. It is alleged that Ms Rodda became upset but did not deny the allegation. It is alleged that she told Colleague K and the Associate Director of Nursing that some staff members had asked her to access their records and, further, that her login was often used by other members of staff. Ms Rodda then left the
office. Colleague K followed her wanting to discuss the matter further, but Ms Rodda refused to talk about it and stated that she was “going off sick”.

On 20 December 2016 Ms Rodda returned to work. She was asked to attend HR and was formally suspended and went home.

Colleague L, a human resources workforce advisor led an investigation into the matter and was assisted by Colleague I, a senior nurse/midwife at the Trust. Ms Rodda was on sick leave and/or suspended for much of the investigation but did attend an investigatory meeting on 24 January 2017 with Colleagues I and L.

Ms Rodda resigned from the Trust on 15 May 2017.

Determination on facts

The panel heard evidence from, and read the exhibits of the following witness:

- Colleague C, a care assistant within the enhanced care team
- Colleague I, who assisted Colleague L with the investigation into this matter
- Colleague H, a care assistant within the enhanced care team
- Colleague K, Named Nurse for Adult Safeguarding who was Ms Rodda’s line manager

The panel read a witness statement from Colleague J, Head of Information Governance and Data Protection Officer.
When considering the charges, the panel took into account the submissions of Ms Piff, and all of the evidence before it, both documentary and oral. The panel has received no documentation from Ms Rodda.

The panel considered Colleague C to be clear and consistent. She gave direct evidence and was able to clarify some matters when challenged.

The panel considered Colleague I gave balanced evidence but her recollection of events was vague. She played a secondary role in the investigation and only met Ms Rodda on the occasion of the investigation interview held on 24 January 2017.

The panel considered Colleague H to be a credible witness with a good recollection of events. She was able to explain apparent inconsistencies between her written and oral evidence.

The panel considered Colleague K to be honest about what she could and could not remember. Her only direct involvement was being present when Ms Rodda was initially confronted with the allegations. She was helpful in relation to the Trust IT policies and working practices.

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

When considering the evidence the panel took into account two Trust policy documents as follows:

- the Trust Confidentiality policy which states that “it is strictly forbidden for employees to look at any information relating to their own family, friends or
acquaintances unless they are directly involved in the patient’s critical care or with the administration of such information on behalf of the Trust”.

- the Trust ICT Security policy which states: “…It is the responsibility of all staff and any users of UHCW ICT systems to ensure that …They will only access information that they need to know in order to do their job role… All staff…MUST NOT…leave themselves logged on at an unattended computer…All staff must ensure that unattended workstations are either locked or they have logged off.”

Before considering the charges the panel took into account what alternative explanation Ms Rodda might have put forward had she attended. The panel has received no documentation from Ms Rodda. However, it has before it some evidence from all witnesses about Ms Rodda’s actions and statements made by her in relation to some of the charges. It also has some text messages sent from her telephone and the transcript of the investigatory interview, which was sent to Ms Rodda. She was asked to sign the transcript if she agreed with it, or to suggest amendments, but she never returned it.

Colleague K informed the panel that when Ms Rodda was first confronted with the allegation, Ms Rodda became upset but did not deny the charges. Colleague K informed the panel that Ms Rodda did not seem to realise the severity and the magnitude of the breach of confidentiality. Colleague K confirmed that in the meeting Ms Rodda claimed that some staff members had asked her to look at their own medical records which she did using her login details. She also claimed that her login was used by other staff members to access their medical records.

The evidence at the investigatory interview from Ms Rodda is not entirely consistent:

- she admits some charges but denies most of them
• her case is that she often left herself logged in to her computer when she was not present at her desk and other colleagues must have accessed her login and accessed the records themselves

• she also claims that her mobile phone, which could not be locked with a password, was often left on her desk, and that somebody had used it to send a text message to Colleague H.

• she claims that she had not undertaken information governance training “in ages”.

• she claims that Colleague K was aware of the irregularities in practice in relation to IT security. In her evidence Colleague K denied any knowledge of this behaviour.

The panel found it surprising that a senior band 7 nurse with over twenty years experience, working on a daily basis with confidential patient information, would not be aware of her responsibilities in relation to information security and the accessing of medical records.

This hearsay evidence from Ms Rodda was in stark contrast to the evidence from the live witnesses. They all agreed that the Trust was very strict about information protection and that on logging in to a computer a message would flash up warning to the user against improper use of the system. There was regular mandatory training on information governance. Further, none of the witnesses knew of any “custom and practice” for staff to leave their computers unlocked and insecure so others could use them.

The panel also considered the provenance of exhibit 3, which is a printout of the audit report produced by the Trust ICT department. The panel was satisfied that this report was an accurate record of the patient records accessed by a person using Ms
Rodda’s login. The panel also noticed the large number of times that Ms Rodda’s login was accessed over a ten month period to check on patient records.

The burden of proof rests upon the NMC and Ms Rodda does not have to prove or disprove anything. The standard of proof is the civil standard, namely the balance of probabilities. This means that, for a fact to be found proved, the NMC must satisfy the panel that what is alleged to have happened is more likely than not to have occurred. In determining the facts, the panel is entitled to draw common-sense inferences but not to speculate.

The panel then considered the charges against Ms Rodda which were:

1. On 15 January 2016, accessed colleague A’s medical records on the Trusts CRRS.

2. On 15 January 2016 disclosed confidential information about colleague A’s health to Colleague H.

The panel considered these two charges together as the evidence relating to them are interlinked.

Colleague H gave evidence to the panel that she received a text message from Ms Rodda when colleague A had not shown up for work. The exhibit printout shows one of the texts as “Will you call me tomorrow afternoon. I cannot believe what I have found out about him”. When Colleague H met with Ms Rodda, Ms Rodda informed her that she had accessed Colleague A’s records and that he had been admitted to the A&E department, that he had become aggressive, security became involved and he was referred to the Caledon Unit.
The ICT audit has a record of a person accessing Colleague A’s medical records on 15 January 2016 using Ms Rodda’s login.

The panel considered Ms Rodda’s explanation given at the investigatory interview that she did not access the records and that someone else had used her mobile phone to send text messages to Colleague H to be inherently unlikely. There was no evidence to support the contention and significant evidence to undermine it. Colleague H denied using Ms Rodda’s phone or even ever seeing it lying on top of Ms Rodda’s desk as Ms Rodda claims.

The panel concluded that it is satisfied that on the balance of probabilities that Ms Rodda accessed Colleague A’s medical records and then disclosed confidential medical information to Colleague H.

The panel therefore finds charge 1 and charge 2 proved.

3. On 11 February 2016, accessed Colleague B’s medical records on the Trusts CRRS.

Colleague I gave evidence that during the course of her investigation the ICT audit indicated that a person using Ms Rodda’s login accessed Colleague B’s records. The ICT audit has a record of a person accessing Colleague B’s medical records on 11 February 2016 from Ms Rodda’s login.

At the investigatory interview Ms Rodda stated that she did not know who Colleague B was. Colleague B works in day surgery.

The panel find the idea that someone else logged in using Ms Rodda’s login inherently unlikely and noted there was no supporting evidence that this has happened.
The panel concluded that it is satisfied that on the balance of probabilities that Ms Rodda accessed Colleague B's medical records on the dates specified above.

**The panel therefore finds charge 3 proved.**

4. On 3 February, 8 March, 22 March and 13 September 2016, accessed Colleague C's medical records on the Trusts CRRS.

6. On 13 September 2016, provided Colleague C with information about her health when you were not authorised to do so.

Colleague C gave evidence to the panel about 13 September 2016. She had been unwell and Ms Rodda knew she had had some blood tests. Colleague C told the panel that Ms Rodda “offered” to access her record to see the results. Colleague C stated in her oral evidence that her view was that Ms Rodda had already made up her mind to look at the results so her “offer” was not really an offer at all and Colleague C had not confirmed that she wanted Ms Rodda to do this. When Colleague C questioned Ms Rodda as to whether she was allowed to look at the records, Ms Rodda replied something along the lines “as a manager I could look at them for you”. Colleague C told the panel that Ms Rodda then read the results and gave her some clinical advice which she found worrying. It later turned out that the advice was wrong.

Evidence relating to the three other dates comes from Colleague H and from the audit printout. The audit printout also shows an entry for 13 September 2016.

At the investigatory interview Ms Rodda admitted accessing records relating to a blood test on one occasion (date not specified) for Colleague C who had requested her to do so. She does not comment on the other three dates.
The panel accepted the evidence of Colleague C and concluded that it is satisfied that on the balance of probabilities that Ms Rodda accessed Colleague C’s medical records on all of the dates specified above, and that she provided Colleague C with information about her health when she had no authority to do so.

The panel therefore finds charge 4 and charge 6 proved.

5. On a date unknown, discussed information that you had obtained from Colleague C’s medical records with Colleague H.

Colleague H gave evidence that Colleague C had called in sick with a urinary infection. Ms Rodda accessed Colleague C’s records and informed Colleague H she could not see anything recorded about a urinary infection and Ms Rodda concluded that Colleague C was lying.

The panel accepted the evidence of Colleague H and concluded that it is satisfied that on the balance of probabilities that Ms Rodda discussed information obtained from Colleague C’s medical records with Colleague H.

The panel therefore finds charge 5 proved.

7. On 11 May 2016, accessed Patient A’s medical records on the Trusts CRRS.

Patient A is related to Ms Rodda. At the investigatory interview she states she asked a colleague to access his records, stating that she holds the Trust responsible for her [relative’s] very poor health, attributing it to poor treatment at UHCW and she had a “need to know” what was in his records.
The ICT audit has a record of a person accessing Patient A’s medical records on 11 May 2016 from Ms Rodda’s login.

The panel concluded that Ms Rodda had a clear motive for accessing her relative’s records and it is satisfied that on the balance of probabilities that Ms Rodda accessed Patient A’s medical records on 11 May 2016.

The panel therefore finds charge 7 proved.

8. On 18 May and 27 July 2016, accessed Patient B’s medical records on the Trusts CRRS.

The evidence of Colleague I was that Ms Rodda accessed Patient B’s record on the date specified above. Colleague I states that Patient B was not a patient of Ms Rodda and at the investigatory interview Ms Rodda states that Patient B was unknown to her.

The ICT audit has a record of a person accessing Patient B’s medical records on 18 May and 27 July 2016 from Ms Rodda’s login.

The panel considered it inherently unlikely that someone else accessed these records from Ms Rodda’s login on two occasions and found no evidence to suggest that anyone had done so.

The panel concluded that it is satisfied that on the balance of probabilities that Ms Rodda accessed Patient B’s records on the dates specified above.

The panel therefore finds charge 8 proved.


11. On one or more occasion, between 13 May and 4 August 2016, accessed Colleague F’s medical records on the Trusts CRRS.

Evidence relating to all three of these colleagues came from Colleague I. At the investigatory interview Ms Rodda denied knowing any of these colleagues, all of whom worked in the TSS.

The audit log confirms a person logged in on Ms Rodda’s account accessed the records above on the dates identified.

The panel find the idea that someone else logged in on all three occasions using Ms Rodda’s login inherently unlikely and can find no evidence to support the suggestion that they had done so.

The panel concluded that it is satisfied that on the balance of probabilities that Ms Rodda accessed the medical records identified on the dates specified above.

The panel therefore finds charge 9, charge 10 and charge 11 proved.

12. On 05 and/or 06 July 2016, accessed your own medical records in the name of Carol Rodda on the Trusts CRRS.
At the investigatory interview Ms Rodda denied accessing her records. However, the audit log indicates that a person logged on as Ms Rodda accessed the records on 5 and 6 July 2016.

The panel concluded that it was inherently unlikely to be a colleague of Ms Rodda.

The panel concluded that it is satisfied that on the balance of probabilities that Ms Rodda accessed her records on 5 and 6 July 2016.

**The panel therefore finds charge 12 proved.**


Colleague I gave evidence that during the course of her investigation the ICT audit indicated that a person using Ms Rodda’s login accessed Colleague G’s records on the dates above.

The ICT audit has a record of a person logged on as Ms Rodda accessing Colleague G’s medical records on those same dates.

At the investigatory interview Ms Rodda stated that she did not know who Colleague G was. Colleague G worked in TSS.

The panel concluded that the idea that someone else logged in using Ms Rodda’s login inherently unlikely and can find no evidence to support the suggestion that they had done so.

The panel concluded that it is satisfied that on the balance of probabilities that Ms Rodda accessed Colleague G’s medical records on the dates specified above.

**The panel therefore finds charge 13 proved.**
Determination on misconduct and impairment

The panel went on to consider, on the basis of the facts found proved, whether Ms Rodda’s fitness to practise is impaired under Rule 24 (12) of the Nursing and Midwifery Council Fitness to Practise Rules 2004.

The panel approached its deliberations as a two stage process. It considered firstly whether as a matter of judgment, there has been misconduct, and secondly, if so, whether, in the light of all the material before it, Ms Rodda’s fitness to practise is currently impaired by that misconduct.

Determination on misconduct

The panel first considered whether the facts proved amount to misconduct. It bore in mind the case of Roylance v General Medical Council (No 2) [2000] 1 A.C. 311, where misconduct was defined by Lord Clyde as:

…a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a [medical] practitioner in the particular circumstances.

The panel took into account the submissions of Ms Piff and all of the evidence before it. The panel heard and accepted the advice of the legal assessor.
The panel also had regard to the Nursing and Midwifery Council publication The Code: Professional standards of practice and behaviour for nurses, midwives and nursing associates (effective from 31 March 2015, revised October 2018) (the Code).

It concluded that Ms Rodda had breached the following provisions of the Code:

5.1 respect a person’s right to privacy in all aspects of their care

5.4 share necessary information with other healthcare professionals and agencies only when the interests of patient safety and public protection override the need for confidentiality,

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

The panel is aware that not all breaches of the Code are sufficiently serious to reach the threshold for a finding of misconduct.

The panel took into account that the conduct found proved related to Ms Rodda repeatedly breaching her employer’s policies in relation to information security and data protection, and accessing confidential medical records without authorisation, over a period of approximately nine months. She compounded this behaviour by divulging some of the confidential information obtained in this way to a junior colleague on two occasions. Her motivation for this unauthorised access was to check whether the reasons given by the team members concerned for calling in to work as sick were supported by entries in their medical records. On another occasion she accessed the medical records of Colleague C without her consent and gave an inaccurate interpretation of the results. Further, at the time of these events Ms Rodda was a senior experienced nurse who must have known that her behaviour was unacceptable and who deliberately and knowingly abused her position of trust.

The panel concluded that Ms Rodda’s behaviour in relation to each charge individually and also cumulatively, and the related breaches of the Code, would be
considered deplorable by members of the public and fellow nurses. As such the panel concluded that her behaviour was a sufficiently serious departure from the accepted standards of behaviour and amounted to misconduct.

**Determination on impairment**

Having found that Ms Rodda's behaviour amounted to misconduct, the panel went on to consider whether her fitness to practise is currently impaired by reason of that misconduct.

The panel was mindful that a registrant’s impairment should be judged by reference to her suitability to remain on the register without restriction. In deciding this matter the panel has exercised its independent professional judgement.

The panel took into account the submissions of Ms Piff and all of the evidence before it. The panel heard and accepted the advice of the legal assessor.

The panel considered the case of CHRE v NMC and Grant [2011] EWHC 97 and took into account the guidance provided by Dame Janet Smith and approved by Cox J. When deciding whether fitness to practise is impaired, it should be aware of the need to protect the public and the need to declare and uphold proper standards of conduct and behaviour so as to maintain public confidence in the profession.

The panel reminded itself of the guidance formulated by Dame Janet Smith in her Fifth Shipman Report, as cited in Grant, regarding the proper approach to be taken when considering impairment:
a) Whether the registrant 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;
b) Whether the registrant has in the past brought and/or is liable in the future to bring the profession into disrepute;
c) Whether the registrant has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession.
d) …not relevant…”

The panel concluded that Ms Rodda’s behaviour engaged limbs (b) and (c) above.

There is no evidence of any unwarranted risk of harm to patients in this case nor is there any indication that there were any concerns about Ms Rodda’s clinical abilities.

The panel considered that Ms Rodda brought the profession into disrepute by deliberately and repeatedly contravening her employer’s policies on information security and confidentiality. This involved her accessing medical records without authorisation and divulging confidential medical details about some members of staff to another junior member of staff in the same team. She also provided Colleague C with her blood test results when she was not authorised to do so and she provided her with an inaccurate interpretation of these results. Although not a specific charge, the consequence of this was a period of unnecessary worry for Colleague C. The panel concluded that a senior nurse of Ms Rodda’s experience would have known that she should not behave like this.

The panel concluded that Ms Rodda breached a fundamental tenet of the profession by disclosing confidential information about members of staff to another member of the same team on more than one occasion. It is a basic expectation of all patients that their medical history is confidential and that that confidentiality will only be breached if it is in the interests of the patient. Ms Rodda clearly did not behave in an appropriate manner in this respect.
The panel next considered whether Ms Rodda’s fitness to practise is currently impaired and considered her likely future behaviour. In doing so, it took into account the guidance in the case of Cohen v General Medical Council [2008] EWHC 581 (Admin):

“… It must be highly relevant in determining if a [nurse’s] fitness to practise is impaired that first his or her conduct which led to the charge is easily remediable, second that it has been remedied and third that it is highly unlikely to be repeated.”

The panel concluded that Ms Rodda’s behaviour was remediable with training to ensure she has a full understanding of why her behaviour was unacceptable. Ms Rodda would need to come to that understanding and demonstrate insight in order to remedy her misconduct.

However, there is no information before the panel from Ms Rodda as to what, if anything, she has done to remediate her practice since these events. Colleague K considered that her behaviour at the time of the events suggested a poor understanding of the importance of confidentiality and that she tried to minimise the seriousness of her misconduct. Ms Rodda disengaged from the Trust disciplinary process at an early stage and resigned. She has never engaged with the NMC regulatory process and, at present, her whereabouts are unknown to the NMC.

As the panel has no information from Ms Rodda it considers that she has not demonstrated remorse, remediation or insight. The panel therefore concluded that, at present, there remains a risk of repetition of similar behaviour.

The panel concluded that as there have been no concerns relating to Ms Rodda’s clinical practice her fitness to practise is not currently impaired on the grounds of public protection.
The panel next considered the public interest in upholding standards in the profession and in maintaining confidence in the NMC as regulator. The panel concluded that members of the public would expect a nurse to respect patient/colleague confidentiality and to adhere to any policies her employer has in place to protect individual medical records from being accessed and shared without authorisation. The panel has concluded that a finding that Ms Rodda’s fitness to practise is currently impaired is necessary on public interest grounds to ensure that proper standards of conduct and of behaviour are maintained and to preserve public confidence in the nursing profession and in the NMC as regulator. The panel has therefore concluded that Ms Rodda’s fitness to practise is currently impaired on the grounds of public interest.

**Determination on sanction**

Having determined that Ms Rodda’s fitness to practise is impaired, the panel then considered what sanction, if any, it should impose on her registration. The panel heard the submissions made by Ms Piff and took account of all the evidence before it.

Ms Piff informed the panel that the NMC sanction bid was a 12 months suspension order with a review. She outlined the NMC reasons for this submission.

The panel accepted the advice of the legal assessor.

Under Article 29 of the Nursing and Midwifery Council Order 2001, the panel can take no further action or it can impose one of the following sanctions: make a caution order for one to five years; make a conditions of practice order for no more than three years; make a suspension order for a maximum of one year; or make a striking
off order. The panel has borne in mind that the purpose of a sanction is not to be punitive, though it may have a punitive effect.

The panel's first priority is the protection of patients. The panel took account of the Sanctions Guidance and considered the sanctions in ascending order of seriousness, and recognised that it should impose the least sanction compatible with the maintenance of patient safety and which was sufficient to satisfy the public interest.

The panel has applied the principles of fairness, reasonableness and proportionality, weighing the interests of patients and the public with Ms Rodda's own interests and taking into account the mitigating and aggravating factors in the case. The public interest includes the protection of patients, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct and behaviour. The panel has also taken account of the current NMC Sanctions Guidance as published on its website.

The panel found the following to be aggravating features:

- Ms Rodda was a senior nurse who repeatedly and frequently acted in a manner which was an abuse of her position of trust over a period of nine months

- at the time of the events Ms Rodda appeared not to realise the seriousness of her actions and the panel today has nothing before it to demonstrate that she has developed any insight into this matter.

The panel found the following to be mitigating features:

- there have been no previous findings against Ms Rodda
there was no evidence of actual patient harm.

The panel considered taking no further action but determined that this would be inappropriate. It would not address the seriousness of the charges found proved, which involve accessing and disclosing confidential patient records without authorisation. In such circumstances, it would not be in the public interest to take no further action.

The panel then considered a caution order. However, it concluded that a caution order was not appropriate. The misconduct was too serious and Ms Rodda’s behaviour could not be described as being at the lower end of the spectrum of impaired fitness to practise. A caution order would not be in the public interest given that the misconduct relates directly to Ms Rodda’s breaching patient confidentiality during her employment as a senior nurse. The panel concluded that the public interest would not be served by a caution order as it would not uphold the standards of behaviour expected of a registered nurse, or maintain the reputation of the profession and the regulator.

The panel next considered a conditions of practice order. The panel bore in mind that there are no public protection issues in this case. The sole issue of concern is Ms Rodda’s frequent breaches of patient confidentiality. The panel decided that it would be difficult to formulate workable conditions sufficient to address this issue. Furthermore, as Ms Rodda has disengaged from the NMC regulatory process there is no evidence of a willingness to comply with a conditions of practice order. The panel therefore determined that a conditions of practice order was not appropriate, proportionate or sufficient to protect the wider public interest.

The panel therefore considered a suspension order. It took into account that this was not a single incident. There has been no evidence of a deep seated attitudinal
problem and there has been no repetition of similar behaviour since these events. As the panel has earlier concluded that Ms Rodda’s behaviour is remediable, it considered that a suspension order would be sufficient to protect public confidence in the profession and in the NMC as regulator.

The panel has concluded that a suspension order for a period of 12 months would be appropriate, proportionate and sufficient to address public interest concerns. The length of the order reflects the serious nature of the charges found proved against Ms Rodda and the likely length of time it will take her to remedy the shortcomings in her practice. Ms Rodda will need time to reflect on this matter and to be able to demonstrate insight to the reviewing panel.

Before deciding on a suspension order the panel did consider whether a striking off order would be appropriate. The panel concluded it was not the only sanction sufficient to satisfy the public interest at this stage. A striking off order would be too harsh given that there was no patient harm, there is no evidence of deep seated attitudinal issues and the panel has considered that the matter is remediable. The panel therefore decided not to impose a striking off order.

As this panel has had no evidence of remediation, remorse or insight it has concluded that a review of the suspension order is necessary before its expiry.

At review the reviewing panel would doubtless be assisted by the following:

- Ms Rodda’s attendance at the review
- a reflective piece
- evidence of training in information governance
- references and testimonials to include a reference from an employer, voluntary or otherwise if Ms Rodda is in employment in any capacity.
**Determination on Interim Order**

Under Article 31 of the Nursing and Midwifery Order 2001 (“the Order”), the panel considered whether an interim order should be imposed in this case. A panel may only make an interim order if it is satisfied that it is necessary for the protection of the public, and/or is otherwise in the public interest, and/or is in the registrant’s own interests.

The panel considered the submissions made by Ms Piff, on behalf of the NMC, that an interim order should be made on the grounds that it is in the public interest. She reminded the panel that it had concluded that there was a risk of repetition and that it had decided a review was necessary at the end of the period of suspension.

The panel accepted the advice of the legal assessor who reminded the panel that the bar is set high when considering whether to impose an interim order purely on public interest grounds.

The panel was satisfied that an interim order is in the public interest. The panel has already concluded that there is a risk of repetition, that Ms Rodda’s registration needs to be restricted for a period of 12 months, and that a review is necessary at the end of that time. The panel had regard to the seriousness of the facts found proved, that Ms Rodda repeatedly and frequently accessed patient records without authorisation and the public would expect protection from this sort of behaviour. To do otherwise would be incompatible with its earlier findings. The panel imposes an interim suspension order for the same reasons as set out in the determination on the substantive order.

The period of this order is for 18 months to allow for the possibility of an appeal to be heard and determined. If no appeal is made, then the interim order will be replaced
by the suspension order 28 days after you are sent the decision of this hearing in writing.

That concludes this determination.

This decision will be sent to Ms Rodda in writing.