

Nursing and Midwifery Council
Fitness to Practise Committee
Substantive Hearing
30 April 2019 – 3 May 2019

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

Name of registrant:	Paul Teglas
NMC PIN:	15A0466C
Part(s) of the register:	Nursing, Sub-Part 1 RN1, Registered Nurse-Adult (27 January 2015)
Area of Registered Address:	Romania
Type of Case:	Misconduct
Panel Members:	Janet Leonard (Chair, Registrant member) Iwan Dowie (Registrant member) Martin Parker (Lay member)
Legal Assessor:	Ian Ashford-Thom
Panel Secretary:	Charlie Russell
Mr Teglas:	Initially present over telephone, subsequently not present and not represented
Nursing and Midwifery Council:	Represented by Dulcie Piff, Case Presenter
Facts found proved:	1
Fitness to practise:	Impaired
Sanction:	Striking-Off Order
Interim Order:	Interim Suspension Order (18 months)

Details of charge

That you a registered nurse:

1. On the 5 November 2017 slapped Resident A across the leg

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

Preliminary application prior to reading the bundle

At the outset of the hearing, the panel heard an application made by Ms Piff on behalf of Mr Teglas for an interpreter to be present at the hearing. Ms Piff submitted that it was a matter for the panel.

Ms Piff informed the panel that a large document had been translated into Romanian to assist Mr Teglas, and that he has suggested a lack of understanding of this document. Ms Piff added that whilst his email correspondence has been relatively clear, communication via telephone has been difficult.

On the telephone, Mr Teglas indicated that he would like the NMC to engage the services on an interpreter as he did not understand legal language.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Article 6 of the European Convention on Human Rights provides that everybody has the right to a fair hearing.

The panel took into account that Mr Teglas had previously been employed in a care setting in the UK. At the time of the alleged incident he was on the NMC register and was working as an agency Health Care Assistant at Lauriston Care Home ("the Home"). It noted that his duties entailed 1-2-1 care with Resident A, understanding of care plans, associated documentation, and conducting himself in English with colleagues and patients. It also took into account that the charge itself is not complex.

Written notice of this hearing had been sent to Mr Teglas' registered address by recorded delivery and by first class post on 7 March 2019. That letter contained, details of the allegation, the time, dates and venue of the hearing and, amongst other things, information about Mr Teglas' right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence. The panel noted that there had been no

request for an interpreter by Mr Teglas until today. It was not satisfied that securing an interpreter at such short notice was necessary for a registrant who had worked in the UK with no apparent language difficulties.

The panel noted that it has had limited communication with Mr Teglas, nor has it had an opportunity to read the NMC bundle at this stage. It cannot, therefore, be satisfied that an interpreter should be excluded from the entirety of the hearing. On this basis, the panel stated that it may revisit this request at a later stage, should it feel Mr Teglas cannot fully participate as a result of a language barrier. However, at this stage, the panel did not feel it proportionate to direct for an interpreter to be instructed.

Decision and reasons on application under Rule 19

After first contact over the telephone with Mr Teglas, the panel considered of its own volition whether to conduct parts of this hearing in private under Rule 19 of the NMC Fitness to Practise Rules 2004 (The Rules), on the basis that proper exploration of Mr Teglas' case would involve mention of a family member's health condition.

Neither party objected to this 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.

Rule 19 states

- 19.—(1) Subject to paragraphs (2) and (3) below, hearings shall be conducted in public.
- (2) Subject to paragraph (2A), a hearing before the Fitness to Practise Committee which relates solely to an allegation concerning the registrant's physical or mental health must be conducted in private.
- (2A) All or part of the hearing referred to in paragraph (2) may be held in public where the Fitness to Practise Committee—
 - (a) having given the parties, and any third party whom the Committee considers it appropriate to hear, an opportunity to make representations;
and

- (b) having obtained the advice of the legal assessor, is satisfied that the public interest or the interests of any third party outweigh the need to protect the privacy or confidentiality of the registrant.
- (3) Hearings other than those referred to in paragraph (2) above may be held, wholly or partly, in private if the Committee is satisfied—
- (a) having given the parties, and any third party from whom the Committee considers it appropriate to hear, an opportunity to make representations; and
 - (b) having obtained the advice of the legal assessor, that this is justified (and outweighs any prejudice) by the interests of any party or of any third party (including a complainant, witness or patient) or by the public interest.
- (4) In this rule, “in private” means conducted in the presence of every party and any person representing a party, but otherwise excluding the public.

Having heard that there will be reference to a family member’s health condition, the panel determined to hold such parts of the hearing in private.

Decision on proceeding in the absence of Mr Teglas

Having contacted Mr Teglas via telephone on the first day of the hearing, the panel asked Mr Teglas to what degree he wished to engage with these proceedings and participate in this hearing. Mr Teglas indicated in strong terms to the panel that, unless the NMC contacted the police to obtain information on his behalf, he had no interest in engaging with this matter. On a number of occasions, he told the panel not to “ring [him] back again” and that he would not pick up the phone were they to do so; Mr Teglas also repeatedly raised his voice in an aggressive manner. When questioned by the panel, Mr Teglas confirmed that unless the police information which he requested is obtained, he did not wish to be contacted further. Subsequent attempts to telephone and contact Mr Teglas by email were not responded to.

The panel considered that it had provided Mr Teglas with ample opportunity to engage via telephone. It noted that it is for the NMC to present its case to the panel and for Mr Teglas to present his defence; it would not be appropriate for the NMC to prepare both the case for and against a registrant. The panel invited Ms Piff to consider whether she wished to make an application to proceed in Mr Teglas’ absence.

Ms Piff invited the panel to proceed in the absence of Mr Teglas. She reminded the panel of Mr Teglas’ earlier comments and submitted that sufficient attempts have been made to engage with him, to no avail. Ms Piff indicated that she would contact the police with regard to Mr Teglas’ request, but that it was likely that any substantive response would take between 30 – 40 days. She submitted that there was a public interest in the expeditious disposal of this case, and reminded the panel that Mr Teglas has been aware of these proceedings for some time.

The panel had regard to Rule 21 (2) states:

- (2) Where the registrant fails to attend and is not represented at the hearing, the Committee—

- (a) shall require the presenter to adduce evidence that all reasonable efforts have been made, in accordance with these Rules, to serve the notice of hearing on the registrant;
- (b) may, where the Committee is satisfied that the notice of hearing has been duly served, direct that the allegation should be heard and determined notwithstanding the absence of the registrant; or
- (c) may adjourn the hearing and issue directions.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised “*with the utmost care and caution*”. The panel noted the case of *General Medical Council v Adeogba; General Medical Council v Visvardis [2016] EWCA Civ 162*.

The panel noted the correspondence from Mr Teglas dated 8 February 2019, in which he states:

“I am in Romania now. [PRIVATE]...I am not coming in UK at least few month ...So sorry!” (*sic*)

The panel bore in mind the email dated 8 February 2019, and Mr Teglas’ indication at the beginning of this hearing [PRIVATE] in Romania; Mr Teglas had informed the panel that there were times throughout the day where he would not be contactable. At that stage, the panel reassured Mr Teglas that he had the option to engage with the hearing at any stage, should he wish to, so as to work around [PRIVATE].

Taking all of the above into account, the panel decided to proceed in the absence of Mr Teglas. It has had particular regard to the factors set out in the decision of *R. v Jones*

(Anthony William), (No.2) [2002] UKHL 5. It has had regard to the overall interests of justice and fairness to all parties. It noted that:

- no application for an adjournment has been made by Mr Teglas;
- there is no reason to suppose that adjourning would secure his attendance at some future date;
- one witness has attended today to give live evidence, and another witness is attending remotely;
- not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- the charge relates to an event that occurred in 2017;
- further delay may have an adverse effect on the ability of witnesses accurately to recall events;
- Mr Teglas has indicated that he wishes to take no part in the hearing, unless the NMC make significant and potentially disproportionate enquiries on his behalf; and
- there is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mr Teglas in proceeding in his absence. He will not be able to challenge the evidence relied upon by the NMC and will not be able to give evidence on his own behalf. However, in the panel's judgment, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Mr Teglas' decision to absent himself from the hearing.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Mr Teglas. The panel will draw no adverse inference from Mr Teglas' absence in its findings of fact.

Application to hear the evidence of Ms 2 via video link

The panel heard an application made by Ms Piff under Rule 31 of the Rules to allow the oral evidence of Ms 2 to be heard via video link. Ms 2 was not present at this hearing and, whilst the NMC had made reasonable efforts to ensure that this witness was present, she was unable to attend today as she is not currently in the country.

The panel noted that Mr Teglas had not indicated any objection to this application at the time when he was engaging with these proceedings.

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

The panel gave the application with regards to Ms 2's oral evidence serious consideration. The panel noted that Ms 2's statement had been prepared in anticipation of being used in these proceedings and contained the paragraph 'This statement, consisting of three pages, is true to the best of my information, knowledge and belief' and was signed by her.

The panel considered that Ms 2's evidence is relevant. Whilst she did not witness the incident, she oversaw the Home's investigation and spoke to staff who were on duty at the time.

The panel considered whether Mr Teglas would be disadvantaged by the change in the NMC's position of moving from reliance upon the live testimony of Ms 2 to that of a video link. It considered that there is little material difference, as supported by relevant case law, between the hearing of oral evidence in person and oral evidence over video link; the panel would still be able to assess the demeanour and credibility of Ms 2. The panel noted that Mr Teglas had been provided with a copy of Ms 2's statement. It further

noted that, as the panel had already determined that Mr Teglas had chosen voluntarily to absent himself from these proceedings, he would not be in a position to cross examine this witness. However, the panel considered that it could mitigate any potential unfairness to Mr Teglas by prudent and appropriate questioning and testing of Ms 2's evidence. The panel considered that, were it not to allow the evidence of Ms 2 to be heard via video link, the NMC would be deprived, as would the panel, from reliance upon the live evidence of this witness and the opportunity of questioning and probing that testimony. There is also public interest in the issues being explored fully which supported the admission of this evidence into the proceedings, in this manner.

In these circumstances, the panel concluded that it would be fair and relevant to accept Ms 2's evidence via video link, but would give this evidence what it deemed to be appropriate weight once the panel had heard and evaluated all the evidence before it.

Application to hear the evidence of Ms 2 via telephone

Ms Piff informed the panel that, despite attempts being made by the NMC, a video link connection could not be established with Ms 2. Ms Piff confirmed that such attempts had been made for a significant amount of time prior to when Ms 2 was due to give evidence by video-link, and that, in her submission, all options had been exhausted. Ms Piff accepted that the panel will not be able to fully gauge Ms 2's demeanour and credibility, or see her expressions. However, Ms Piff submitted that Ms 2 is not an eye witness, and that her evidence will be largely factual in terms of the local investigation carried out by her.

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

The panel gave the application in regard of Ms 2 serious consideration. The panel noted that Ms 2's statement had been prepared in anticipation of being used in these proceedings and contained the paragraph 'This statement, consisting of three pages, is true to the best of my information, knowledge and belief' and was signed by her. The panel bore in mind that significant attempts to establish a video link connection with Ms 2 had been made. In considering relevance and fairness, the panel had good reason to accept that all attempts had been exhausted. Earlier in this determination regarding evidence via video link, the panel had already decided that Ms 2's evidence was relevant. It also took into account that Ms 2's evidence concerns the subsequent investigation, and that she was not an eye witness to the incident. On this basis, it did not deem Ms 2's evidence to be sole, nor decisive. When considering whether her credibility is required to be assessed visually, the panel noted that Ms 2 is a registered nurse and was the Home Manager, and therefore it determined that it would consider Ms 2 to be a person of integrity, unless and until information arose to suggest otherwise.

The panel considered whether Mr Teglas would be disadvantaged by the change in the NMC's position of moving from reliance upon the live testimony via video link of Ms 2 to over the telephone. The panel noted that Mr Teglas had been provided with a copy of Ms 2's statement. It further noted that, as the panel had already determined that Mr Teglas had now chosen voluntarily to absent himself from these proceedings, he would not be in a position to cross examine this witness in any case. The panel noted however that Mr Teglas has not indicated that he disputes Ms 2's witness statement at any point throughout the regulatory process. Furthermore, the panel considered that it could mitigate any potential unfairness to Mr Teglas by prudent and appropriate questioning and testing of Ms 2's evidence. The panel considered that, were it not to allow the evidence of Ms 2 to be heard via telephone, the NMC would be deprived, as would the panel, from reliance upon the live evidence of this witness and the opportunity of questioning and probing that testimony. There is also public interest in the issues being explored fully which supported the admission of this evidence into the proceedings, in this manner.

In these circumstances, the panel concluded that it would be fair and relevant to accept Ms 2's evidence via telephone, but would give this evidence what it deemed to be appropriate weight once the panel had heard and evaluated all the evidence before it.

Application to allow the evidence of Ms 3 as hearsay evidence

Ms Piff made an application under Rule 31 of the Rules to adduce in evidence the handwritten statement of an NMC witness (Ms 3) as hearsay evidence.

Ms Piff told the panel that, whilst the NMC had made reasonable efforts to ensure that this witness was present, she was unable to attend today as she has not engaged with the NMC in relation to these proceedings. Ms Piff informed the panel that Ms 3 is not a registered nurse.

While Ms Piff accepted that Ms 3's handwritten statement does not include a statement of truth, she submitted that it was relevant for the panel to allow into evidence Ms 3's evidence as hearsay. She stated that the question of fairness was a matter for the panel.

The panel heard and accepted the legal assessor's advice.

The panel considered that the additional evidence of Ms 3 was clearly relevant. Ms 3 was the only direct eye witness at the time of the alleged incident. Ms 3's local statement is corroborated by the witness statement and oral evidence of Ms 1, who was in close proximity and overheard Ms 3's conversation with Mr Teglas, and also that of Ms 2.

The panel then went on to consider whether it was fair to admit Ms 3's evidence as hearsay without her attendance at this hearing. Whilst the panel noted that Mr Teglas was not in attendance, was not legally represented and English was not his first language, he has been provided ample opportunity to engage. He has been able to provide some written representation and therefore been able to dispute the accounts of the witnesses called by the NMC. However, he has chosen to disengage. The panel reminded itself that Ms 3's handwritten account is corroborated to a large extent by the sworn oral evidence of Ms 1, who was in close proximity to the incident and who also

indicated that she asked Ms 3 to write this contemporaneous handwritten statement shortly after the incident took place.

The panel therefore deemed it both relevant and fair to admit Ms 3's local statement into evidence.

Background

The charges arose whilst Mr Teglas was employed as a Registered Nurse by Methodist Homes (MA) at Lauriston Care Home (“the Home”). The NMC received a referral from the Home Manager on 13 November 2017.

It is alleged that, on 5 November 2017, Mr Teglas assaulted a resident at the Home by slapping him across the thigh. This assault was witnessed by a Health Care Assistant. The resident is a Dementia sufferer and was confined to a wheelchair at the material time. Mr Teglas was employed specifically to assist with the 1-2-1 care of this resident. It is said that at the time of the incident, the resident was at a high risk of falling, was not always able to stand independently and required 1-2-1 support and observation at all times.

Mr Teglas was asked to leave the Home immediately after the incident and did so willingly and an internal investigation commenced. During the internal investigation, Mr Teglas allegedly admitted to slapping Resident A to two members of staff, including his line manager, Ms 1.

The resident did not suffer any significant physical injuries as a result of Mr Teglas’ alleged misconduct.

Decision on the findings on facts and reasons

In reaching its decisions on the facts, the panel considered all the evidence in this case together with the submissions made by Ms Piff, on behalf of the NMC.

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

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 the facts will be proved if the panel was satisfied that it was more likely than not that the incidents occurred as alleged.

The panel has drawn no adverse inference from the non-attendance of Mr Teglas.

The panel heard oral evidence from two witnesses tendered on behalf of the NMC. It also had regard to written correspondence from Mr Teglas and to what he said at the start of the hearing when engaged over the telephone.

Witnesses called on behalf of the NMC were:

- Ms 1 – Senior Care Assistant and Line Manager to all Health Care Assistants

The panel found Ms 1 to be credible, straightforward and reliable. The panel noted that, when Ms 1's recollection of events was unclear, she would not attempt to guess what had happened. The panel noted that Ms 1's workplace statement was produced on the day of the alleged incident, and the panel could therefore attach significant weight to its reliability. The panel had no reason to believe that she was intentionally misleading the panel in her oral evidence, which remained consistent with her documentary evidence.

- Ms 2 – Registered Nurse and Home Manager

The panel found Ms 2 to be credible and straightforward. Although the panel could not assess Ms 2's demeanour via telephone, it was satisfied that her answers were honest in that, if she could not recall something, she would not attempt to guess. Ms 2's oral evidence remained consistent with her documentary evidence and provided a detailed background to the investigation and aftermath of the day in question.

The written statement of Ms 3 was read into the record by Ms Piff.

The panel went on to assess the credibility of Ms 3's hearsay evidence. The panel was not afforded the opportunity to assess Ms 3's demeanour, nor could it test the language used in her local statement. However, as the panel found Ms 1 and Ms 2 to be reliable and credible witnesses, the panel could attach some weight to Ms 3's workplace statement, which had been corroborated to a degree by them. As Ms 1 states that she 'overheard' the incident, and her account correlates with that of Ms 3, more weight could therefore be added to Ms 3's statement, who was the only direct eye witness to the incident.

The panel went on to make the following findings in relation to the charge:

Charge 1:

1. On the 5 November 2017 slapped Resident A across the leg

This charge is found proved.

In reaching this decision, the panel took into account all of the evidence before it, both oral and documentary.

The panel considered that the evidence of Ms 1 and the hearsay evidence of Ms 3 are clear that there had been physical contact between Mr Teglas and Resident A at the relevant time, and that Mr Teglas either "slapped" or "hit" Resident A. It noted that Ms 2,

in her evidence, indicated that Ms 1 had told her that Mr Teglas had hit Resident A. The panel further noted that Mr Teglas does not dispute making physical contact with Resident A, but indicates that he pushed, rather than slapped, Resident A.

In a written response to the NMC, dated 11 November 2018, Mr Teglas stated:

'I pushed the patient back so I could stand up...I was already full of blood...there were terrible pains.'

He goes on to say:

'I acted on this pain...I sincerely regret!'

Mr Teglas further asserted that his injuries were severe via telephone on day one of the hearing. The panel determined that Mr Teglas conceded that he did use some degree of force on Resident A.

The panel considered Ms 1's local statement where she says:

'I asked Chloe what was going on to which she replied "Paul just hit Resident A (across the thigh)" I asked Paul if this was true to which he responded "Yes, I slapped his leg but he hit me first!"'

The panel considered that the evidence of Ms 1, Ms 2 and the hearsay evidence of Ms 3 all indicate that Mr Teglas used a slap rather than a push. The panel reminded itself that Ms 3 was an eye witness to the incident, and that Ms 1 was an almost contemporaneous observer of events; her account is that Mr Teglas admitted to slapping Resident A.

The panel acknowledged that Mr Teglas had 'red marks' on his leg, which Ms 1 confirmed in her oral evidence. Nonetheless, it considered that the evidence indicated,

on the balance of probabilities, that Mr Teglas struck Resident A on the leg with a degree of force amounting to a slap. To this end, it preferred the consistent evidence of Ms 1, Ms 2 and Ms 3 to the account which Mr Teglas provided.

In light of the above, the panel therefore concluded that it was more likely than not that Mr Teglas did slap Resident A across the leg. The panel therefore found the charge to be proved.

Submission on misconduct and impairment

Having announced its finding on all the facts, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mr Teglas' fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

In her submissions Ms Piff invited the panel to take the view that Mr Teglas' actions amount to a breach of *The Code: Professional standards of practice and behaviour for nurses and midwives* (2015) ("the Code"). She then directed the panel to specific paragraphs and identified where, in the NMC's view, Mr Teglas' actions amounted to misconduct.

Ms Piff referred the panel to the case of *Roylance v GMC (No. 2)* [2000] 1 AC 311 which defines misconduct as a '*word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.*'

She then 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. Ms Piff referred the panel to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

Ms Piff submitted that Mr Teglas' actions have breached fundamental tenets of the nursing profession in that he physically assaulted a vulnerable patient. Ms Piff submitted that Mr Teglas has, to date, shown limited insight into his actions. She added that there is no evidence to suggest that Mr Teglas has worked in a healthcare or nursing capacity since this incident. Ms Piff invited the panel to consider that the incident also raises serious attitudinal concerns which are much harder to remediate, and that the NMC's

position is that the risk of repetition is high as Mr Teglas' conduct has not been remedied.

In light of the above, Ms Piff invited the panel to make a finding of impairment on both public protection and public interest grounds.

The panel has accepted the advice of the legal assessor which included reference to a number of judgments which are relevant, including: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, and *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin)

The panel adopted a two-stage process in its consideration, as advised. 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, Mr Teglas' fitness to practise is currently impaired as a result of that misconduct.

Decision on misconduct

At this stage, the panel requested an update with regard to Mr Teglas' engagement with these proceedings. Ms Piff informed the panel that following the email that was sent by the NMC Case Officer to Mr Teglas on the evening of the first day of this hearing, that no response had been received from him over the last two days.

When determining whether the facts found proved amount to misconduct the panel had regard to the terms of *The Code: Professional standards of practice and behaviour for nurses and midwives (2015)* ("the Code"), specifically:

'Prioritise people

"You put the interests of people using or needing nursing or midwifery services first. You make their care and safety your main concern and make sure that their dignity is preserved and their needs are recognised, assessed and responded to. You make sure that those receiving care are treated with respect, that their rights are upheld..."

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

Preserve safety

“You make sure that patient and public safety is not affected. You work within the limits of your competence, exercising your professional ‘duty of candour’ and raising concerns immediately whenever you come across situations that put patients or public safety at risk. You take necessary action to deal with any concerns where appropriate.”

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

To achieve this, you must:

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

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

To achieve this, you must:

19.1 take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place.

Promote professionalism and trust

“You uphold the reputation of your profession at all times. You should display a personal commitment to the standards of practice and behaviour set out in the Code. You should be a model of integrity...for others to aspire to. This should lead to trust and confidence in the professions from patients, people receiving care, other health and care professionals and the public.”

20 Uphold the reputation of your profession at all times

To achieve this you must:

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

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

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

The panel, in reaching its decision, had regard to the public interest and accepted that there was no burden or standard of proof at this stage and exercised its own professional judgement.

The panel first considered the specific needs of Resident A, as set out in Resident A’s summary of needs and extracts from the support plan provided to it. The panel noted that Resident A was particularly vulnerable in that he could not always articulate his distress, and that his anxiety was such that he may demonstrate ‘challenging and aggressive behaviour’, as confirmed by Ms 1 and the support plan. Mr Teglas was aware of Resident A’s needs, yet did not respond appropriately to Resident A’s needs.

The panel went on to consider the steps Mr Teglas took to preserve the safety of Resident A. Whilst being aware of Resident A’s needs, Mr Teglas did not take necessary action by asking for help from colleagues in close proximity. Rather, Mr Teglas proceeded to ‘slap’ Resident A across the thigh. The panel noted Mr Teglas’ representations that Resident A hit him first, however, it considered that Mr Teglas did not preserve Resident A’s safety by way of his admitted retaliation.

When determining whether Mr Teglas breached professional standards, the panel noted his position of trust. The panel noted that there has been a serious departure from the standards expected of a registered nurse, and that a fellow nurse would find Mr Teglas' actions to be "deplorable". It noted that Resident A and his family have a right to expect safe and effective care in a trusting environment, and that this was not afforded to them. The panel also determined that the general public would also find Mr Teglas' actions to be wholly unacceptable.

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, taking all of the above, the panel was of the view that Mr Teglas' actions fell seriously short of the conduct and standards expected of a nurse and do amount to misconduct.

Decision on impairment

The panel next went on to decide if as a result of this misconduct, Mr Teglas' fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional 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...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 judgement of Mrs Justice Cox in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) 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.

Mrs Justice Cox went on to say in Paragraph 76:

I would also add the following observations in this case having heard submissions, principally from Ms McDonald, as to the helpful and comprehensive approach to determining this issue formulated by Dame Janet Smith in her Fifth Report from Shipman, referred to above. At paragraph 25.67 she identified the following as an appropriate test for panels considering impairment of a doctor's fitness to practise, but in my

view the test would be equally applicable to other practitioners governed by different regulatory schemes.

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

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

The panel finds that limbs (a), (b), and (c) are engaged in this case.

In relation to the first limb, the panel considered that Resident A was a service user and a resident at the Home. It took into account that Resident A suffered from Dementia and was at a high risk of falls, and, required 1-2-1 support and observation at all times. By slapping Patient A's thigh, Mr Teglas placed Resident A at an unwarranted risk of harm.

In relation to the second and third limb of the *Grant* test, the panel considered that Mr Teglas' actions had breached fundamental tenets of the profession and had brought the profession into disrepute. He did not fulfil his job role responsibilities as was expected by his colleagues, patients, the public and the NMC as a regulator.

The panel also took into account the questions identified in *Cohen v GMC* [2007] EWHC 581 (Admin). The questions considered were:

- whether his misconduct is easily remediable;
- whether it has been remedied and;
- whether it is highly unlikely to be repeated.

Regarding insight, the panel noted that Mr Teglas denied the charge when it was put to him at the start of this hearing. However, it was the evidence of a number of witnesses that he had previously admitted the allegation to the Home at the time of the incident. The panel took into account the limited correspondence provided to the NMC. It acknowledged that, in that correspondence, Mr Teglas stated that he did 'sincerely regret' his actions. The panel reminded itself of Ms 1's oral evidence, namely that Mr Teglas was 'quickly sorry and remorseful' and 'apologised for Resident A and his family'. This was consistent with her local statement completed on the evening of the incident where she documented that Mr Teglas 'understood that he was in the wrong for doing it and apologised'. Nonetheless, when he did engage with the panel in these proceedings, Mr Teglas did not want to partake in any discussion with regard to Resident A, unless police information was obtained as requested. He solely wanted to focus on his injuries in order to justify his actions. The panel considered that Mr Teglas had demonstrated only very limited insight into his misconduct.

The panel was particularly concerned about Mr Teglas' disregard for the impact of his actions upon Resident A; to date, Mr Teglas' explanation has been limited to the proposition that Resident A hit him first. The panel was of the view that Mr Teglas' lack of understanding towards vulnerable residents is indicative of an attitudinal problem which could put patients at risk in the future.

The panel determined that the attitudinal concerns identified in this case are capable of remediation, although it recognised that it can often be more difficult to remediate concerns of this kind. In any event, the panel considered there to be no evidence of any

form of remediation before it. The panel had received no references or testimonials provided by Mr Teglas from referees or work colleagues. The panel had not received a reflective piece from Mr Teglas nor any evidence of any subsequent learning. The panel was mindful that Mr Teglas does not appear to have worked in a care setting since the incident and that he may therefore be limited in the evidence which he can provide. The panel did note that Ms 1 attested that Mr Teglas apologised at the time of the incident.

In light of the above lack of appropriate insight or remediation, the panel considered there to remain a real and significant risk of repetition of Mr Teglas' misconduct.

Taking all of the above into account, the panel 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 are to protect, promote and maintain the health safety and well-being of the public and patients, and to uphold/protect the wider public interest, which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions. The panel determined that, in this case, a finding of impairment on public interest grounds was required. Patient safety and trust in nurses are at the heart of the profession and the panel considered that a fully informed member of the public would have their confidence in the profession and the NMC as regulator seriously undermined if no finding of impairment were to be made.

Having regard to all of the above, the panel was satisfied that Mr Teglas' fitness to practise is currently impaired, on grounds of both public protection and public interest.

Submissions on sanction:

The panel then considered what sanction, if any, it should impose. In reaching its decision, the panel considered all the evidence before it, and heard submissions from Ms Piff, on behalf of the NMC.

Ms Piff invited the panel to impose a striking-off order, so as to reflect the seriousness of the matters found proved and the absence of any information as to insight or remediation. She addressed the panel on what she submitted to be the aggravating factors in Mr Teglas' case, and suggested that there were two mitigating factors. She reminded the panel that the Sanction Guidance (SG) indicated that *'the fact that the nurse or midwife has not previously received a fitness to practise sanction is unlikely to be a relevant consideration in deciding which order is needed to achieve public protection'*.

Ms Piff informed the panel that Mr Teglas was, at the time of the incident, subject to an interim suspension order for attending work under the influence of alcohol on 13 September 2017. It is because of this order that Mr Teglas was practising as a Health Care Assistant, rather than a registered nurse.

Ms Piff reminded the panel that Mr Teglas has provided little to no evidence of insight or remediation and submitted that the charges in this case indicate a deep-seated, attitudinal problem. She added that there is evidence that such attitudinal problems have been repeated. It was her submission that Mr Teglas's actions were fundamentally incompatible with ongoing registration.

The panel accepted the advice of the legal assessor. He referred it to the NMC's Sanctions Guidance (SG).

Determination on sanction:

In reaching its decision, the panel had regard to all the evidence that has been adduced in this case. It also considered the submissions of Ms Piff, who informed the panel that, at the material time, Mr Teglas had been subject to an interim suspension order, and that the NMC Sanction Bid in this case is that of a striking-off order. However, the panel was not bound by this bid. The panel accepted the advice of the legal assessor. The panel bore in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG published by the NMC. It recognised that the decision on sanction is a matter for the panel, exercising its own independent judgement

Before making its determination on sanction, the panel had regard to the aggravating and mitigating features in this case. The panel took into Ms Piff's submissions on the matter. With regards to Mr Teglas' level of engagement with the NMC, the panel reminded itself that it is incumbent upon all registrants to cooperate with their regulator.

The panel considered the aggravating features in this case to be:

- Mr Teglas' behaviour was extremely serious and wholly unacceptable for someone in a position of care;
- Mr Teglas was, at the time of the incident, subject to an interim suspension order;
- Resident A was a particularly vulnerable service user, with 'complex' and 'challenging' needs;
- Mr Teglas has demonstrated limited insight into the impact of his misconduct upon Resident A, his family, the profession, the wider public, his colleagues and the NMC as a regulator and;
- The panel has seen no positive level of engagement with Mr Teglas, other than to justify his actions.

The panel considered the mitigating factors in this case to be:

- Mr Teglas did make admissions to the charge at a local level, albeit they have now been retracted.

The panel decided that Mr Teglas' misconduct was at the upper end of the spectrum of seriousness.

The panel first considered whether to take no action but concluded that this would be inappropriate due to the extremely serious nature of Mr Teglas' misconduct, which is wholly unacceptable for someone in a position of care. There are no exceptional circumstances that would justify taking such a course of action as it would be insufficient to address the wider public interest considerations in this case and would undermine public confidence in the profession and the NMC as a regulator. Furthermore, such a sanction would place no restriction on his practice and hence would not protect the public.

The panel then considered whether a caution order would be an appropriate or proportionate sanction. The panel is aware this sanction may be appropriate where the case is at the lower end of the spectrum of impaired fitness to practise. The panel is satisfied that, due to the particularly serious nature of Mr Teglas' misconduct, it could not be said that this case was at the lower end of the spectrum of fitness to practise. The panel concluded that a caution order is not an appropriate or proportionate sanction; it would allow Mr Teglas to practise without restriction and would therefore be wholly insufficient to protect the public and to serve the public interest in maintaining public confidence in the profession and the NMC as a regulator. Such a sanction would place no restriction on his practice and hence would not protect the public.

The panel next considered whether a conditions of practice order would be an appropriate and proportionate sanction. The panel is mindful that any conditions imposed must be relevant, proportionate, measurable and workable. It reminded itself

that Mr Teglas' misconduct is at the higher end of the spectrum and considered that therefore conditions of practice would not satisfy the public interest. The panel have also been told that Mr Teglas has not practised in a caring environment since the incident; it had no confidence that Mr Teglas would engage with a conditions of practice order, were such an order able to be formulated. The panel further determined that Mr Teglas' misconduct was not of a nature that could be addressed by retraining. Mr Teglas slapped a vulnerable service user while employed as an agency worker at the Home. The panel has therefore concluded that there are no conditions of practice that could be formulated to address the particular nature of Mr Teglas's misconduct.

The panel then went on to consider whether a suspension order would be an appropriate and proportionate sanction. Mr Teglas' behaviour is a serious departure from the standards of conduct and behaviour expected of a registered nurse.

Nurses occupy a position of privilege and trust in society and are expected to adhere to their Code of Conduct at all times. They must ensure their conduct justifies the trust the public places in both them and the nursing profession.

Mr Teglas was subject to an interim suspension order for 18 months for attending work under the influence of alcohol at the time of the incident. This interim suspension order did not sufficiently protect the public, as Resident A was slapped while Mr Teglas was subject to the interim order. The panel took the view that Mr Teglas should have been aware of the previous regulatory concerns against him, yet he repeated the same lack of self-regulation of his behaviour – albeit presented in a different medium of behaviour.

For these reasons the panel has concluded that temporary removal from the register would not be an appropriate sanction, given the particularly serious nature of Mr Teglas' misconduct. The panel reminded itself that Mr Teglas was subject to an interim suspension order at the time of the incident, and is currently temporarily suspended from the NMC register as a result of a finding of a substantive Fitness to Practise panel relating to those matters. It concluded that a concurrently running period of

suspension would serve no purpose and not address the seriousness of *this* case. Furthermore, the panel reminded itself of its finding that there exists a real risk of repetition, and that there is evidence before it of Mr Teglas having a deep seated attitudinal problem.

Taking all of the above into account, the panel determined that Mr Teglas' misconduct is so serious that it would not be appropriate to allow him to remain on the register. The panel noted that Mr Teglas has demonstrated a lack of insight into the seriousness of the impact that his actions have on the reputation of the profession.

The panel has therefore concluded that a suspension order is not a sufficient sanction to adequately protect the public and to address the wider public interest considerations in maintaining public confidence in the nursing profession, nor the NMC as a regulator and in the declaring and upholding of proper standards of conduct and behaviour.

For all the above reasons, the panel determined that public confidence in the nursing profession and the NMC as a regulator would be seriously undermined if Mr Teglas were allowed to continue practising as a nurse.

Balancing all of these factors, and including the risk to public protection that arises from breaching Mr Teglas' previous interim suspension order, the panel has determined that the only appropriate and proportionate sanction in the particular circumstances of this case is a striking-off order. The panel has concluded that this order is necessary to mark the importance of maintaining public confidence in the profession and declaring and upholding of proper standards of conduct and behaviour. Furthermore, this will send to the public and the profession a clear message about the standards of conduct and behaviour required of a registered nurse.

Therefore the panel decided to impose a striking-off order. The effect of this order is that the NMC register will show that Mr Teglas has been struck-off the register.

Determination on Interim Order

Mr Teglas, the panel has considered the submissions made by Ms Piff that an interim order should be made on the grounds that it is necessary for the protection of the public and is otherwise in the public interest.

The panel accepted the advice of the legal assessor.

The panel was satisfied that an interim suspension 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. To do otherwise would be incompatible with its earlier findings.

The period of this order is for 18 months to allow for the possibility of an appeal to be made and determined.

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

That concludes this determination.