

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

**Substantive Hearing
3 - 7 February 2020**

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

Name of registrant: Suzanne Louise Hill

NMC PIN: 10B1390E

Part(s) of the register: Registered Nurse – Sub part 1
Learning disabilities – January 2012

Area of registered address: England

Type of case: Misconduct

Panel members: Jill Wells (Chair, Lay member)
Angela O'Brien (Registrant member)
Alex Forsyth (Lay member)

Legal Assessor: Angus Macpherson

Panel Secretary: Ruth Bass

Nursing and Midwifery Council: Represented by Assad Badruddin, Case
Presenter

Mrs Suzanne Louise Hill: Not present and unrepresented

Facts proved: 1a i, 1a ii, 1a iii, 1b, 1c, 1d, 2a, 2b, 2c,
2d (no misconduct found with regard to charge
2d), 2e, 3, 4a, 4b, 4c, 4d, 5a i, 5a ii, 5b i, 5b ii,
5c

Facts not proved: None

Fitness to practise: Impaired

Sanction: Strike - Off

Interim order: Suspension order – 18 months

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Hill was not in attendance and that the notice of hearing letter had been sent to Mrs Hill's registered address by recorded delivery and by first class post on 3 January 2020.

The panel had regard to the Royal Mail '*Track and trace*' printout which showed the notice of hearing was delivered to Mrs Hill's registered address on 4 January 2020 and was signed for by "*HILL*".

The panel took into account that the notice of hearing provided details of the allegation, the time, dates and venue of the hearing and, amongst other things, information about Mrs Hill's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

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

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mrs Hill has been served with the notice of hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mrs Hill

The panel next considered whether it should proceed in the absence of Mrs Hill. The panel had regard to Rule 21(2), which states:

- 21.—** (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.'*

Mr Badruddin invited the panel to continue in the absence of Mrs Hill on the basis that she had voluntarily absented herself.

Mr Badruddin referred the panel to the documentation received from Mrs Hill which included an email dated 29 January 2020 and a telephone attendance note between Mrs Hill and an NMC staff member dated 30 January 2020. The email stated '*My case has gone on for far too long...*' and the telephone attendance note stated '*she told me she had no interest in finding further representation or in postponing the hearing, she would not attend at any time*'. Mr Badruddin submitted that Mrs Hill had chosen to voluntarily absent herself.

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' as referred to in the case of *R. v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel has decided to proceed in the absence of Mrs Hill. In reaching this decision, the panel has considered the submissions of Mr Badruddin, the email from Mrs Hill dated 29 January 2020, the telephone attendance note dated 30 January 2020 between Mrs Hill and an NMC staff member, and the advice of the legal assessor.

The panel had particular regard to the factors set out in the decision of *R v Jones and General Medical Council v Adeogba* [2016] EWCA Civ 162, and had regard to the overall interests of justice and fairness to all parties. It noted that Mrs Hill had wilfully absented herself and made it clear that she will not attend if the hearing were to be adjourned until a later date. The panel also noted that Mrs Hill had been given several opportunities to attend via telephone link which she had declined. It considered the two witnesses who have attended today to give live evidence, and the four others that are due to attend; it was of the view that further delay may have an adverse effect on the ability of witnesses accurately to recall events. The panel also considered there to be a strong public interest in the expeditious disposal of the case.

The panel noted that there is some disadvantage to Mrs Hill in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered address, Mrs Hill has made no formal response to the allegations. She will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Mrs Hill's decision to absent herself from the

hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

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

Details of charge

That you a registered nurse while working at Broadlands Clinic:

1. *On 31 May 2017, on Hathor ward, responded to Patient B:*
 - a) *Using confrontational body language, more particularly that you:*
 - i. *Took up an aggressive stance towards the Patient and/or*
 - ii. *Raised your arms towards the Patient and/or*
 - iii. *Made hand gestures towards the Patient.*
 - b) *Raised your voice at Patient B.*
 - c) *Said to Patient B words to the effect of "Are you calling me fat, do I look fucking fat, why don't you come here and call me fat, do I look fat".*
 - d) *Did not take steps to de-escalate the situation with Patient B.*

That you a registered nurse, while working at Decoy Farm:

2. *On the night shift commencing 22 October 2017, did not administer the following medications to Resident 1:*
 - a) *Depakote 250mg*

- b) *Depakote 500mg*
- c) *Olanzapine 10mg*
- d) *Lorazepam 1mg*
- e) *Risperidone 1mg*

3. *On 21 November 2017, changed Resident 2's transition plan without consulting the manager at Decoy Farm.*

4. *On 3 January 2018 did not administer the following evening medications to Resident 3:*

- a) *Citalopram 10mg*
- b) *Phenytoin sodium 25mg*
- c) *Topiramate 200mg*
- d) *Zopiclone 3.75mg*

5. *On 17 January 2018:*

a) *Spoke to Resident 4:*

- i. *Quickly*
- ii. *Using complex language*

b) *Took Resident 4 into the quiet room by:*

- i. *holding on to resident B's arm and/or*
- ii. *pulling him backwards*

c) *Placed your hand round Resident 4's neck.*

Decision and reasons on application to amend the charge

The panel heard an application made by Mr Badruddin, on behalf of the NMC, to amend the wording of charge 5b i.

The proposed amendment was to change resident B to resident 4 as follows:

On 17 January 2018:

b) Took Resident 4 into the quiet room by:

i. holding on to resident B 4's arm and/or

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

Mr Badruddin told the panel that the amendment was typographical in nature and submitted that the proposed amendment would provide clarity as there was another patient referred to as Patient B within the charges.

The panel accepted the advice of the legal assessor that this was clearly a typographical error and that there would be no injustice to the parties.

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

Decision and reasons on application to admit hearsay evidence

The panel heard an application made by Mr Badruddin under Rule 31 to admit the following hearsay evidence:

- local written statement of Mr 1 dated 17 January 2018
- email from Mr 2 dated 27 October 2017.

With regard to the local statement of Mr 1, Mr Badruddin told the panel that Mr 1 was a support worker for Resident 4 and that his local statement was directly relevant to charge 5c as he was a direct eye witness. Mr Badruddin told the panel that the NMC had made attempts to contact Mr 1, however he is not a registered nurse, had disengaged, and the NMC were not able to get a signed statement from him.

With regard to the email from Mr 2 dated 27 October 2017, Mr Badruddin submitted that it was relevant to the administration errors in charge 4. He submitted that the email went directly to the issue of training and Mrs Hill's attitude. He told the panel that Mrs Hill did receive training in the medicine management system and then went on to make a further medication error on 3 January 2018. Mr Badruddin told the panel that the email is not the sole and decisive evidence with regard to charges 2 and 4.

Mr Badruddin submitted that it was both fair and relevant to include both documents as evidence.

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

The panel gave the application in regard to the hearsay evidence of Mr 1 and Mr 2 serious consideration.

The panel noted that Mrs Hill had been provided with a copy of both Mr 1's local statement and the email dated 27 October 2017 from Mr 2. As the panel had already determined that Mrs Hill had chosen voluntarily to absent herself from these

proceedings, she would not be in a position to cross-examine this witness in any case. There was also a public interest in the issues being explored fully, which supported the admission of this evidence into the proceedings. The panel considered that any unfairness in this regard worked both ways in that the NMC was deprived, as was the panel, from reliance upon the live evidence of Mr 1 and Mr 2 and the opportunity of questioning and probing the evidence. There was also public interest in the issues being explored fully, which supported the admission of this evidence into the proceedings.

With regard to the local statement of Mr 1, the panel noted that the statement was unsigned. However it noted that Ms 3 had requested the statement and that it could ask her questions as to how the statement came about. The panel determined that the statement was relevant, as Mr 1 was a direct witness to charge 5c. It further determined that it was fair as it could ask questions of Ms 3, and was not the sole and decisive evidence in respect of this charge.

With regard to the email from Mr 2 dated 27 October 2017, the panel determined that it was relevant as it was evidence which supported the fact that Mrs Hill had received training with regard to the medicine administration system. The panel also determined that it was fair to admit the hearsay evidence as it was not the sole and decisive evidence in relation to charges 2 and 4.

In these circumstances, the panel came to the view that it would be fair and relevant to admit the hearsay evidence of Mr 1 dated 17 January 2018 and the email from Mr 2 dated 27 October 2017, but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

Decision and reasons on the second consideration of proceeding in the absence of Mrs Hill

At the end of day 1 of the hearing, the panel was made aware that the NMC had contacted Mrs Hill (unbeknownst to the panel) and that she had indicated that she may

be willing to speak to the panel on day 3 of the hearing by telephone link. Accordingly arrangements were made for this to happen. In the knowledge that Mrs Hill would or could be participating in a telephone link the following day, the panel considered whether it should continue to proceed in her absence on Tuesday 4 February 2020. At that stage it had not heard the evidence of four NMC witnesses who would give evidence in relation to charges 2 to 5.

Accordingly it invited representation as to whether it should proceed in these circumstances.

Mr Badruddin submitted that it remained appropriate to proceed as Mrs Hill had made it clear that she did not wish to talk about the charges.

The legal assessor again advised on proceeding in absence.

The panel carefully considered whether it should continue to proceed in the absence of Mrs Hill now that she had made contact with the NMC. It was aware that it should consider this issue with the utmost care and caution. In the light of her indication that she would not speak on matters to do with the charges, it determined to do so.

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

On the second day of the hearing, at the close of the NMC's evidence, the panel invited Mrs Hill to make contact via telephone to tell the panel anything she would like it to consider.

Mr Badruddin made no objection to Mrs Hill being contacted.

A telephone link was set up with Mrs Hill on 5 February 2020. Mrs Hill did speak to the panel by telephone on that day, although she did not wish to give evidence under affirmation.

Whilst speaking to the panel, Mrs Hill referred to matters regarding her health. The panel therefore considered, of its own volition, whether to go into private session.

Mr Badruddin made no objection to Mrs Hill's Health matters being considered in private.

The panel heard the legal advice with regard to Rule 19.

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.’*

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.

Having heard that there will be reference to Mrs Hill’s health, the panel determined to hold such parts of the hearing in private. The panel determined to rule on whether or not to go into private session in connection with Mrs Hill’s as and when such issues are raised.

Facts

In reaching its decisions on the facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Badruddin on behalf of the NMC.

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

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

- Ms 4: Staff Nurse at the Broadlands Clinic (at the time of the incident)
- Ms 5: Health Care Assistant at the Broadlands Clinic (at the time of the incident)
- Ms 3: Manager at Decoy Farm Residential Care Home (at the time of the incidents)
- Ms 6: Support Worker at Decoy Farm Residential Care Home (at the time of the incidents)
- Mr 7: Independent Trainer/Consultant engaged by Decoy Farm

Residential Care Home to train staff in conflict management and restraint methods

- Ms 8: Current Manager at Decoy Farm Residential Care Home

Mrs Hill spoke with the panel on the morning of day 3 by telephone but gave no evidence with regard to the facts of this case.

Background

Charge 1 arose whilst Mrs Hill was employed as a registered nurse at the Broadlands Clinic.

The NMC received a referral on 22 September 2017 from the Deputy Director of Nursing and Quality at Hertfordshire Partnership NHS University Foundation Trust (the Trust) raising concerns about Mrs Hill's fitness to practise. The concerns arose whilst Mrs Hill was working as a staff nurse for the Trust at Hathor Ward, Broadlands Clinic. The Broadlands clinic is a mental health secure unit. The regulatory concerns related to Mrs Hill allegedly communicating with Patient B in a confrontational and aggressive manner on the 31 May 2017.

Following an approach by the NMC, further concerns were raised from a separate employer, Decoy Farm Care Home (the Home) where Mrs Hill worked between August 2017 and January 2018. These concerns involved Mrs Hill's alleged failure to administer medication to two separate residents, Resident 1 and Resident 2. The Home at the time had an electronic management system for the administration of medication using a portable device known as a Well-Pad which informs staff when to administer medication and keeps them updated on stock and on medication orders. Concerns were also around the alteration of a Resident 2's transition plan without consultation with a

manager, as required, and inappropriate communication and physical manhandling of Resident 4.

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

The panel considered the evidence of the witnesses and reached the following conclusions:

Ms 4: The panel found Ms 4 to be a credible witness overall who tried her best to recollect the alleged incident in which she was involved. It noted however, that there were some inconsistencies with regard to her evidence namely: the language used by Ms Hill in relation to charge 1 c; the degree of contact which she had with Mrs Hill prior to the incident in question; the lack of clarity as to who was in the office with her at the time of the incident; her role as the nurse in charge of two wards.

The panel was satisfied that Ms 4, during her oral evidence, made it very clear that the wording used with regard to charge 1 c was inappropriate and aggravated the situation. Ms 4 gave a clear demonstration of the body language she had seen. She accepted that she was not sure of the exact words used by Mrs Hill, but was clear about the essence and tone.

The panel accepted that there were some inconsistencies. However, it was satisfied that this was mainly due to the passage of time which had occurred since the events.

Ms 5: The panel considered that the evidence which Ms 5 gave in relation to charge 1 was credible and reliable. Her written evidence was consistent with her oral evidence.

She was very clear that she had only heard dialogue between Mrs Hill and Patient B. She had not observed them during the event.

The panel noted just one inconsistency regarding whether she had worked with Mrs Hill previously. Ms 5 did not attempt to speculate or convince the panel either way and stated when she could not remember.

Ms 3: The panel found that Ms 3's evidence started off clear but when questioned became vague. It found Ms 3's evidence with regard to the existence of training records somewhat vague. Ms 3 was unable to say whether there was a written care plan at the time. Ms 3 also stated that there had been no incidents concerning Mrs Hill prior to the contact made by the NMC and was unable to explain why she had said this, given that there had been a concern prior to the NMC's contact. The panel noted that Ms 3 no longer had access to documents held at the Home as she no longer worked for the Home. The panel accepted that the time lapse since the incidents may have impacted on her memory.

The panel found that Ms 3 gave very clear evidence in relation to charge 3. She informed the panel of the need for Mrs Hill to consult with her as the manager of the Home, and the inappropriateness of the actions of Mrs Hill.

The panel found Ms 3's evidence with regard to charge 4 to be clear. Ms 3 provided a helpful explanation of the electronic administration system and how it worked.

The panel noted that Ms 3 did not directly observe the incident alleged in charge 5 and that a full investigation had not been carried out due to Mrs Hill's dismissal whilst she was in her probation period.

Ms 6: The panel considered that the evidence of Ms 6, who gave evidence in relation to charges 3 and 5, was credible and reliable. Ms 6 was fair and balanced when giving her evidence. She gave credit to Mrs Hill for her past management of challenging behaviours at the Home.

Ms 6 helpfully described how she recalled Resident 4 being moved by Mrs Hill. It found Ms 6 to be very caring and noted her genuine concern for Resident 4.

Ms 6 acknowledged that she could not remember some details. The panel found that this was due to the time which had passed since the alleged incidents.

Mr 7: The panel found Mr 7 to be a credible and reliable witness. He had a good recall of events. In particular it noted his recall of the hall where the conflict management training had taken place and his memory of Mrs Hill participating in the course. Mr 7 described initial concerns with Mrs Hill during the training, but was satisfied that she had reached a good understanding of conflict management by the end of it. The panel also found Mr 7 to be a fair witness.

The panel noted that there were two dates in his documents with regard to the physical de-escalation assessment. Mr 7 stated that the date 3 April 2017 on the physical de-escalation assessment was a typographical error. He was able to clarify the correct date from another document with certainty.

Ms 8: The panel considered the evidence of Ms 8. It noted that Ms 8 was not working at the Home at the time of the incidents and therefore the assistance which she could give to the panel was limited. However, the panel noted her efforts to assist the panel as best she could.

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

Charge 1

The panel noted the written submission which Mrs Hill made in relation to charge 1 as a whole which included as follows:

'I don't recall much from this day, other than yet again being asked to move to Hathor/Olive to help [Ms 4] ... I observed limited engagement with staff and patients, preferring to hide away in the office.

The patient had been intimidating staff for most of the morning, he had gained access to the office took hold of a green white board marker pen and had begun writing obscene language all over the door and walls, attempts to relocate failed as he is a tall man with some presence. I was aware of his significant history of physical aggression and assault and I feared him. then began demanding we get him a disposable urine container. Myself and 3 other staff were in the office. My peers refused to help, I hesitated and volunteered to find him one. Once out of the office leaving my 3 colleagues (who knew better and the location of the disposable products. I was presented with a volley of verbal abuse "you fat fucking cunt" over and over [by Patient B]. No one attempted to support me. Now after reading the statement is states that other staff were in communal areas. Why did they not come to support me?, or defuse the situation?, instead they left a frightened and ill prepared colleague to deal with a frightening situation. It also states that I had clenched fists.... how would they know that, if they were out of my line of sight hiding away in the office? I often close my hands to [PRIVATE]. I may have handled this situation badly, but I feel let down by people who I thought were professional. The sense of fear makes you do things you later regret, 'fight or flight' is what happened here.'

Charge 1 a

That you a registered nurse while working at Broadlands Clinic:

- 1 *On 31 May 2017, on Hathor ward, responded to Patient B:*
 - a) *Using confrontational body language, more particularly that you:*
 - i. *Took up an aggressive stance towards the Patient and/or*
 - ii. *Raised your arms towards the Patient and/or*
 - iii. *Made hand gestures towards the Patient.*

This charge is found proved in its entirety.

In reaching its decision, the panel had regard to the local statement of Ms 4 dated 12 June 2017 in which she stated that Mrs Hill's '*...hands were raised and moving and she again said "come on..."*' The panel also had regard to the witness statement of Ms 4 dated 18 March 2018 which states '*...the registrant immediately turned around and was in an aggressive stance...the registrant was being very aggressive and very confrontational.*' Upon being questioned by the panel as to what was meant by an aggressive stance, Ms 4 gave a demonstration of the stance which she recalled Mrs Hill taking on 31 May 2017. She stood up with her legs apart, raised her arms in the air and beckoned towards herself using both hands. She explained that she was able to observe the incident as it was unfolding through the glass door which led from the office to the corridor.

The panel took account of Mrs Hill's statement but it did not consider that it specifically addressed charge 1a. It accepted the evidence of Ms 4. It noted that Ms 4's evidence was consistent with her written statements. It accepted that the account and demonstration which she gave represented an accurate account of Mrs Hill's behaviour.

The panel determined that all three parts of charge 1a were proved.

Charge 1 b

1 b) *Raised your voice at Patient B.*

This charge is found proved.

The panel had regard to the Paris Entry (initial record) dated 31 May 2017 by Ms 4 and noted her observation that '*[Mrs Hill] ... came back at Patient B and shouted very loudly at him...*'

The panel further considered the witness statement of Ms 5 dated 21 April 2018, which states '*I then heard the registrant shout "are you calling me fat".*' It also considered Ms 5's local statement dated 12 June 2017 which states '*[Ms 5] then heard Suzanne shout "are you calling me fat"...*'. The panel was of the view that Ms 4 and Ms 5 were both clear and consistent during their oral evidence that Mrs Hill had raised her voice at Patient B.

The panel noted that Mrs Hill's written submissions did not specifically deal with the issue as to whether she raised her voice.

In light of the evidence, the panel found charge 1 b proved.

Charge 1 c

Said to Patient B words to the effect of "Are you calling me fat, do I look fucking fat, why don't you come here and call me fat, do I look fat".

This charge is found proved without the word 'fucking'.

In considering charge 1 c, the panel had regard to the witness statement of Ms 4 which states '*the registrant ...said loudly to Patient [B] "are you calling me fat, do I look fucking fat, why don't you come here and call me fat, do I look fat."*' The panel also noted her Paris Entry in which it is recorded that Mrs Hill stated "*what the hell did you just say to me, did you call me fat? Did you, did you?"...*' The panel also had regard to the witness statement of Ms 5 which states '*The registrant then said "Oi are you calling me fat" 3 times...*' The panel accepted that these statements evidenced wording to the effect of that in charge 1 c.

The panel noted that Mrs Hill's account did not specifically deal with what she is alleged to have said.

The panel noted that there was no use of the word *'fucking'* in the Paris Entry which was the most contemporaneous account. It further noted that upon being questioned by the panel, Ms 5 had no recollection of hearing a swear word being used by Ms Hill. It was therefore of the view that the evidence before it, as to whether the word *'fucking'* was used, was inconsistent. In this regard, it preferred the consistent evidence of Ms 5, together with the contemporaneous report made by Ms 4 which did not include this word.

The panel received legal advice from the legal assessor. He advised on the basis of the case of *Gangar v GMC* 2003 UKPC that it could be permissible to find part of a charge proved if the full extent of the charge included component parts. The panel accepted this advice and found the charge 1 c proved without the use of the word *'fucking'*.

Charge 1 d

Did not take steps to de-escalate the situation with Patient B.

This charge is found proved.

The panel had regard to the consistent written and oral evidence of Ms 5, that Mrs Hill had antagonised Patient B by responding to his outburst. Ms 5 gave evidence that Patient B's behaviour was not unusual for him and that Mrs Hill should not have engaged with Patient B, particularly in the way that she did. Ms 5's view was that by doing so she had made the situation worse.

The panel noted that there was no evidence of de-escalation by Mrs Hill. It therefore found charge 1 d proved.

Charge 2 a, b, c, d and e

That you a registered nurse, while working at Decoy Farm:

2. *On the night shift commencing 22 October 2017, did not administer the following medications to Resident 1:*

- a) *Depakote 250mg*
- b) *Depakote 500mg*
- c) *Olanzapine 10mg*
- d) *Lorazepam 1mg*
- e) *Risperidone 1mg*

This charge is found proved in its entirety.

The panel had regard to the witness statement of Ms 3 dated 19 April 2018. She stated that on *'23 October 2017 another Nurse...noted on the Well-Pad that Resident 1's medication for the night before had been missed and she informed me...that...the patients MAR chart...shows that the medications Depakote, Olanzapine, Lorazepam, and Risperidone are marked at 21:00 as D16 which means 'missing not accounted for'.* Ms 3 gave evidence that she spoke to Mrs Hill about this on 27 October 2017 and Mrs Hill *'acknowledged that she had not given the medication but explained that the Well-Pad had not turned red, therefore indicating that the medication needed to be given'.* The panel therefore determined that Mrs Hill was the relevant nurse on duty on 22 October 2017 and had not administered the medication.

The panel noted that Ms 3 had made checks regarding the possibility of the system failing as described by Mrs Hill with the medication system trainer and later the company providing the system. Ms 3 was told that this would not be possible. Furthermore Ms 3 noted that the failure to give the medication had not been recorded in the handover report by Mrs Hill.

The panel considered the MAR chart for Resident 1 with the start date of 22 October 2017. It noted that code D16 had been recorded on 22 October 2017 for Depakote 250mg, Depakote 500mg, Olanzapine 10mg, Lorazepam 1 mg and Risperidone 1mg,

namely all of the medication listed in charge 2. The panel therefore found charge 2 proved in its entirety.

Charge 3

1. *On 21 November 2017, changed Resident 2's transition plan without consulting the manager at Decoy Farm.*

This charge is found proved.

In reaching this decision, the panel took into account the witness statement of Ms 3 dated 19 April 2018. It noted that the transition plan involved two members of staff (Ms 6 and Mr 1) being asked to meet with Resident 2 as part of the transition from Astley Court Hospital to the Home where he was due to move to. Ms 3 described it as a *'carefully planned transition plan'*. The panel also had regard to Ms 3's comment that *'The registrant, without consulting me or anyone else, changed this transition plan at handover...'*. The panel accepted the evidence of Ms 3.

The panel also considered the notes taken from the 1 to 1 meeting with Ms 6 on 21 November 2019 in which it is recorded: *'The registrant stated that she would not be sending [Mr 1] and [Ms 6] to Astley Court about (sic) did not give the reasons why to her, however insinuated that 'it's my shift, my decision'. [Ms 9] however had already done the allocation sheet for the day and reflected that [Ms 6] and [Mr 1] would be going to Astley Court as per the transition plan devised by [Ms 9], myself and nursing staff from Astley Court.'*

The panel noted that this account was unsigned. However it was satisfied that the account was supported in oral evidence by both Ms 3 and Ms 6. Ms 6 gave evidence that Mrs Hill told her that she was not sending her or Mr 1 to the hospital, and gave no reason for this decision. Ms 6 further stated that she and the other staff member had

already visited Resident 2 once before and that consistency was very important for this patient.

The panel accepted the evidence of Ms 3 and Ms 6. It found both Ms 3 and Ms 6 to be consistent in their evidence that there was a clear transition plan in place, that was supposed to be executed and which was changed by Mrs Hill. The panel also considered the email dated 21 November 2017 from Mrs Hill to Ms 3 which states '*while on shift yesterday [Ms 9] asked [Ms 6] and [Mr 1] to visit Resident 2. I could think of 4 reasons that this was an unwise decision. I discussed my concerns with [Ms 10] (admin)...*' The panel noted the acknowledgment from Mrs Hill that she had made a decision and had discussed the matter with an administrator. Ms 3 was clear that the appropriate person with whom Mrs Hill should have discussed the change of plan with was her as the manager. She did not do so. Accordingly the panel find charge 3 proved.

Charge 4

2. *On 3 January 2018 did not administer the following evening medications to Resident 3:*

- a) *Citalopram 10mg*
- b) *Phenytoin sodium 25mg*
- c) *Topiramate 200mg*
- d) *Zopiclone 3.75mg*

This charge is found proved in its entirety.

In reaching this decision, the panel had regard to the MAR chart for Resident 3. It noted that the medication recorded on 3 January 2018 for Citalopram 10mg, Phenytoin sodium 25mg, Topiramate 200mg and Zopiclone 3.75mg had been administered by a nurse with the initials of Ms 9 at 19:00. The panel also noted from the MAR chart that

Mrs Hill had administered other medication to Resident 3 at 19:00 that evening, which evidenced that she was on duty.

The panel also had regard to the witness statement of Ms 3 dated 19 April 2018. It accepted her evidence that another nurse with the initials of Ms 9 had reported to her that she had to wake Resident 3 to give him the above identified medications when she was alerted by the Well-Pad system that they had not been given.

Charge 5

The panel noted the written submissions which Mrs Hill made in relation to charge 5 as a whole which included as follows:

'As I am named nurse to resident I thought I would offer support to my colleague. At this point I noticed that resident was holding on to support workers upper arm and inside of her breast. Support worker began complaining about how possessive resident had become. As I approached, resident took a long and sweeping slap to my right sided cheek. I was not bothered by this as this is a regular behaviour from resident (sic). resident was redirected to the quiet lounge and seated on a sofa, whereby resident lunged forward and punched me on my left upper cheek bone/eye socket, causing bruising to my cheek and bridge of my nose. Using my clinical judgement, a two handed secure hold to the residents lower arm was implemented. Resident then leant forward again and bit my left hand. Therefore three assaults in as many minutes. I do believe that the secure hold implemented next was reasonable and proportionate. Using my left and weaker hand and using my thumb and forefinger I placed my fore finger and thumb on residents bottom jaw to limit the opportunity for further biting. My intention was to safeguard my colleague and safeguard my resident. At no time did I feel any negative emotions. I was more concerned with keeping those near by safe.'

Charge 5 a

3. On 17 January 2018:

a) Spoke to Resident 4:

- i. Quickly
- ii. Using complex language

This charge is found proved in its entirety.

The panel had regard to the witness statement of Ms 6 in which she stated *'the registrant started talking over me speaking a lot faster and using more complex language which would have been very difficult for resident B to understand.'* The panel found Ms 6's oral evidence to be consistent with her written statement. She gave evidence that staff communicated with Resident 4 using key words and Makaton sign language. Ms 6 gave a very clear explanation of the importance of speaking clearly and slowly to Resident 4.

The panel had regard to Mrs Hill's written submission but it noted that it did not address how she communicated with Resident 4.

The panel accepted the evidence of Ms 6 and found charge 5 a proved in its entirety.

Charge 5 b

In the course of its deliberations in respect of charge 5 b, the panel noted that all the direct evidence in respect of this charge came from Ms 6 and that in describing how Resident 4 was taken into the quiet room, she used inconsistent language. In her written accounts she had suggested that Mrs Hill had pulled Resident 4 into the quiet room. In her oral evidence she showed how Mrs Hill had pushed the resident into the quiet room. The panel had regard to the charge and determined that it should consider whether it should be amended to reflect the different descriptions which Ms 6 used. It

noted that Mrs Hill had also provided her own account of the incident. It therefore invited submissions from Mr Badruddin as to whether the charge should be amended to read:

*ii. **Pushing and/or pulling him backwards***

Mr Badruddin did not object and stated that in his view it was not unfair to Mrs Hill.

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

The panel determined to amend the charge. It noted the clear oral evidence from Ms 6 that Resident 4 was pushed and not pulled by Mrs Hill, as first stated in her witness statement. In considering fairness to Mrs Hill, the panel was of the view that the word pushing did not make the charge any more serious. It noted that Mrs Hill had chosen to voluntarily absent herself from these proceedings and had waived her right to deal with events as they unfolded throughout the hearing. The panel was of the view that in the interests of justice, the charge should not fall away due to a technicality when the amendment did not make the charge any more serious. It therefore decided that it was in the interests of justice to amend the charge accordingly.

Charge 5 b as amended

b) Took Resident 4 into the quiet room by:

- i. holding on to resident 4's arm and/or*
- ii. **Pushing and/or pulling him backwards***

The panel find this charged proved in its entirety

The panel considered Ms 6's NMC witness statement and noted her comment that Mrs Hill '*...responded by taking Resident B by the arm on the elbow and pulling Resident B backwards into the quiet room onto a sofa.*' The panel also considered Ms 6's local witness statement dated 17 January 2018 which states Mrs Hill '*...then grabbed his left*

arm pulling Resident [4] to the quiet room sofa... During her oral evidence, Ms 6 clarified that Mrs Hill had pushed Resident 4 through the door in to the quiet room. Ms 6 demonstrated to the panel that Resident 4 was standing in front of Mrs Hill, facing her in the doorway, when he was pushed.

Ms 6 also demonstrated to the panel how Mrs Hill held onto Resident 4's arm.

The panel noted Mrs Hill's written submissions that the *'resident was redirected to the quiet lounge...*' She did not explain how this was achieved.

The panel accepted the evidence of Ms 6 that Mrs Hill had held on to Resident 4's arm and pushed him backwards. It therefore found charge 5 b proved in its entirety.

Charge 5 c

c) Placed your hand round Resident 4's neck.

This charge is found proved.

The panel considered the NMC witness statement of Ms 6 which states *'[Mrs Hill] then put her hand using her thumb and forefinger to hold Resident [4] by the throat.'* The panel also had regard to her local witness statement dated 17 January 2018 which states *'[Mrs Hill] then reacted by holding him round the mid part of his neck...'*

The panel noted a supporting account by Mr 1 in a local witness statement record dated 17 January 2018 in which it is stated that *'[Mrs Hill]...had her left hand around Resident [4's] neck area...'* The panel acknowledged that this was hearsay evidence and therefore determined to attach less weight to it.

Mr 7 told the panel that any hold around a person's neck area was illegal and unsafe.

The panel also had regard to Mrs Hill's written submissions. She said *'I do believe that the secure hold implemented next was reasonable and proportionate.'* Mrs Hill then described *'using my left and weaker hand and using my thumb and forefinger I placed my fore finger and thumb on residents (sic) bottom jaw to limit the opportunity for further biting.'*

The panel preferred the evidence of Ms 6. It found Ms 6 to be a credible witness who gave a clear description of Mrs Hill putting her hand to Resident 4's neck. Ms 6 demonstrated to the panel the positioning of the hand around her neck, and was visibly upset during her recollection to the panel. The panel accepted, as described by Ms 6 that she did not feel in need of protection and found that the action of Mrs Hill in placing her hand round Resident 4's neck was entirely inappropriate.

Although the local witness statement from Mr 1 was hearsay evidence, it did support Ms 6's description. Ms 6 was clear that she was not in any need of protection from Resident 4 and Resident 4 did not act towards her as described by Mrs Hill.

The panel considered the coloured photograph of a scratch on someone's neck provided by the NMC. It noted that the photograph was not signed or dated and that there was nothing to show who took the photograph, or when it was taken. Furthermore there was no evidence to confirm the identity of the person in the photograph. The panel decided that it would not attach any weight to this evidence.

Given the weight of the evidence before the panel, it found charge 5 c proved.

Misconduct and Impairment

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

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

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

Submissions on misconduct

In his submissions Mr Badruddin invited the panel to take the view that Mrs Hill's actions in respect of charges 1, 2, 3, 4 and 5 amount to a breach of The Code: Professional standards of practice and behaviour for nurses and midwives 2015 (the Code). Mr Badruddin identified the specific, relevant standards where Mrs Hill's actions amounted to misconduct.

Mr Badruddin referred the panel to the case of *Roylance v General Medical Council* (no. 2) [2000] 1 AC 311 (Roylance) 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. He submitted that Mrs Hill's actions and omissions had fallen short of conduct what is expected of a registered nurse.

Submissions on impairment

Mr Badruddin moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in

the profession and in the NMC as a regulatory body. This included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Mr Badruddin submitted that Mrs Hill had: placed multiple patients at risk of harm, as well as colleagues; caused actual harm to Patient B and Resident 4; brought the profession into disrepute; and breached a fundamental tenet of the nursing profession.

Mr Badruddin submitted that Mrs Hill has a lack of insight and there has been no remediation into the regulatory concerns before the panel.

Mr Badruddin told the panel that Mrs Hill's response to the panel contained elements of deflection, with Mrs Hill seeking to blame staffing matters. He reminded the panel of her comments "*that [she] had made mistakes, but who doesn't*". He submitted that Mrs Hill was focused on moving forward rather than addressing the concerns or consequences of her actions on patients, colleagues or the nursing profession.

Mr Badruddin submitted that Mrs Hill's fitness to practise is currently impaired on public protection and public interest grounds.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance*, and *General Medical Council v Meadow* [2007] QB 462 (Admin).

Decision and reasons on misconduct

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

The panel was of the view that Mrs Hill's actions did fall significantly short of the standards expected of a registered nurse, and that Mrs Hill's actions amounted to a breach of the Code. Specifically:

1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion

1.2 make sure you deliver the fundamentals of care effectively

2 Listen to people and respond to their preferences and concerns

To achieve this, you must:

2.1 work in partnership with people to make sure you deliver care effectively

2.6 recognise when people are anxious or in distress and respond compassionately and politely

7 Communicate clearly

To achieve this, you must:

7.1 use terms that people in your care, colleagues and the public can understand

7.2 take reasonable steps to meet people's language and communication needs, providing, wherever possible, assistance to those who need help to communicate their own or other people's needs

7.3 use a range of verbal and non-verbal communication methods, and consider cultural sensitivities, to better understand and respond to people's personal and health needs

7.4 check people's understanding from time to time to keep misunderstanding or mistakes to a minimum

8 Work co-operatively

To achieve this, you must:

8.1 respect the skills, expertise and contributions of your colleagues, referring matters to them when appropriate

8.3 keep colleagues informed when you are sharing the care of individuals with other health and care professionals and staff

8.5 work with colleagues to preserve the safety of those receiving care

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

To achieve this, you must:

9.3 deal with differences of professional opinion with colleagues by discussion and informed debate, respecting their views and opinions and behaving in a professional way at all times

10 Keep clear and accurate records relevant to your practice

This applies to the records that are relevant to your scope of practice. It includes but is not limited to patient records.

To achieve this, you must:

10.2 identify any risks or problems that have arisen and the steps taken to deal with them, so that colleagues who use the records have all the information they need

13 Recognise and work within the limits of your competence

To achieve this, you must, as appropriate:

13.1 accurately identify, observe and assess signs of normal or worsening physical and mental health in the person receiving care

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

To achieve this, you must:

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

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

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

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

20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to

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

To achieve this, you must:

25.1 identify priorities, manage time, staff and resources effectively and deal with risk to make sure that the quality of care or service you deliver is maintained and improved, putting the needs of those receiving care or services first

The panel decided to approach the issue of misconduct by dividing the charges found proved into three categories: behaviour towards residents (charges 1 and 5), medication errors (charges 2 and 4) and inappropriately changing the transition arrangements made for a particular patient (charge 3).

In respect of the two charges concerning Mrs Hill's behaviour towards residents, the panel looked at each charge in the round, both separately and together. Mrs Hill's behaviour was directed towards two vulnerable residents, both of whom were in a state of distress and were being treated for mental illness. Her actions did not follow the policies which were in place in respect of challenging behaviour and behaviour support. She had been trained in appropriate techniques to manage and de-escalate situations but had not applied her training. In both cases, Mrs Hill could have walked away from the incidents. There had been no need to intervene. In respect of charge 5, the situation was being appropriately handled by the Support Worker. She had not called for Mrs Hill's help. In respect of Resident 4, as the named nurse Mrs Hill ought to have known how to deal with him when he was upset. She should have known in both instances that her responses and behaviour would only serve to exacerbate the situation.

The panel has reached the view that the behaviour of Mrs Hill in the instances proved in charges 1 and 5 amount to misconduct. Her behaviour seriously disturbed the well-being of the residents concerned as well as the staff involved. Patient B in charge 1 went on to verbally abuse another member of staff. In relation to charge 5, the support worker who was already with Resident 4, felt capable of managing the situation. She had not asked for help. She was disturbed by Mrs Hill's behaviour and how this had impacted on Resident 4. She felt the need to report her concerns to the manager. In

the panel's view Mrs Hill's behaviour would be regarded as deplorable by fellow practitioners. The panel therefore finds that Mrs Hill behaviour, as found proved in charges 1 and 5 amounts to serious misconduct.

In respect of the medication charges 2 and 4, the panel acknowledge that nurses can make medication errors, and that it should not automatically categorise medication errors as misconduct, especially if they are isolated. In this case each medication error followed training which Mrs Hill had received. After the first incident the Service Quality Manager of the Kingsley Healthcare Group provided training for Mrs Hill on the Well-Pad system on or around 27 October 2017. He was so concerned with Mrs Hill's response to the training that he felt the need to send an email dated 27 October 2017 to her manager. He expressed concerns about Mrs Hill's attitude and also her inability to use the system.

The panel noted that Mrs Hill took no steps to acknowledge the medication errors. She maintained in respect of the first error that the Well-Pad system had not alerted her that medication was required. It was confirmed from reliable sources that it was completely impossible that the system would not create an alert. As to the second set of medication errors on 3 January 2018 (charge 4), the Well-Pad system would have told her that there was further medication to administer. Mrs Hill has offered no view on her medication errors in her statement or the impact this could have had on the two residents, which could have been serious.

The panel finds that Mrs Hill's medication errors amount to misconduct. However it does not find misconduct in relation to the administration of lorazepam as this was 'when required' medication and there was no evidence that it was required on the night shift commencing on 22 October 2017. The panel finds that the misconduct found proved in relation to the medication errors was serious by reason of the fact that they were repeated. Mrs Hill received medication training, yet the evidence was that her attitude towards the training was uncooperative and unprofessional.

In relation to charge 3, the transition of Resident 2 to the Home, the panel considers that Mrs Hill went against a plan which had been put in place with hospital staff who knew Resident 2 well. The Manager had agreed this plan and its implementation. It included two named staff visiting the hospital and this had already started. The panel heard the importance of consistency for Resident 2. Mrs Hill was exercising her power and interfered with the plan. According to Ms 6, Mrs Hill inferred: *'It's my shift; my decision.'* It appears she communicated that decision and her reasons to the administrator at the Home. The manager told the panel that this was inappropriate. She should have sought to raise any concerns and seek authorisation to change the plan with her Manager. It was a change which may well have caused distress to the resident. Mrs Hill's attitude and lack of explanation also caused distress to the staff concerned. The panel consider that this apparently unwarranted change of a clear transition plan does amount to misconduct, which was serious.

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

Decision and reasons on impairment

Having found that all the charges found proved amount to misconduct, the panel has gone on to consider whether Mrs Hill's fitness to practise is currently impaired. Mrs Hill gave submissions in relation to charges 1 and 5. She admitted she had made mistakes. She also availed herself of an opportunity to speak to the panel via a telephone link on the third day of the hearing. In that telephone call she observed that she felt unsupported by management and other members of staff when working at the Broadlands Clinic and the Home. Other than that, she did not speak about the individual charges save to say *"that [she] had made mistakes, but who doesn't"*. She explained her general position that she did not want to look back as she cannot change what happened. She is no longer working as a registered nurse. Mrs Hill acknowledged that she does not feel strong enough to continue nursing at least for the

time being as the whole process has had an impact on her own health. She said that she loves her current job as a Health Care Worker in a dementia home.

The panel gave Mrs Hill credit for engaging with part of the hearing and for her acknowledgement of her current health and the challenge this has been for her. However, it must also consider the degree, if any, of insight which she has demonstrated in respect of the matters in question. She has not demonstrated any reflection of how she has learnt from her mistakes or subsequent learning.

The panel noted Mrs Hill's deflection of responsibility for the incidents, using poor management support, short staffing and the electronic medication administration system as justification. The panel has not seen evidence of Mrs Hill taking ownership of her own mistakes.

The panel considers that Mrs Hill has viewed all these matters only in relation to the effects on herself. In relation to the incident in charge 5, the panel noted the Support Worker's observation that something seemed to snap in Mrs Hill and that she had not seen her behave like this previously. There were attitudinal concerns in relation to Mrs Hill's behaviour. She acted unprofessionally with Patient B and Resident 4 in the incidents the subject of charges 1 and 5. She did not allow the first situation to resolve itself and she did not allow the Support Worker to restore calm in the latter case. Her actions aggravated the problem. She was interfering with a transition plan as found proved in charge 4. She did not report her reason for doing so, believing that her decision should be final.

The panel has addressed the issue as to whether her shortcomings are remediable. It considered that, if Mrs Hill has a willingness to reflect and learn, they were remediable. There is a clear need for Mrs Hill to work and think in a more patient focused way. The panel has however reached the view that Mrs Hill has not remedied her shortcomings in regard to any of the matters. Mrs Hill has achieved good insight into her own health and lack of readiness to return to nursing for several years. However,

she has developed no insight which directly deals with the charges. There remains therefore a high risk of repetition.

The panel therefore find Mrs Hill's fitness to practise impaired on the ground of public protection.

The panel has gone on to consider whether it should make a finding of impairment of fitness to practise on the wider public interest grounds, namely the need to declare and uphold proper standards of conduct and to protect the reputation of the profession. It has decided that it should do so. The public would not be satisfied if there was no finding of impairment in respect of a nurse who had failed patients / residents in her care as the charges establish.

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

Submissions on sanction

Mr Badruddin informed the panel that in the notice of hearing, dated 3 January 2020, the NMC had advised Mrs Hill that it would seek the imposition of a suspension order for 12 months if it found Mrs Hill's fitness to practise currently impaired. During the course of the hearing, the NMC revised its proposal and submitted that a strike-off order is more appropriate in light of the panel's findings. Mr Badruddin highlighted mitigating and aggravating factors to the panel. Mr Badruddin submitted that Mrs Hill's misconduct was incompatible with her remaining on the register.

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

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- The attitudinal concerns identified by the panel at the time of the incident have not been addressed by Mrs Hill
- Although Mrs Hill was trained in safe restraint techniques, she did not use them
- Mrs Hill was verbally aggressive towards Patient B and Resident 4 who were vulnerable, and this caused them distress
- The incidents found proved in charges 1 and 5 demonstrated that Mrs Hill lost control and this was directed at those patients
- Mrs Hill made her second medication error notwithstanding that she received further training after the first incident
- Mrs Hill has shown a lack of willingness to look back on and learn from her mistakes

The panel also took into account the following mitigating features:

- At the time of the incident, Mrs Hill had some health issues and these have been ongoing. This is supported by [PRIVATE].
- There were a number of testimonials in the documentation submitted by Mrs Hill. One letter dated 15 February 2018 was from the managing director of a care home company where she undertook supervised practice. This letter confirms that they had no concerns during the short period she worked for them and they

felt her medication administration was competent. The other letters were manuscript testimonials from satisfied colleagues and patients in early 2018.

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

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Hill's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mrs Hill's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mrs Hill's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. Moreover the misconduct identified in this case in respect of charges 1 and 5 concerned Mrs Hill losing her self-control and thereby causing distress to the patients. In the panels' view, this is not something that can be addressed through retraining, given her on going lack of insight. Furthermore, the panel concluded that the placing of conditions on Mrs Hill's registration would not adequately address the seriousness of this case and would not protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

In the panel's view, these factors are not present in this case. The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel considered that the serious misconduct, particularly in relation to charges 1 and 5 is fundamentally incompatible with Mrs Hill remaining on the register. Therefore the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

Mrs Hill's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with her remaining on the register. The panel was of the view that Mrs Hill exhibited a blatant disregard for the welfare of Patient B and Resident 4 in charges 1 and 5 respectively. Mrs Hill demonstrated a lack of insight and awareness as to the consequences of her behaviour and the seriousness of her misconduct. She did not consider the effect her actions had on those who were affected by them. She has not been willing to learn from her mistakes. Her observation "*that [she] had made mistakes, but who doesn't*" did not suggest to the panel that she

had any proper awareness of the significance of her behaviour. The panel was of the view that there remained a high risk of repetition.

The panel considers that the findings in this case are so serious that to allow Mrs Hill to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

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

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

This will be confirmed to Mrs Hill in writing.

Interim order

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

Submissions on interim order

The panel took account of the submissions made by Mr Badruddin. He submitted that an interim order suspension for a period of 18 months is necessary given the seriousness of the concerns to protect the public and in the public interest.

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

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and also considered the high risk of repetition that had been identified and set out in its decision for the substantive order. For this reason the panel determined to impose an interim order.

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

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

That concludes this determination.