Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Wednesday 27 – Friday 29 April 2022

Virtual Hearing

Name of registrant:	**John Appiah-Danquah**
NMC PIN:	97A0390E
Part(s) of the register:	RNMH: Mental health nurse, level 1 23 February 2000
Area of registered address:	Lancashire
Type of case:	Misconduct
Panel members:	Nicola Dale (Chair, lay member) Claire Matthews (Registrant member) Melanie Swinnerton (Lay member)
Legal Assessor:	Robin Leach
Hearings Coordinator:	Catherine Acevedo
Nursing and Midwifery Council:	Represented by Aoife Kennedy, Case Presenter
Mr Appiah-Danquah	Not present and unrepresented in absence
Facts proved:	Charges 1a, 1b, 1c, 2
Facts not proved:	Charge 3
Fitness to practise:	Impaired
Sanction:	Suspension order – 12 months
Interim order:	Interim suspension order - 18 months

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Appiah-Danquah was not in attendance and that the Notice of Hearing letter had been sent on 7 March 2022 to Mr Appiah-Danquah's registered email address and another email address which he notified the NMC about in 2019.

Ms Kennedy, 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.

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 Mr Appiah-Danquah's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In the light of all of the information available, the panel was satisfied that Mr Appiah-Danquah 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 Mr Appiah-Danquah

The panel next considered whether it should proceed in the absence of Mr Appiah-Danquah. It had regard to Rule 21 and heard the submissions of Ms Kennedy who invited the panel to continue in the absence of Mr Appiah-Danquah. She submitted that Mr Appiah-Danquah had voluntarily absented himself.

Ms Kennedy submitted that there had been no engagement by Mr Appiah-Danquah since his response to the regulatory concerns dated 18 June 2020 and no engagement with the

NMC in relation to these proceedings. As a consequence, there was no reason to believe that an adjournment would secure his attendance on some future occasion.

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 Mr Appiah-Danquah. In reaching this decision, the panel has considered the submissions of Ms Kennedy and the advice of the legal assessor. It has 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:

- No application for an adjournment has been made by Mr Appiah-Danquah;
- Mr Appiah-Danquah has not engaged with the NMC since 2020 and has not responded to any of the letters sent to him about this hearing;
- There is no reason to suppose that adjourning would secure Mr Appiah-Danquah's attendance at some future date;
- Two witnesses will attend to give live evidence;
- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred in 2018;
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mr Appiah-Danquah in proceeding in his absence. The evidence upon which the NMC relies will have been sent to him at his registered address and he has made responses to the allegations dated 18 June 2020. 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 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 Mr Appiah-Danquah's decision to absent himself from the hearing, waive his rights to attend, and/or be represented, and to not provide evidence or make submissions on his own behalf.

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

Details of charge

That you, a Registered Nurse, on 14 October 2018:

1. *When Colleague 1 reported to you the deteriorating condition of Patient A at around 9.30am;*

    a) *Failed to attend Patient A*
    b) *Failed to take observations of Patient A*
    c) *Failed to speak with the paramedics when they arrived to attend to Patient A*

2. *Failed to prioritise your medication round adequately resulting in Resident B missing doses of his Co-Beneldopa and Entacopone medication which were prescribed to be given at 10am.*

3. *After dropping a tablet on the floor, moved it using your foot and then administered it to an unknown resident.*

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

Decision and reasons on facts

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

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

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:

- Colleague 1: Nursing Assistant at Kings Park Nursing Home.

- Colleague 2: Home Manager at Kings Park Nursing Home at the time of the incident;

Background

The concerns in this case relate to events on 14 October 2018. Mr Appiah-Danquah was working as an agency nurse with Unique Nursing Agency and took on a day shift at Kings Park Nursing Home (the Home). This was the first and only shift he worked at the Home.

The allegations relate to Mr Appiah-Danquah's alleged failure to attend to and take observations of a deteriorating patient, Patient A, or to speak with the paramedics when they arrived at the Home to attend to Patient A.

It is further alleged that Mr Appiah-Danquah made medication errors during the same shift, namely that he did not prioritise medication administration adequately resulting in a failure to administer prescribed medication to Patient B at 10am.

A further allegation relates to poor medication hygiene, namely that Mr Appiah-Danquah administered medication to a resident after having dropped it on the floor and dragged it with his foot.

Colleague 1 was working on shift with Mr Appiah-Danquah on 14 October 2018 and dealt with the care of Patient A. The Home Manager at the time of the alleged incident, Colleague 2, was called in after paramedics had taken Patient A to hospital. She sent Mr Appiah-Danquah home and carried out checks and continued his medication round following his departure where she discovered that Patient B had not received the 10am dose of Co-Beneldopa and Entacopone.

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 Mr Appiah-Danquah's written responses dated 18 June 2020.

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

Charge 1a

When Colleague 1 reported to you the deteriorating condition of Patient A at around 9.30am;

a) Failed to attend Patient A

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Colleague 2 and Colleague 1 and Mr Appiah-Danquah.

Mr Appiah-Danquah stated in his response *"When I took over the administration of the AM medication from [Colleague 1] (Senior Nursing Assistant). She later reported to me that the Patient A appears unwell. I delegated to [Colleague 1] to carry out any physical observations on Patient A and report the results to me which she did".*

The panel also noted that he said in his responses *"Upon reflection, I deeply regret my actions. I admit that I should have swapped with [Colleague 1] and checked on Patient A and done my own observations'.*

Colleague 1 stated in her evidence that she informed Mr Appiah-Danquah that Patient A was unwell and his response was to *'stare at me then continue to put medicine into a medication pot'.* She also told the panel that she returned to Mr Appiah-Danquah and said *"I've done obs she's really not well can you take a look"* and his response was *'go and phone someone'.*

The panel also noted Colleague 2's evidence that as a registered nurse in charge of the shift, it would have been expected practice for Mr Appiah-Danquah to stop what he was doing and immediately attend to Patient A as this was an emergency. The panel noted that, although Colleague 1 was an experienced nursing assistant and could undertake

routine checks on patients she would not take observations when a patient is very ill or unresponsive.

The panel considered the evidence of Colleague 1 and Colleague 2 to be reliable and consistent. The panel also took into account that Mr Appiah-Danquah accepted in hindsight that he should have attended to Patient A himself.

The panel considered that there is sufficient evidence to conclude that Mr Appiah-Danquah did not attend to Patient A when their deteriorating condition was reported to him. The panel determined that, as the nurse in charge, Mr Appiah-Danquah had a duty to attend to Patient A as it was an emergency situation and he failed to do so. The panel therefore found charge 1a proved.

Charge 1b

When Colleague 1 reported to you the deteriorating condition of Patient A at around 9.30am;

b) Failed to take observations of Patient A

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Colleague 2 and Colleague 1 and Mr Appiah-Danquah.

The panel considered the evidence of Colleague 1 and Colleague 2 to be reliable and consistent. The panel also took into account that Mr Appiah-Danquah accepted in hindsight that he should have done his own observations of Patient A.

The panel took into account its finding at charge 1a that Mr Appiah-Danquah had failed to attend to Patient A when Patient A's deteriorating condition was reported to him. The

panel concluded that it followed that Mr Appiah-Danquah could not have taken observations of Patient A if he had not attended to Patient A. The panel determined that as the nurse in charge Mr Appiah-Danquah had a duty to take observations of Patient A as it was an emergency situation and he failed to do so. The panel therefore found charge 1b proved.

Charge 1c

When Colleague 1 reported to you the deteriorating condition of Patient A at around 9.30am;

c) *Failed to speak with the paramedics when they arrived to attend to Patient A*

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Colleague 1 and Mr Appiah-Danquah.

Colleague 1's evidence was that Mr Appiah-Danquah did not have any interaction with the paramedics when they arrived to attend to Patient A or whilst they were in attendance. She stated that she had sent a carer to inform Mr Appiah-Danquah that the paramedics had arrived and that he dismissed the carer.

The paramedic report stated *"Crew requested to see nurse on scene. Nurse did not come to see crew. Crew did not see nurse at all and nurse took no part in the care of the pt".*

Mr Appiah-Danquah's position is that he was not informed of the arrival of the paramedics. The panel determined that it was inconceivable that Mr Appiah-Danquah had been unaware that the paramedics had arrived at the Home. He had already been made aware by Colleague 1 that Patient A's condition was of grave concern.

The panel considered that there is sufficient evidence to conclude that Mr Appiah-Danquah did not speak to the paramedics when they arrived to attend to Patient A. The panel determined that as the nurse in charge Mr Appiah-Danquah had a duty to speak to the paramedics attending to Patient A and to handle the emergency situation and he failed to do so. The panel therefore found charge 1c proved.

Charge 2

> *Failed to prioritise your medication round adequately resulting in Resident B missing doses of his Co-Beneldopa and Entacopone medication which were prescribed to be given at 10am.*

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Colleague 2 and Colleague 1 and Mr Appiah-Danquah's response to the regulatory concerns.

Mr Appiah-Danquah's response was that *"It was my first time in that nursing home. It took longer than normal to identify any of the patients because all the care assistants were busy attending to the personal hygiene needs of the patients. Again, because I did not have proper handover from [Colleague 1] who had started administering the medication before my arrival, I continued in successive order as per the MAR sheets arrangements without prioritising."*

Colleague 1's evidence was that she tried to give Mr Appiah-Danquah a handover but he said that he did not need her assistance stating *'No, I have been an RMN for 15 years I won't need your assistance'.*

Colleague 2's evidence was that there was an expectation for agency nurses to be able to deal with new situations in different settings and it would be the agency nurse's

responsibility to make themselves aware of any time specific medication. She also stated that the required information to prioritise the medication administration would be clearly stated on both the handover sheet and the MAR charts.

The panel accepted the evidence of Colleague 1 and Colleague 2. The panel also took into account that Mr Appiah-Danquah accepted in his response that he should have insisted on a proper handover of the patients and this would have helped him know which patients to administer medication to first.

The panel considered that it would not be uncommon for there to be time specific medication in a nursing home setting and the onus would have been on Mr Appiah-Danquah to ask and check about the medication and to make sure he was given an adequate handover.

The panel determined that Mr Appiah-Danquah did not prioritise the medication round adequately resulting in Resident B missing doses of his Co-Beneldopa and Entacopone medication which were prescribed to be given at 10am. The panel determined that as the nurse in charge Mr Appiah-Danquah had a duty to prioritise the medications round adequately and he failed to do so. The panel therefore found charge 2 proved.

Charge 3

> *After dropping a tablet on the floor, moved it using your foot and then administered it to an unknown resident.*

This charge is found not proved.

In reaching this decision, the panel took into account the evidence of Colleague 1.

Colleague 1 stated in her evidence *"Whilst I was in the corridor, on the phone to 111, I saw [Mr Appiah-Danquah] drop a tablet. It went slightly under Patient A's chair, he*

pushed the chair slightly with one hand and then shuffled the tablet towards him with his foot before picking it up and putting in another residents mouth".

The panel considered that this alleged incident occurred during an extremely busy time on the shift where Colleague 1 had been dealing with a stressful emergency situation relating to Patient A. The panel noted that Colleague 1's evidence was that she was on the phone to 111, speaking to the operator and actively monitoring Patient A's observations to relay them to the operator.

The panel also noted that this incident was not raised to the Colleague 2, the Home Manager.

The panel determined that the NMC had not provided sufficient evidence for it to conclude that this incident had occurred as described by Colleague 1. The panel therefore found charge 3 not proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mr Appiah-Danquah'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, Mr Appiah-Danquah's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

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

Ms Kennedy invited the panel to take the view that the facts found proved amount to misconduct. She referred the panel to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code). She identified the specific, relevant standards where Mr Appiah-Danquah's actions amounted to misconduct. Ms Kennedy submitted that the facts found proved related to Mr Appiah-Danquah's failure to respond to or manage a deteriorating patient in an emergency situation and his failure to prioritise and administer time-sensitive medication to a patient. She submitted that Mr Appiah-Danquah failed in his duty of care to the patients and his acts and omissions amounted to serious misconduct.

Submissions on impairment

Ms Kennedy 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).

Ms Kennedy submitted that Mr Appiah-Danquah put patients at unwarranted risk of harm.

She submitted that the misconduct relating to identifiable areas of Mr Appiah-Danquah's practice are remediable. However, Mr Appiah-Danquah has demonstrated possible attitudinal issues in his dismissiveness of Colleague 1 and his disinterest in Patient A's wellbeing and these concerns are not easily remediable. She referred the panel to the NMC's guidance *'Serious concerns which are more difficult to put right'.*

Ms Kennedy referred the panel to Mr Appiah- Danquah's responses and submitted that he has demonstrated some insight in that he accepted he was responsible for his actions. However, he also sought to blame his colleagues for the incidents. She submitted that Mr Appiah-Danquah has not provided any evidence of remediation or any information about what he is currently doing. Ms Kennedy therefore submitted that Mr Appiah-Danquah's fitness to practice is impaired on the grounds of public protection and in the wider public interest.

The panel accepted the advice of the legal assessor.

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 Mr Appiah-Danquah's actions did fall significantly short of the standards expected of a registered nurse, and that Mr Appiah-Danquah's actions amounted to numerous and wide-ranging breaches of the Code. Specifically:

> *"**1.2** make sure you deliver the fundamentals of care effectively*
>
> ***1.4** make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay*
>
> ***2.1** work in partnership with people to make sure you deliver care effectively*

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

8.2 *maintain effective communication with colleagues*

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

8.6 *share information to identify and reduce risk*

11 Be accountable for your decisions to delegate tasks and duties to other people

To achieve this, you must:

11.1 *only delegate tasks and duties that are within the other person's scope of competence, making sure that they fully understand your instructions*

11.2 *make sure that everyone you delegate tasks to is adequately supervised and supported so they can provide safe and compassionate care*

11.3 *confirm that the outcome of any task you have delegated to someone else meets the required standard*

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

15 *Always offer help if an emergency arises in your practice setting or anywhere else*
To achieve this, you must:

15.2 *arrange, wherever possible, for emergency care to be accessed and provided promptly*

16.4 *acknowledge and act on all concerns raised to you, investigating, escalating or dealing with those concerns where it is appropriate for you to do so*

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*

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

***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 appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that Mr Appiah-Danquah's failure to respond to or manage a deteriorating patient in an emergency situation and his failure to prioritise and administer time-sensitive medication to a patient were extremely serious and raised wide-ranging concerns regarding his fundamental clinical nursing skills. The panel was also of the view that Mr Appiah-Danquah had demonstrated a lack of regard for the patients in his care and for his colleagues raising serious and worrying attitudinal concerns.

The panel found Mr Appiah-Danquah's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mr Appiah-Danquah's 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. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

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

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

> *'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:*
>
> a) *has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
>
> b) *has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
>
> c) *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
>
> d) *....'*

The panel found limbs a-c engaged in the *Grant* test. The panel finds that patients were put at risk of harm as a result of Mr Appiah-Danquah's misconduct. Mr Appiah-Danquah's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel took into account Mr Appiah-Danquah's written responses. It considered that he had demonstrated very limited insight into his actions. The panel noted that Mr Appiah-Danquah had shown remorse and accepted in part some of the misconduct in that he should have done things differently, but he also sought to blame his colleagues. The panel therefore considered Mr Appiah-Danquah's remorse to be insincere. The panel accepted Colleague 1's evidence that he had been dismissive towards her and that he had said *"I have been an RMN for 15 years. I won't need your assistance".* It considered that Mr Appiah-Danquah had demonstrated sheer arrogance towards his colleagues and disregard for the patients in his care.

The panel was satisfied that the clinical misconduct in this case in relation to Mr Appiah-Danquah's failure to prioritise and administer time-sensitive medication is capable of being addressed. However, it was of the view that the serious attitudinal concerns identified are more difficult to put right. The panel carefully considered the evidence before it in determining whether or not Mr Appiah-Danquah has taken steps to strengthen his practice. The panel took into account that Mr Appiah-Danquah had disengaged from proceedings and the panel had no information from him regarding any training he may have undertaken to keep his knowledge and skills up to date or where he is currently working.

The panel is of the view that there is a real risk of repetition based on Mr Appiah-Danquah's limited insight, the attitudinal concerns, and the lack of evidence about how he has strengthened his practice. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Mr Appiah-Danquah's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mr Appiah-Danquah's fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a suspension order for a period of 12 months with a review. The effect of this order is that the NMC register will show that Mr Appiah-Danquah's registration has been suspended.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

Submissions on sanction

Ms Kennedy submitted that the appropriate sanction in this case is a 12 month suspension order with a review. She outlined to the panel what the NMC consider are the aggravating and mitigating features of the case. The aggravating features being lack of insight and conduct putting patients at risk. She submitted there are no mitigating features.

Ms Kennedy submitted that to take no further action or to impose a caution order would not be appropriate due to the seriousness of the case and the public protection issues identified. She submitted that a conditions of practice order would not be appropriate due to Mr Appiah-Danquah's lack of engagement and because conditions would not adequately address the serious attitudinal issues identified.

Ms Kennedy submitted that a suspension order for 12 months would adequately protect the public and satisfy the public interest concerns. It would also give Mr Appiah-Danquah a sufficient length of time to reengage with the NMC.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Mr Appiah-Danquah's limited insight
- Mr Appiah-Danquah's misconduct put patients at risk of suffering harm
- Mr Appiah-Danquah's misconduct related to his failure to provide fundamental nursing care

The panel did not identify any mitigating features in this case.

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 neither protect the public nor be 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 Mr Appiah-Danquah'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 Mr Appiah-Danquah's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the serious misconduct identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mr Appiah-Danquah's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

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 and Mr Appiah Danquah's non-engagement. The seriousness of the attitudinal issues identified in this case is not something that can be addressed simply through retraining. Furthermore, the panel concluded that the placing of conditions on Mr Appiah-Danquah'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;*
- *No evidence of repetition of behaviour since the incident;*

- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel considered that Mr Appiah-Danquah's conduct was serious and involved two patients during a single shift but can be deemed a single instance of misconduct. It considered that although it identified serious attitudinal issues, it had no evidence that they were deep seated and he had shown some insight. The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Mr Appiah-Danquah's case to impose a striking-off order.

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

The panel noted the hardship such an order will inevitably cause Mr Appiah-Danquah. However this is outweighed by the public interest in this case.

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

The panel determined that a suspension order for a period of 12 months was appropriate in this case to protect the public and mark the seriousness of the misconduct. The panel considered 12 months to be sufficient time for Mr Appiah-Danquah to engage with the NMC and provide evidence that he has developed his insight and strengthened his practice.

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

Any future panel reviewing this case would be assisted by:

- Mr Appiah-Danquah's engagement with the NMC and his attendance at a future hearing.
- A reflective statement outlining the events and any learning.
- Evidence of any steps Mr Appiah-Danquah has taken or training undertaken to strengthen his practice.
- Employment references and testimonials.

This decision will be confirmed to Mr Appiah-Danquah in writing.

Interim order

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

Submissions on interim order

The panel took account of the submissions made by Ms Kennedy. She submitted that an interim order is necessary on the grounds of public protection and in the public interest for a period of 18 months to cover the appeal period. She submitted that an interim suspension order would be appropriate and consistent with the panel's previous findings.

Decision and reasons on interim order

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

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

Mr Appiah-Danquah will be sent the decision of this hearing in writing.

That concludes this determination.