

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

Substantive Hearing

**Monday, 28 June 2021 – Friday, 9 July 2021,
Monday, 29 November 2021 – Friday, 3 December 2021
Tuesday, 19 April 2022 – Thursday, 21 April 2022**

Virtual Hearing

Name of registrant:	Joanna Joy Dapatnapo
NMC PIN:	06C0207O
Part(s) of the register:	Registered Nurse Adult Nursing – 10 March 2006
Area of registered address:	Essex
Type of case:	Misconduct
Panel members:	Adrian Smith (Chair, Lay member) Dorothy Keates (Registrant member) Jan Bilton (Lay member)
Legal Assessor:	Graeme Henderson
Panel Secretary:	Graeme King (28 June– 9 July 2021) Leigham Malcolm (29 November – 2 December 2021) Sharmilla Nanan (3 December 2021) Xenia Menzl (19 April – 21 April 2022)
Nursing and Midwifery Council:	Represented by Ben Edwards, NMC Case Presenter
Mrs Dapatnapo:	Present and represented by David Tyme, Rahman Lowe Solicitors
Facts proved by admission:	2a, 2b, 6, 10b & 10d
Facts proved:	1d, 7, 8 & 9
Facts not proved:	1a, 1b, 1c, 1e, 2c, 3, 4, 5, 10a, 10c, 11, 12 & 13

Fitness to practise:	Impaired
Sanction:	Caution Order, 3 years
Interim order	Not Applicable

Decision and reasons on application under Rule 19

At the outset of the hearing Mr Tyme, on your behalf, made an application for the entirety of the hearing to be held in private. He submitted that many of the allegations, if found proved, would amount to criminal offences. He advised the panel that there is no third party investigation into these matters at present, however that is liable to change. Mr Tyme further submitted that Patient A's witness statement contains allegations made against other healthcare professionals who are not party to these proceedings therefore unable to respond to any allegations. Mr Tyme also submitted that given the nature of the allegations, which include the overarching allegation that your conduct was guided by sexual gratification, it would be appropriate and in your interest that the hearing is held in private.

Mr Edwards, on behalf of the Nursing and Midwifery Council (NMC) did not oppose the application and agreed with Mr Tyme that the allegations before the panel today are of a sensitive nature.

The legal assessor advised the panel that Rule 19 of the Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004 (as amended 2012) (The Rules) states:

'(1) Subject to paragraphs (2) and (3) below, hearings shall be conducted in public.

(2) [...]

(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 also invited the panel to have regard to the interests of Patient A and drew the panel's attention to Rule 23 that states:

'(1) In proceedings before the Fitness to Practise Committee the following may be treated as vulnerable witnesses:

[...]

(e) Any witness where the allegation against the registrant is of a sexual nature and the witness was an alleged victim.'

The panel also had regard to Rule 23 (2) which states:

'(2) ..the Committee may adopt such measures as it consider necessary to enable it to receive the evidence of a vulnerable witness.'

The panel accepts that the general rule is that substantive hearings are expected to be held in public unless there is a good reason for them to be held in private. Having heard that allegations are likely to be made against other parties not present at this hearing and with regard to there being reference to sensitive matters and potential criminal conduct, the panel determined to hold the entirety of this hearing in private. It was satisfied that the need to protect your interest, and that of the other parties named in Patient A's witness

statement, outweighed the public interest in having this hearing held in public. It was also satisfied that holding the hearing in private was an appropriate measure to adopt in adducing the evidence of a vulnerable witness.