

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

**Substantive Hearing
13 January – 1 February 2022**

Virtual Hearing

Name of registrant:	Mrs Matilda Jane Farnell
NMC PIN:	13A2971E
Part(s) of the register:	RNA - Adult nurse, level 1 (18 October 2013)
Area of registered address:	Wakefield
Type of case:	Misconduct
Panel members:	Darren Shenton (Chair, lay member) Pauline Esson (Registrant member) Claire Rashid (Registrant member)
Legal Assessor:	John Donnelly
Panel Secretary:	Tyrena Agyemang
Nursing and Midwifery Council:	Represented by Ben Edwards, Case Presenter
Mrs Farnell:	Present and represented by Alexander Adam, Thompsons Solicitors
Facts proved by admission:	Charges 1c, 3a(i), 3c(ii), 3c(v), 3e(i), 5a, 5b, 7a(i), 7a(ii), 7a(iii), 7a(vi), 7f, 7g,
Facts proved:	Charges 1a, 1b, 1d, 1e, 1f, 2, 3a(ii), 3b 3c(i), 3c(iii), 3c(vi), 3c(vi), 3d, 3e(iii), 3e(iv), 3e(v), 4, 5c, 6, 7a(iv), 7a(v), 7b, 7c, 7d, 7e(i), 7e(ii), 8, 9, 10, 11 and 12
Facts not proved:	Charges 3a(iii) and 3e(ii)
Fitness to practise:	Impaired
Sanction:	Striking-off order

Interim order:

Interim suspension order (18 months)

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

At the outset of the hearing, Mr Adamou on your behalf, made a request that this case be held partially in private on the basis that proper exploration of your case involves reference to your health and the health of others. The application was made pursuant to Rule 19 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Edwards on behalf of the Nursing and Midwifery Council (NMC) did not oppose the application.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

Having heard that there will be references to your health and the health of others, the panel determined to hold such parts of the hearing in private. The panel determined to rule on whether or not to into private session as and when such issues are raised.

Details of charge

That you a registered nurse;

1. Behaved inappropriately towards Colleague A in that:

(a) On one or more occasions between 2014 and 2018 informed staff members that Colleague A would be "monitored by the matron" or words to that effect.

(b) On one or more occasions between 2014 and 2018 informed staff members that Colleague A "was under investigation" when she was not.

(c) On the 7th May 2015 refused to attend Queen Elizabeth's when instructed by Colleague A.

(d) On one or more occasions between 2014 and 2018 threatened to report Colleague A to the Wakefield Express newspaper.

(e) On one or more occasions between 2014 and 2018 informed staff members that Colleague A was "not qualified to be in the team" or words to that effect.

(f) On one or more occasions between 2014 and 2018 informed staff members that Colleague A "should not be in the post" or words to that effect.

2. Your actions in charge 1 above were intended to intimidate Colleague A and/or undermine her position as a Band 6 nurse.

3. Behaved inappropriately towards Colleague B in that:

(a) On one or more occasions in October 2016 ignored Colleague B by;

(i) Failing to engage in conversation with Colleague B

(ii) Left Colleague B out of conversations

(iii) Failed to answer any of Colleague B's questions

(b) Rude when answering questions from Colleague B

(c) On an occasion between October 2016 and April 2017 knowing that Colleague B had two dogs;

(i) Indicated that you hated dogs

(ii) Would not have them in your home

(iii) Would have them killed

(iv) Implied that Colleague B was not clean

(v) Saying, "I wouldn't trust my child or grandchild around dogs" or words to that effect.

(d) On an unknown date after the 6th December 2016 announced in front of Colleague B that, "it's great when your best friend is the manager because you can get away with anything and do what you want" or words to that effect

(e) Between October 2016 and April 2017 undermined Colleague B by;

(i) On one or more occasions questioned Colleague B's decision making

(ii) On one or more occasions sent emails intended for Colleague B when both were together in the Office

(iii) On one or more occasions refused to adhere to particular decisions made by Colleague B and/or going to the matron in respect of that decision

(iv) On one or more occasions failed to respond to Colleague B's emails

(v) On an unknown date between October 2016 and April 2017, with regards to a job interview said, "I might not go. I might stay and piss people off. It's not me that that needs to go" or words to that effect

4. Your actions in charge 3 above were intended to intimidate Colleague B and/or undermine her position as a Band 6 nurse.

5. Behaved inappropriately towards Colleague E by;
(a) Sending a message on social media stating, "I know that you have made a statement against me and I'm not happy" or words to that effect

(b) Posting a message on Facebook making reference to "two-faced people" or words to that effect

(c) Sending messages to staff in ICT in order that the intimidation and comments get back to Colleague E

6. Your actions in charge 6 5 were intended to intimidate Colleague E

7. Made inappropriate and/or threatening comments about ICT and/or management by;

(a) Saying the following to Colleague C on one or more occasions prior to the 4th April 2018;

(i) "I don't know why you chose to work in this team, there is no progression and it is a dead end job" or words to that effect

(ii) "ICT have a bad reputation and the other teams do not think highly of us" or words to that effect

(iii) "The DN do not like the senior nurses in ICT who do not have the District Nurse course and should not be given a Band 6 like them" or words to that effect

(iv) [PRIVATE]

(v) "I am not using my laptop, it can stay in the boot where it belongs" or words to that effect

(vi)“All staff are unhappy here due to management and being unfairly treated” or words to that effect

(b) Saying to Colleague E the following:

- (i) On one or more occasions “I’m going to take them bitches down” or words to that effect, referring to Colleague D and Colleague F
- (ii) On one or more occasions prior to the 10th April 2018 when referring to Colleague D and Colleague F, made a gun gesture using your fingers and said, “bang, bang” or words to that effect
- (iii) On one or more occasions prior to the 10th April 2018 when referring to Colleague D and Colleague F, “I bet they are awful mothers and I bet their kids would hate them, I’d hate to be married to them” or words to that effect
- (iv) On one or more occasions prior to the 10th April 2018 when referring to Colleague D and Colleague F, “if them bitches finish me, my son Matthew will come in and wipe the floor with them” or words to that effect
- (v) On one or more occasions prior to the 10th April 2018 when referring to Colleague D indicated that you had someone higher up in management who would “deal with Colleague D” or words to that effect
- (vi) On one or more occasions prior to the 10th April 2018 when referring to Colleague B that “Colleague B was disgusting and wasn’t good at her job” or words to that effect

(vii) On the day that you were suspended when referring to Colleague F “that bitch Colleague F has put all these allegations against me“, “find out where she lives for me and ask that girl that lives in Barnsley who worked at ICT where her kids go to school”, “Oh no am gonna kill Colleague F” or words to that effect.

(c) Saying to staff on one or more occasions on unknown dates between 2014 and 2018 that you would “prevent Colleague D from getting a job in Australia” or words to that effect

(d) Saying to Colleague D on one or more occasions in and around 2016 that you had “reported her to the NMC for forcing you to administer IV therapy at patients’ homes” or words to that effect

(e) Mentioning in front of Colleague A on an unknown date when referring to Ms1;

(i) “somebody better call the police because there is going to be a murder” or words to that effect

(ii) “my husband is going to come for Ms 1” or words to that effect

(f) Mentioning to Colleague B on an unknown date;

(i) That the Trust was “rubbish” or words to that effect

(ii) That you “would not have your family being taken care of by the Trust” or words to that effect

(iii) That you “would have your family taken care of somewhere else” or words to that effect

(g) Placing messages on Facebook and/or WhatsApp messenger

8. Your comments in Charge 7a were intended to intimidate Colleague C
9. Your actions in Charge 7b were intended to intimidate Colleague D and/or Colleague F
10. Your actions in charge 7c and/or 7d were intended to intimidate Colleague D
11. On or before the 5th April 2018 requested a colleague to complete your online mandatory training for you
12. Your actions in charge 11 were dishonest in that you attempted to deceive your employer into believing that you carried out the said training when you had not.

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

Decision and reasons on application to amend the charge

The panel heard an application made by Mr Edwards, to amend the wording of charge number 6. The proposed amendment was to correct the charge referred to, as outlined below:

That you a registered nurse;

...

6. Your actions in charge 6-5 were intended to intimidate Colleague E

Mr Edwards submitted that this was a typographical error.

The proposed amendment was to amend the charge referred to in charge 6 to charge 5, as it is clear it is a typographical error.

The panel heard from Mr Adamou who had no objections to the amendment and agreed that this was a typographical error.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

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 you 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 facts

At the outset of the hearing, the panel heard from Mr Adamou, who informed the panel that you made admissions to charges 1c, 3a(i), 3c(ii), 3c(v), 3e(i), 5a, 5b, 7a(i), 7a(ii), 7a(iii), 7a(vi), 7f, 7g.

The panel therefore finds charges 1c, 3a(i), 3c(ii), 3c(v), 3e(i), 5a, 5b, 7a(i), 7a(ii), 7a(iii), 7a(vi), 7f, 7g, proved by way of your admissions.

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 Mr Edwards and by Mr Adamou.

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 A: Band 6 Nursing Coordinator at The Trust
- Colleague B: Band 6 Nursing Coordinator at The Trust
- Colleague C: Band 6 Nursing Coordinator as part of the Integrated Care Team (ICT)
- Colleague D: Locality Matron Adult Community Services
- Colleague E: Healthcare Support Worker
- Colleague F: Team Leader for Adult Community Services
- Colleague G: Matron for Nurse Staffing at Pinderfields General Hospital
- Colleague H: Clinical IT Manager at the Bungalow

The panel also heard evidence from you under affirmation and the witness called on your behalf:

- Ms 2: Band 6 Nursing Coordinator

Background

You were employed as a Healthcare Assistant in the Community Rapid Response Team at Mid Yorkshire NHS Trust from 2008. On 18 October 2013 you joined the NMC Register as registered nurse and worked as a Community Staff Nurse for Mid Yorkshire NHS Trust.

Approximately around November 2013, you made a complaint against the District Manager of Outwood Medical Centre, claiming you had been bullied and unsupported. You also threatened to submit a complaint against Locality Matron at the time.

Following your complaints, you were moved into a different team (the Horbury team). Soon after this, you made a complaint about your new manager. At your request, you were moved to a different team, but you made further complaints about your new manager (these were of a similar nature to the previous complaints that you had made). The complaints were investigated by Colleague D and were found to be unsubstantiated. You were then moved to the Rapid Response Team.

The charges arose whilst you were employed as a Community Staff Nurse at The Bungalow in Castleford, Wakefield which is a part of Mid Yorkshire NHS Hospitals Trust ("the Trust"). You were referred to the NMC by the Director of Nursing and Quality/ Deputy CEO on 21 February 2019 in relation to the following allegations between 2014 and 2018:

1. Bullying of members of staff
2. Making inappropriate and threatening comments about management to staff.
3. [PRIVATE]
4. Inappropriately used Facebook and social media.
5. Dishonesty in completion of on-line mandatory training
6. Failed to use your laptop as required.

Following an internal investigation by the Trust, you were dismissed on 29 October 2018. Following an appeal, on 10 January 2019, the decision to terminate your employment was upheld.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. The legal advice included reference to relevant case law, *Dutta, R (On the Application Of) v General Medical Council (GMC)* [2020] EWHC 1974 (Admin), *Suddock v NMC* [2015] EWHC 3612 (Admin), *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin), *Enemuwe v NMC* [2015] EWHC 2081, not being swayed by the decision of the local investigation. *Wisson v HPC* [2013] EWHC 1036, which provides guidance on good character, *Ivey v Genting Casinos* [2017] UKSC 67, or *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67 which sets out the test for dishonesty and *Lavis v NMC* [2014] EWHC 4083 (Admin) which gives guidance for panels when determining a registrant's state of mind.

The panel considered the witnesses and documentary evidence provided by both the NMC and Mr Adamou on your behalf.

Whilst considering each disputed allegation and the witness evidence presented in support of it, the panel considered the witnesses and their evidence individually, but also identified that there was a wide-ranging spectrum of seniority and service within the Trust that spoke of a pattern of behaviour that had been experienced from different perspectives.

The panel also noted that the thrust of your denials of the allegations were in large part on the basis of there being a conspiracy against you, for an unidentified purpose, orchestrated by Colleague D. Whilst this was not contained within your written submissions, it featured strongly in your oral evidence to the panel.

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

Charge 1a

1. Behaved inappropriately towards Colleague A in that:

- (a) On one or more occasions between 2014 and 2018 informed staff members that Colleague A would be “monitored by the matron” or words to that effect.

This charge is found proved.

In reaching this decision, the panel took into account your oral evidence, oral evidence from Colleague A, Ms 2 and the documentary evidence.

The panel considered that the evidence of Colleague A was cogent and consistent with her witness statements. The panel considered the evidence from Colleague A that when she first met you, you *‘wasn’t very kind or respectful towards me’* and during live evidence she told the panel that she had felt undermined by you. The panel noted that there was a reoccurring theme of negativity from you in the evidence given by all the NMC’s witnesses.

The panel considered file notes Colleague A had made dating back to 2015 stating:

‘I am deeply upset about Tilly behaviour and the undue stress she cause’s me, I felt quite depressed about her constant negative comments passed to me either indirectly about me or her committing about the team or the trust’ sic.

The panel also considered the evidence from Colleague A, in the investigation interview minutes dated 8 June 2016 where she refers to being challenged and feeling undermined by you. She also stated she could see a pattern of behaviour with a new Band 6 nurse: *‘I see those same things that she did with me, now with our newly appointed Band 6.’*

The panel considered these comments are examples of how you voiced negativity to new members of staff.

The panel considered that the accounts of the witnesses were similar in nature and therefore presented a pattern of negative behaviour on your part. As such the panel concluded that it was more likely than not that you did say words to the effect as a form of bullying behaviour to intimidate Colleague A and therefore find this charge proved.

Charge 1b)

1. Behaved inappropriately towards Colleague A in that:
 - (b) On one or more occasions between 2014 and 2018 informed staff members that Colleague A “was under investigation” when she was not.

This charge is found proved.

In reaching this decision, the panel took into account oral evidence from Colleague A and the documentary evidence.

The panel considered the Oxford Dictionary definition of intimidation: “*having a frightening or overawing or threatening effect.*”

The panel considered that you have been described as being ‘*a big character*’ in the office and that you could be ‘challenging’ when you disagreed with the Trust’s processes. The panel also considered Colleague A evidence from the investigation interview minutes dated 8 June 2016, that ‘*I feel she just says things to get a reaction from people.*’ The panel considered that telling other members of staff would be undermining to Colleague A positions as senior nurse and that you were comfortable in challenging senior staff.

The panel considered Colleague A’s evidence that she was present during some of the outburst, although she was unable to date them. Colleague A also stated that she no longer felt intimidated by you once she had spoken to the Matron, citing that there had either been an investigation or conversation about the concerns Colleague A had and the statement that she would be monitored.

The panel concluded on that evidence, that it was more likely than not that you did say words to that effect as this resulted in Colleague A speaking to the Matron and therefore find this charge proved.

Charge 1d)

1. Behaved inappropriately towards Colleague A in that:

(d) On one or more occasions between 2014 and 2018 threatened to report Colleague A to the Wakefield Express newspaper.

This charge is found proved.

In reaching this decision, the panel took into account your oral evidence, the oral evidence from Colleague A and the documentary evidence including the interview minutes referred to above and the witness statement of Colleague A. The panel particularly noted reference to an unconnected article in which you appeared in the Yorkshire Evening Post, criticising your Trust which your colleagues would have been aware of through social media.

The panel considered the following from Colleague A's evidence:

'I remember one of the things that she got quite irate about was I was talking about Palliative Care patients and whether they fitted our criteria and she was on about going to the papers, going to the Wakefield Express with this information and I was like "Why? We've got a criteria". I used to challenge her a lot and I think because I challenged her, it just used to goad her even more.'

The panel considered that because Colleague A would challenge you, you continued to display a repetitive pattern of challenging behaviour towards Colleague A. The panel considered that you would have been aware of the effect a threat of this nature would have had on Colleague A and the Trust. That panel further considered that you were very

vocal in expressing your displeasure with decisions made by management and that you would regularly make threats of this nature in the office. The panel considered the previous evidence that you would consistently challenge Colleague A and even the trust processes. Therefore, on the balance of probabilities the panel find this charge proved.

Charge 1e) and 1f)

1. Behaved inappropriately towards Colleague A in that:

(e) On one or more occasions between 2014 and 2018 informed staff members that Colleague A was “not qualified to be in the team” or words to that effect.

(f) On one or more occasions between 2014 and 2018 informed staff members that Colleague A “should not be in the post” or words to that effect.

These charges are found proved.

In reaching this decision, the panel took into account the oral evidence from Colleague A and the documentary evidence. The panel considered that there was an ongoing campaign of negativity from you towards Colleague A and that you would challenge her authority on numerous occasions.

The panel is aware that you would make verbal statements in the office and were undermining towards Colleague A. The panel also noted that statements were written at the time which further supported this allegation and that a file note from Colleague A detailing the incident also supported this account.

The panel also considered the effects comments like these were having on Colleague A and that she reports them in her statement on 7 May 2015: *‘At times I don’t want to continue to work in this team.’*; that this would have had a threatening effect on Colleague A.

The panel considered that the evidential threshold was met and therefore found this charge proved.

Charge 2)

2. Your actions in charge 1 above were intended to intimidate Colleague A and/or undermine her position as a Band 6 nurse.

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence of Colleague A, Ms 2 and your oral evidence.

The panel considered all the evidence from Colleague A, the prolonged pattern of negative behaviour and the undermining effect your behaviour had on her. Whilst your actions had a distressing effect on Colleague A, once she had spoken to the Matron, and realised the threat was not real, she no longer felt intimidated by you. The panel is of the view based on all of the evidence, that your actions were intended to intimidate Colleague A and therefore find this charge proved.

Charge 3a(ii)

3. Behaved inappropriately towards Colleague B in that:
 - (a) On one or more occasions in October 2016 ignored Colleague B by;
 - (ii) Left Colleague B out of conversations

This charge is found proved.

In reaching this decision, the panel took into account your oral evidence and the evidence from Colleague B. [PRIVATE]. As a result, you told the panel that you restricted your conversations with Colleague B and failed to engage in conversation with her. The panel is of the view that it is more likely than not this would include you leaving her out of conversations if they involved personal matters.

The panel noted that when you were in the office discussing personal matters, and Colleague B was also present, you would leave her out of the conversation and was satisfied that this was a form of punishment for betraying your trust. The panel was satisfied this was an accurate account and therefore find this charge proved.

Charge 3a(iii)

3. Behaved inappropriately towards Colleague B in that:
 - (a) On one or more occasions in October 2016 ignored Colleague B by;
 - (iii) Failed to answer any of Colleague B's questions

This charge is found not proved.

In reaching this decision, the panel took into account your oral evidence and the evidence from Colleague B. The panel considered all the evidence and the history between yourself and Colleague B and determined there was insufficient evidence to support the charge. The panel was aware that you felt there had been a breach of trust between yourself and Colleague B and as a result you restricted your conversation to work related topics and would not discuss personal issues with Colleague. It was clear that you did not fail to answer 'any' of Colleague B's questions and therefore this charge is found not proved.

Charge 3b) 3c(i) 3c(iii) and 3c(iv)

3. Behaved inappropriately towards Colleague B in that:
 - (b) Rude when answering questions from Colleague B

 - (c) (i) Indicated that you hated dogs
 - (iii) Would have them killed
 - (iv) Implied that Colleague B was not clean

These charges are found proved.

In reaching this decision, the panel took into account the oral evidence from you, Colleague B and the documentary evidence.

The panel took account evidence from Colleague A in the way that you would address her. The panel also considered Colleague B's evidence when she stated, *'you had to be there to truly understand the context of the conversation.'* She talked about tone and context and how what you said made her feel due to the implications you were making.

The panel noted the evidence from Colleague B in her witness statement that stated:

"The Registrant was also quite rude to me and would talk about certain things that would upset me."

The panel considered the repetitive theme that you would intentionally say things either directly or indirectly to upset staff. The panel considered the evidence in which Colleague B describes asking you about your hair and your response to her was hostile, with no explanatory cause.

The panel considered the detailed evidence Colleague B gave describing the incident when you were in the office discussing dogs. Having known Colleague B for three years, it was common knowledge that she owned dogs and that having an open discussion like this would inevitably cause her some distress. Colleague B told the panel that your conversation about dogs and your dislike for them *'went on for about an hour or so.'* and when she tried to interject to make light of the conversation you *'shut her down'*.

Colleague B told the panel that *'I felt that everything she said was to belittle me'* and that *she felt like comment you made were aimed at her.* This made Colleague B feel *'pathetic'* and *'demoralised'*. The panel considered these to be direct incidents witnessed by Colleague B and not hearsay evidence. Although you denied saying these things, it is clear a conversation did occur, and Colleague B was clear and concise about what was

said during the conversation. She was also clear that other members of staff had witnessed this conversation. The panel also considered the effects your actions had on Colleague B with her not wanting to be at work, looking for another job and feeling unwell, which is also similar to the evidence of Colleague A.

The panel reviewed the evidence in relation to these charges and was satisfied that there is sufficient evidence, on the balance of probabilities, to prove them.

Charge 3d)

3. Behaved inappropriately towards Colleague B in that:

- (d) On an unknown date after the 6th December 2016 announced in front of Colleague B that, "it's great when your best friend is the manager because you can get away with anything and do what you want" or words to that effect

This charge is found proved.

In reaching this decision, the panel took into account the oral and documentary evidence from Colleague B. The panel considered the evidence of Colleague B as first-hand evidence and not hearsay. Colleague B again was clear and concise about what you said regarding your best friend being the manager.

There is considerable witness evidence before the panel that demonstrates a pattern of behaviour leading to the intimidation of staff. Being fully aware that Colleague B was in the office you were deliberate in mentioning your best friend is the manager, so that it could be overheard by staff.

Colleague D also corroborates the allegation in the charge and gives similar account in her evidence regarding a 'high up friend'. Colleague A in her evidence also, outlines that Colleague D was trying to find out who the friend was.

The panel considered that there is sufficient evidence that would support these charges and therefore find this charge proved.

Charge 3e(ii)

3. Behaved inappropriately towards Colleague B in that:

(e) Between October 2016 and April 2017 undermined Colleague B by;

(ii) On one or more occasions sent emails intended for Colleague B when both were together in the Office

This charge is found not proved.

In reaching this decision, the panel took into account all the evidence from yourself, Colleague B and the documentary evidence.

The panel carefully considered the wording of this charge and determined that there is insufficient evidence that supports this charge. The panel noted that emails were sent by you, but they were not intended for Colleague B. Therefore, the panel find this charge not proved.

Charge 3e(iii)

3. Behaved inappropriately towards Colleague B in that:

(e) Between October 2016 and April 2017 undermined Colleague B by;

(iii) On one or more occasions refused to adhere to particular decisions made by Colleague B and/or going to the matron in respect of that decision

This charge is found proved.

In reaching this decision, the panel took into account of the documentary evidence submitted by Colleague B and her oral evidence. The panel considered the incidents outlined by Colleague B, where you had disagreed with a decision she had made and then sent an email to the Matron or when you would jump into the conversation not directly involving yourself and tell the member of staff involved to call the Matron.

Colleague B also states in her evidence:

'Another little issue that continued where I feel that she was trying to demean my work, to pick apart my work. She would question my decision making.... Sending emails to our Matron, ...'

The panel noted a further example detailed by Colleague A which describes a similar incident which reflects the of culture of negative and threatening behaviour.

The panel also considered the issues surrounding the Intravenous (IV) Antibiotics and that in this situation you have challenged the decision of your manager.

The panel considered this behaviour to be inappropriate and unprofessional. The panel considered your position as junior nurse and that you were inappropriately challenging a member of senior staff. The panel considered this to be another example of your behaviour that contributed to the existing pattern of intimidation and bullying and find this charge proved.

Charge 3e(iv)

3. Behaved inappropriately towards Colleague B in that:
 - (e) Between October 2016 and April 2017 undermined Colleague B by
 - (iv) On one or more occasions failed to respond to Colleague B's emails

This charge is found proved.

In reaching this decision, the panel took into account the oral and documentary evidence of Colleague B and your oral evidence.

The panel considered the evidence provided by Colleague B was consistent and cogent and by this point can see a clear pattern of your behaviour. Colleague B was clear that emails were sent to direct to you with no reply received on more than one occasion. The panel therefore find this charge proved.

Charge 3e(v)

3. Behaved inappropriately towards Colleague B in that:

(e) Between October 2016 and April 2017 undermined Colleague B by;

(v) On an unknown date between October 2016 and April 2017, with regards to a job interview said, "I might not go. I might stay and piss people off. It's not me that that needs to go" or words to that effect.

This charge is found proved.

In reaching this decision, the panel took into account your oral evidence, the oral evidence of Colleague B and all the documentary evidence.

The panel considered your admission that you were looking for a job at the time, but you deny making this comment. The panel considered all its previous findings and that you wanted to make Colleague B and other staff uncomfortable. The panel considered that this incident was in line with the negative pattern of behaviour and preferring the account of Colleague B, find this charge proved.

Charge 4

4. Your actions in charge 3 above were intended to intimidate Colleague B and/or undermine her position as a Band 6 nurse.

This charge is found proved.

In reaching this decision, the panel took into account your oral evidence all the oral and documentary evidence of Colleague B and yourself. The panel considered that there was compelling evidence from the accounts provided that your actions were indeed intended to intimidate Colleague B as you had done with Colleague A and to other members of staff.

The panel therefore find this charge proved.

Charge 5

5. Behaved inappropriately towards Colleague E by;

(c) Sending messages to staff in ICT in order that the intimidation and comments get back to Colleague E

This charge is found proved.

In reaching this decision, the panel took into account your oral evidence, the oral and documentary evidence of Colleague E and your evidence.

The panel considered Colleague E to be a compelling and reliable witness that wanted to help the panel and equally at times was supportive of you. Colleague E was a Healthcare Support Worker who regularly worked under your supervision on a one-to-one basis operationally, often on night duty.

The panel considered the evidence of Colleague E to be fair and without side. The panel considered the vivid descriptions provided by Colleague E gave significant weight to the reality of the circumstances, atmosphere of the events she described.

The panel noting your admissions to charges 5a and 5b, considered that there is sufficient evidence to support this charge. You told the panel you were angry at being reported to management and that you did post indirect messages on social media referring to two-

faced people. At this point you were aware the Colleague E had given a statement against you, as you had blocked her from all your social media and were no longer talking to her.

The panel particularly noted Colleague E's evidence that '*staff were at the end of their tether*' when describing the impact your behaviour had upon your colleagues.

Charge 6

6. Your actions in charge 5 were intended to intimidate Colleague E

This charge is found proved.

In reaching this decision, the panel took into account of the oral evidence and documentary evidence from Colleague E and your evidence.

The panel considered the impact your actions had on Colleague E and further referred to her witness statement which states:

I have suffered intimidation from the Registrant through social media. The Registrant sent me a message on social media which said words to the effect of "I know you have a statement against me and I'm not happy!"... Following the message, the Registrant put a post a on Facebook which made reference to two-faced people. The Registrant did not mention me in this post but I felt that it was directed towards me."

The panel found it hard to imagine any other reasons for sending a messages of this nature and posting on Facebook referencing two faced people, other than to intimidate Colleague E.

The panel considered the constant theme of negativity and intimidation that you were responsible for and therefore determined there is sufficient evidence to support this charge and therefore find it proved.

Charge 7a (iv)

7. Made inappropriate and/or threatening comments about ICT and/or management by;

(a) Saying the following to Colleague C on one or more occasions prior to the 4th April 2018;

(iv) [PRIVATE]

This charge is found proved.

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

The panel considered that these comments were heard first-hand by Colleague C and are not hearsay. The comments were also corroborated by a post you put on Facebook which references the same subject. The panel also considered that you have admitted to saying other comments detailed by Colleague C. The panel heard considerable witness evidence that you were an influential character, who made innumerable comments within the office for all to hear as a method of spreading negativity.

The panel noted in the evidence that you said you were sending your work-related emails to your GP, who was concerned about your treatment. This was never confirmed but it is clear you thought you were being unfairly treated. Based on the balance of probabilities, the panel find this charge proved.

Charge 7a(v)

7. Made inappropriate and/or threatening comments about ICT and/or management by;

(a) Saying the following to Colleague C on one or more occasions prior to the 4th April 2018;

(v) “I am not using my laptop, it can stay in the boot where it belongs” or words to that effect

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Colleague C and your evidence. The panel noted and carefully considered the tone and context implied in this comment. This comment was directly heard by Colleague C who recorded it in a file note along with other comments you made in the office.

The panel noted that all staff were aware of the ongoing issues with laptops and their connectivity. In your evidence, you did not deny that you kept your laptop in the boot, but you told the panel, this is where you kept the laptop when you are not using it.

The panel again classed this as another inappropriate comment, as Colleague C was new to the team and had no reason to be untruthful. The panel note that she had only been in post for six months when she felt it necessary to report your comments. The panel found her evidence reliable and consistent. The panel therefore find this charge proved.

Charge 7b

7. Made inappropriate and/or threatening comments about ICT and/or management by;

(b) Saying to Colleague E the following:

(i) On one or more occasions “I’m going to take them bitches down” or words to that effect, referring to Colleague D and Colleague F

(ii) On one or more occasions prior to the 10th April 2018 when referring to Colleague D and Colleague F, made a gun gesture using your fingers and said, “bang, bang” or words to that effect

(iii) On one or more occasions prior to the 10th April 2018 when referring to Colleague D and Colleague F, “I bet they are awful mothers and I bet their kids would hate them, I’d hate to be married to them” or words to that effect

(iv) On one or more occasions prior to the 10th April 2018 when referring to Colleague D and Colleague F, “if them bitches finish me, my son Matthew will come in and wipe the floor with them” or words to that effect

(v) On one or more occasions prior to the 10th April 2018 when referring to Colleague D indicated that you had someone higher up in management who would “deal with Colleague D” or words to that effect

(vi) On one or more occasions prior to the 10th April 2018 when referring to Colleague B that “Colleague B was disgusting and wasn’t good at her job” or words to that effect

(vii) On the day that you were suspended when referring to Colleague F “that bitch Colleague F has put all these allegations against me“, “find out where she lives for me and ask that girl that lives in Barnsley who worked at ICT where her kids go to school”, “Oh no am gonna kill Colleague F” or words to that effect.

These charges are found proved.

In reaching this decision, the panel took into account the evidence of Colleague E both oral and documentary the evidence of Colleague F, your evidence and the evidence of Colleague B.

The panel has already stated above that it found Colleague E to be a credible witness who tried to help the panel and was consistent. The panel considered Colleague E's evidence that she gave careful consideration on the matter before reporting it to management and that it took her some time to bring it to the management's attention.

Colleague E gave a consistent account of the gun gesture incident and gave the panel a clear picture of what was discussed while you worked together on night shifts. The matter was reported to management when Colleague E and another colleague had been overheard discussing the comments.

You told the panel in your oral evidence that Colleague D was to blame for you always being in the office and that Colleague D was the route and source of the negative issues. It was clear in your evidence that you had a strong dislike of Colleague D.

The panel referred to the witness statement of Colleague F who explained that the concerns were first raised by Colleague E and the concerns were escalated with staff taking necessary precautions and being in genuine fear. The panel considered all the actions taken by the staff as a result of your comments. These included staff locking doors to the office and the husband of a Colleague D attending work to escort her home at the end of her duties. Colleague F also thought she was being followed from work. It was clear your comments were believed by staff and managers.

The panel noted that you provided a simple denial to these allegations.

In your own evidence you told the panel that you made a formal grievance against colleague D, but none of your claims were substantiated.

The panel assessed all the evidence in relation to these charges, the panel find these charges proved.

Charge 8

8. Your comments in Charge 7a were intended to intimidate Colleague C

This charge is found proved.

The panel took into account the evidence Colleague E and C when considering this charge. The panel considered your repeated negativity and intimidation with staff you worked with.

The panel considered the evidence of Colleague E and her consistency regarding your conversations about management while you were working together. The panel determined that your action in relation to charge 7a were intended to intimidate Colleague C and therefore find this charge proved.

Charge 9

9. Your actions in Charge 7b were intended to intimidate Colleague D and/or Colleague F

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Colleagues D, F and your evidence.

The panel considered that if were to take the view that anything said would have been leaked, you were also aware that this would happen. The panel determined that your actions were done on purpose. The comments were said with the intention that they would get back to Colleagues D and F, with the background knowledge of your open hostility to towards these two members of staff. The panel therefore find this charge proved.

Charge 10

10. Your actions in charge 7c and/or 7d were intended to intimidate Colleague D

This charge is found proved

In reaching this decision, the panel took into account the evidence of Colleague D who was clear and cogent about your behaviour and how it made her feel.

The panel found it hard to imagine any other reasons for your actions other than to intimidate Colleague D. The panel considered the constant theme of negativity and intimidation that you were responsible for and therefore determine there is sufficient evidence to support this charge and find it proved.

Charge 11

11. On or before the 5th April 2018 requested a colleague to complete your online mandatory training for you

This charge is found proved

In reaching this decision, the panel took into account oral and documentary evidence from you. It noted that the online mandatory training was for medicines management, a fundamental requirement of a registered nurse's core role.

The panel considered the common knowledge that this colleague was inappropriately completing training on behalf of other members of staff. When questioned you told the panel that this member of staff was the 'expert' in finding and downloading the training information, but the panel considered that there would have been other members of staff who would have completed the training before you and would have been able to assist. The panel was of the view that you chose this particular member of staff because you knew she would also complete the training for you. It was highlighted during the evidence that the training was downloaded at around midnight during a night shift when you were not present. The panel further recognised this represented a breach in security, by leaving

your personal access smartcard and password (login facility) with another member of staff. You were fully aware that you should never give your personal access smartcard to another member of staff.

You told the panel that it was only your intention that the member of staff to whom you had given your access card was for her to download the online material for you to complete later. However, you did not remain with her whilst she accessed your account. She completed your online training during the course of a night shift when you were not on duty. The completion of this training generated a notification to your manager confirming you had completed your training. The panel then considered your actions once you had been made aware that the training had been completed on your behalf. You did not go to your manager to report the incident, which is what as a registered nurse you should have done, but instead kept the information to yourself. You told the panel that you did not report the matter as you feared you would not be believed.

The panel determined there was sufficient evidence before it that would suggest you did not ask the member of staff to not only download the training, but to complete it as well. Therefore, the panel find this charge proved.

Charge 12

12. Your actions in charge 11 were dishonest in that you attempted to deceive your employer into believing that you carried out the said training when you had not

This charge is found proved

In reaching this decision, the panel took into account your oral and documentary evidence. As stated above, you attempted to conceal the fact that you had not completed the training yourself by not reporting the matter once it was discovered by you, if your account of events was to be accepted. The panel considered that any training involving medicines management to be extremely important as administering medication is a fundamental part

of nursing. A nurse who has not completed the necessary mandatory training is a risk to patients in her care.

The panel considered your lack of concern or surprise when purportedly learning that the HCA had completed the training on your behalf of her own volition. The panel further noted your failure to alert any senior staff of this event and indeed your failure to subsequently make amends by completing the course yourself. Any fully informed reasonable person when considering this mandatory training requirement, you giving your smartcard and password to someone else to complete the training, then not reporting the matter afterwards, would consider your actions to be a dishonest attempt to persuade your manager and others that you had actually completed the training when you knew you had not.

The panel therefore find this charge 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 your 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, your fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct and impairment

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.'* Mr Edwards also referred the panel to *Calhaem v GMC* [2007] EWHC 2006 (Admin) in which Mr Justice Jackson comments on the definition of misconduct. He stated: *'it connotes a serious breach which indicates that the doctor's fitness to practise is impaired.'* And to the case of *Nandi v GMC* [2004] EWHC 2317 (Admin) in which Mr Justice Collins states: *"the adjective 'serious' must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners."*

Mr Edwards submitted that the facts found proved amount to misconduct and invited the panel to take the view that all the charges found proved or indeed admitted by you amount to misconduct. The panel had regard to the terms of 'The code: Standards of conduct, performance and ethics for nurses and midwives 2008 (the Code) and 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015 (the Code) in making its decision.

Mr Edwards identified the specific, relevant standards, with reference to the Codes where your actions amounted to misconduct. He told the panel that your actions fell below the standards expected of a registered nurse. He told the panel that the charges involving threats to Colleague D and F are particularly serious as well as charges 7b(i) and 7b(ii) which relate to the comments of *'taking them down'* and the gun gesture. He told the panel that regardless of whether you would actually undertake this threat, it had a significant effect on them.

Mr Edwards 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 cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin). He also invited the panel to consider the case of *Cohen v General Medical Council* [2008] EWHC 581 (Admin) which gives guidance on assessing a registrant's fitness to practice.

Mr Edwards submitted that the facts found proved do amount to misconduct and he told the panel that limbs b, c and d of the Grant test are engaged. He submitted that limb a was not engaged as there is no suggestion that your actions were intended to put patients at risk of harm.

Mr Edward submitted that based on the facts found proved, the panel must make a finding of impairment to address the public interest concerns, maintain confidence in the professions and the NMC as a regulator.

Mr Edwards told the panel that the allegations relate to attitudinal and behavioural concerns which are difficult to remediate. He told the panel that your behaviour has not been remedied and that dishonesty is particularly difficult to remediate and demonstrate remediation. He submitted that members of the public expect nurses to act with integrity and honesty at all times.

Mr Edwards told the panel that despite your reflection piece, there is a severe lack of insight, understanding and reflection on your part. He told the panel that there is no regard for the people your behaviour impacted and that your lack of insight and attitudinal issues at present, increase the likelihood of you repeating this negative conduct.

Mr Edwards told the panel that you worked as a Healthcare Support Worker for number of years and then to your credit, you became a registered nurse and have been practicing for over eight years. He submitted that you should have known your behaviour was unacceptable.

Mr Edwards told the panel that you lack insight and display serious attitudinal issues. He told the panel there is no evidence of remediation and other nurses in the profession would be appalled and members of the public, disgusted if they were made aware of the charges found proved against you. He told the panel that there is also a risk that such behaviour could spill over into patient care and that public protection is also a matter for the panel to consider. He addressed the incomplete mandatory training, which he submitted posed a real risk to patients in your care. He therefore invited the panel to make a finding of impairment on public protection grounds as well.

Mr Adamou referred the panel to the NMC rules for its consideration and submitted that not all breaches of NMC Code necessarily constitute misconduct and not all misconduct will be sufficient to impair a registrant's fitness to practise. He told the panel that it may want to consider what mitigation was present at the time. [PRIVATE]

Mr Adamou also told the panel that you thought other nurses felt the same as you and had also engaged in this behaviour. This he stated was not an excuse, but for the panel's consideration.

Mr Adamou told the panel that this is not a lack of competence case. He referred the panel to the relevant case law, which included (*Enemuwe v NMC* [2016] EWHC 1881 (Admin)), *Nandi v General Medical Council*, *Roylance v General Medical Council*, *Meadow v. General Medical Council and "* (*R (Remedy UK Ltd) v General Medical Council* [2010] EWHC 1245 (Admin)), which gives guidance on whether the conduct must be "sufficiently serious that it can properly be described as misconduct going to fitness to practise".

Mr Adamou told the panel that when considering the charges, some by themselves did not amount to misconduct, but as a whole, they do. He invited the panel to assess whether your behaviour contravened the NMC Code. He referred the panel to relevant parts of the code and submitted that although your behaviour was negative, it did not stop anyone from carrying out their role, working as a team and completing their workload. He told the panel that the work was completed regardless of anyone's feelings or comments.

Mr Adamou told the panel that you went too far in sharing your feelings and experiences, but there was no discrimination and no evidence to suggest you discriminated against any members of staff. He asked the panel to consider that because an action has a profound impact, it doesn't mean that it is so serious and should amount to misconduct. He told the panel that it must assess each charge in turn and determine whether each charge amounts to misconduct.

Mr Adamou then went on to address impairment. He submitted that impairment is a forward-thinking exercise, and the panel must determine whether you are impaired today. He referred the panel to the cases of Grant, Cohen, Meadow, Zygmunt v. General Medical Council [2008] EWHC 2643 (Admin) and the Scottish appeal case, *Professional Standards Authority for Health and Social Care v NMC* [2017] CSIH 29 for the panel's consideration.

Mr Adamou stated that remediation in these circumstances is not easy, but he asked the panel to consider the steps you have taken. He told the panel that you have a new job in a new Trust, and this has contributed to your remediation. He told the panel that there have been no further concerns or repeated behaviour since your move, and you have been practising unrestricted. He referred the panel to your character references that talk about your attitude and resilience.

Mr Adamou agreed with Mr Edwards that limbs b, c and d of the Grant test are engaged. He told the panel that this is a career that you are passionate about and that you want to remain practising. He referred the panel to your most recent reflection, which states you do not want to repeat your negative behaviour. Mr Adamou conceded that you did act dishonestly regarding the training, but it was an isolated incident and opportunistic. He stated that you took advantage of the circumstances, and this is not something you would repeat in future.

Mr Adamou invited the panel to consider that some of the charges are eight years old with the most recent at four years ago. He asked the panel to consider whether there is a need for a penalty considering this has been affecting you for all this time.

Regarding insight, Mr Adamou told the panel that you are developing your insight, but it would be unfair for the panel to expect you to fully develop sufficient insight and have a change of perspective, since the charges were found proved and you had denied them. Despite your denial, Mr Adamou told the panel that you understand the impact your behaviour would have had. He told the panel that you are determined not to repeat any past behaviour.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, Emmanuel Towuaghantse v GMC 2021 EWHC 681 Para 66 and 67, Sayer v GOC 2021 EWHC 379 Para 25 and PSA v GMC Uppal [2015] EWHC 1304 and PSA v HCPC Roberts [2020] EWHC 1906.

Decision and reasons on misconduct

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

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

The 2008 Code:

The people in your care must be able to trust you with their health and wellbeing

To justify that trust, you must:

- *be open and honest, act with integrity and uphold the reputation of your profession*

Make the care of people your first concern, treating them as individuals and respecting their dignity

Treat people as individuals

3 You must treat people kindly and considerately.

Work with others to protect and promote the health and wellbeing of those in your care, their families and carers, and the wider community

Share information with your colleagues

21 You must keep your colleagues informed when you are sharing the care of others.

22 You must work with colleagues to monitor the quality of your work and maintain the safety of those in your care.

Work effectively as part of a team

24 You must work cooperatively within teams and respect the skills, expertise and contributions of your colleagues.

25 You must be willing to share your skills and experience for the benefit of your colleagues.

26 You must consult and take advice from colleagues when appropriate.

27 You must treat your colleagues fairly and without discrimination.

Be open and honest, act with integrity and uphold the reputation of your profession

Act with integrity

48 You must demonstrate a personal and professional commitment to equality and diversity.

Uphold the reputation of your profession

61 You must uphold the reputation of your profession at all times.

The 2015 Code:

8 Work cooperatively

To achieve this, you must:

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

8.2 maintain effective communication with colleagues

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

8.4 work with colleagues to evaluate the quality of your work and that of the team

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

8.6 share information to identify and reduce risk, and

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

To achieve this, you must:

*9.1 provide honest, accurate and constructive feedback to
Colleagues*

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, and

Promote professionalism and trust

You uphold the reputation of your profession at all times. You should display a personal commitment to the standards of practice and behaviour set out in the Code...

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

20.7 make sure you do not express your personal beliefs (including political, religious or moral beliefs) to people in an inappropriate way

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

22 Fulfil all registration requirements

To achieve this, you must:

22.3 keep your knowledge and skills up to date, taking part in appropriate and regular learning and professional development activities that aim to maintain and develop your competence and improve your performance.

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 your behaviour and conduct did fall seriously below the standards expected of a registered nurse.

The panel first considered charges 11 and 12 which related to your dishonesty. The panel considered these charges to be serious, as you engaged another member of staff to complete your training when you knew this was wrong. When it came to your knowledge that the training had been completed, you did not report it and were happy to go along with giving the impression to your manager that you had completed the training yourself. The panel considered this represented a potential and significant risk to patient safety.

In relation to your behaviours, the panel considered the evidence given from eight witnesses, who were all part of the same team and who all spoke about your negative and intimidating behaviour towards them. The panel considered your behaviour unacceptable and caused staff to take precautions to protect themselves. Your course of behaviour was not only attitudinal but a course of conduct over a considerable amount of time, which spanned a number of years.

[PRIVATE] The panel is sympathetic to these aspects, but remained of the view that it did not justify your intimidating and bullying behaviour directed to your work colleagues.

The panel found that your 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, your fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust,

nurses must be honest and open and act with integrity. They must make sure that their conduct always 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) *has in the past acted dishonestly and/or is liable to act dishonestly in the future.*'

The panel finds that patients were potentially put at risk because of your misconduct regarding the incomplete training and also by your decision not to use your work laptop while visiting patients. Your bullying and intimidating behaviour has also amounted to misconduct. Your misconduct has breached fundamental tenets of the nursing profession, including dishonesty, which brought its reputation into disrepute. The panel was also satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty serious in these particular circumstances.

The panel took into account your recent reflective piece and noted that although you state you did not intend to impact staff in such a negative way, you were not aware of the impact of your actions. The panel in its considerations determined that you had been made fully aware by more than one member of staff and that you had been the subject of an internal investigation into your conduct which should have alerted you to the impact your behaviour was having on others. The panel considered that your reflective piece lacked sufficient insight and reflection into the impact you had on your colleagues. The panel reminded itself of what Colleague B said while giving her oral evidence, when she told the panel *'you had to be there to truly understand the context'*. This gave the panel a real sense of the toxic working environment that you, in part, created.

The panel acknowledged your previous good character, there being no further concerns raised since leaving the Trust and the conflict resolution course and the other extensive training you have now completed. The panel however, considered that the misconduct took place over a lengthy period of time and that your alternative perspective to the allegations was to call your colleagues liars. The panel regarded this an indication of deep-seated attitudinal issues, which are not easily remediable. Indeed, on the evidence before it, the panel considered that there is insufficient evidence that you have remediated your behaviour, other than a promise not to repeat it.

The panel is therefore of the view that there remains a risk of repetition. The panel determined 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 also recognised that colleagues have a right and expectation to attend work and not be subject to threats, bullying and intimidating behaviour.

The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case. The panel was satisfied that a fully informed reasonable member of the public aware of the charges in this case would lose confidence in the profession should a finding of impairment not be imposed. The panel therefore also finds your fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the Registrar to strike you off the register. The effect of this order is that the NMC register will show that you have been struck-off the register.

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

Mr Edwards invited the panel to impose a striking-off order considering the panel's findings on misconduct and impairment. He took the panel through an extensive list of aggravating factors which included, your dishonesty occurred in a workplace setting, you were an experienced nurse who should have known better, you bullied and intimidated senior and junior staff, demonstrated deep-seated attitudinal issues, which persisted over a long period of time. Mitigating factors he submitted, included no previous regulatory concerns and no clinical concerns.

Mr Edwards submitted that a conditions of practice order and the lesser restrictive sanctions would not be appropriate given the finding of dishonesty. He told the panel that it would be difficult for a conditions of practice order to manage the concerns and that a strike-off is the only sufficient sanction.

In answer to questions from the panel Mr Edwards submitted that a suspension order would not address the seriousness of the case. He told the panel that where there is a finding of dishonesty, a registrant is at risk of being removed from the register. He further submitted that the NMC consider, that based on the findings in this case that you are no longer suitable to remain on the register.

The panel also bore in mind Mr Adamou's submissions. He referred the panel to the cases of *Ghosh v General Medical Council* [2001] 1 WLR 1915, *Raschid and Fatnani v GMC* [2007] EWCA Civ 46, *Bijl v General Medical Council* [2001] UKPC 41, *Lusinga v Nursing and Midwifery Council* [2017] EWHC (Admin) 1458 and *Watters v Nursing and Midwifery Council* [2017] EWHC (Admin) 1888. He submitted that a strike-off order is too severe and that the panel must also look at lesser sanctions.

Mr Adamou agreed that dishonesty was found, but he invited the panel not to characterise the conduct as deep-seated and attitudinal, but more of a one off and sporadic event. He referred the panel to the registrant's bundle in which he stated that staff were always happy to work with you, negativity was not always present and therefore, the concern regarding your behaviours can be remedied.

Mr Adamou addressed Mr Edwards submissions that you lacked insight. He told the panel that it was not the case, as the panel found that you have limited insight and this he submitted could also be developed.

Mr Adamou agreed with Mr Edwards mitigating factors added no Interim Order had been imposed, and that you are seeking to address your underlying issues in your current role.

Mr Adamou referred the panel to the SG and told the panel that not all dishonesty is serious. He told the panel that your dishonesty was a one off, opportunistic and spontaneous, that had no effect on patients.

Mr Adamou suggested that a conditions of practice order was the appropriate sanction in your case. He stated that such an order would need to be measurable, assessable, clear and consistent. He suggested some conditions for the panel to considered and outlined that currently, you complete your training in the office in a public place, but you could go further by requesting a manager sit with during completion, sign off the training once completed, set time frames for the training to be completed in and then draft a reflective piece detailing what you have learnt. He submitted that his broad suggestion of conditions would adequately protect the public.

Mr Adamou moved on to a suspension order and submitted that if the panel did not agree with the imposition of a conditions of practice order, that a suspension order would be sufficient order to address the misconduct. He told the panel that you deserve a second chance. He stated that you are hardworking and have the drive to make your wrongs right. He submitted that if you were struck off, the public would be deprived of a good nurse.

The panel accepted advice from the legal assessor which included references to cases *Lusinga v Nursing and Midwifery Council* [2017] EWHC (Admin) 1458, *Watters v Nursing and Midwifery Council* [2017] EWHC (Admin) 1888 and *Parkinson v NMC* 2010 EWHC 1898.

Decision and reasons on sanction

Having found your 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:

- Serious dishonesty
- Bullying and intimidation within the workplace
- Breach of trust
- Potential risk to patients
- Deep-seated attitudinal issues
- Significant lack of respect for senior colleagues
- Threats of violence
- A pattern of misconduct over a period of time
- Lack of insight into failings
- Lack of remorse

The panel also took into account the following mitigating features:

- Previous good character
- Limited admissions at the commencement of the hearing
- [PRIVATE]

The panel had regard to approximately twenty five character references and testimonials that have been submitted on your behalf. It was clear from the date of the references that

many had been prepared for the internal investigation within the Trust and that in the main they were compiled by other healthcare support workers. It was significant to the panel that there were no up to date references from more senior managers within your current workplace. As such the panel gave little weight to the references supplied on your behalf.

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 and public interest issues identified, an order that does not restrict your 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 your 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 your 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 found proved in this case. The misconduct identified in this case was not something that can be addressed through retraining alone. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case, would not protect the public nor address the strong public interest consideration.

The panel then went on to consider whether a suspension order would be an appropriate sanction. It considered the dishonesty and breach of trust which involved an element of preplanning. This occurred within the workplace and was directly linked to your core function. You made the decision to give another member of staff your smartcard and password and then you covered up your activities. The panel considered that this was not

an isolated incident of dishonesty, one off or opportunistic but more linked to your deep-seated attitudinal issues and general conduct within the workplace. You knew what you wanted to do and were aware that the member of staff who you approached could complete the training for you. These events occurred in the workplace and had the potential to cause harm to patients. Consequently, this led the panel to consider that this was a more serious aspect of your dishonest behaviour.

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by your actions is fundamentally incompatible with you remaining on the register. Your behaviour within the workplace continued over a prolonged period of time and contributed to the toxic culture the panel heard evidence about. The panel also considered that informed reasonable member of the public would be shocked and concerned to know a nurse who bullied and intimidated other members of staff was allowed to continue to practice as a nurse.

In this particular case, 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?*

Your actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with you remaining on the register. The panel was of the view that the findings in this particular case demonstrate that your actions were

serious and to allow you 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 your actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves, 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.

Interim order

As the striking-off order cannot take effect until the end of the twenty eight 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 your own interest until the striking-off sanction 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 Mr Edwards. He submitted that given the sanction determined by the panel, an interim suspension order is both necessary and proportionate in this case. He invited the panel to impose the order for a period of eighteen months, which he stated will cover the twenty-eight-day appeal period in the event you choose to appeal the panel's decision. Mr Edwards submitted that the order was necessary both in the wider public interest and for public protection.

The panel also took into account the submissions of Mr Adamou. He submitted there is no other appropriate order than an interim suspension order. He made no objections to the length of the order but requested that any interim order should be kept under review.

The panel accepted the advice from 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 the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel therefore imposed an interim suspension order for a period of eighteen months to cover the twenty-eight-day appeal period.

If no appeal is made, then the interim suspension order will be replaced by the substantive striking off order twenty-eight days after you are sent the decision of this hearing in writing.

That concludes this determination.