Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Thursday, 14 December – Thursday, 21 December 2023

Virtual Hearing

Name of Registrant:	George Charles Evelyn Flatt
NMC PIN	91D1498E
Part(s) of the register:	Registered Nurse - Mental Health Nursing May 2000
Relevant Location:	Liverpool
Type of case:	Misconduct
Panel members:	Tracy Stephenson (Chair, Lay member) Jane Jones (Registrant member) David Anderson (Lay member)
Legal Assessor:	Nigel Ingram
Hearings Coordinator:	Margia Patwary
Nursing and Midwifery Council:	Represented by Holly Girven, Case Presenter
Mr Flatt:	Present and represented by Neair Maqboul, instructed by the Royal College of Nursing (RCN)
No case to answer:	Charge 6b
Facts proved by admission:	Charge 1, 2a, 2b, 3a, 3b, 3c, 4, 5, 6a, 7, 8 and 9
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	**Striking-off order**
Interim order:	**Interim suspension order (18 months)**

Details of charge

That you, a registered nurse whilst working as a mental health therapist:

1) Maintained contact with Patient A without clinical justification beyond December 2015 **[PROVED BY ADMISSION]**

2) On one or more occasions between 2013 and 2021 provided financial support to Patient A by way of: **[PROVED BY ADMISSION]**

    a) Frequent payments of between £10 - £30;
    b) A deposit and/or the first month's rent in respect of Patient A's rented accommodation

3) On one or more occasions between 2013 and 2021, met Patient A in non-clinical settings in that: **[PROVED BY ADMISSION]**

    a) You visited Patient A's home;
    b) Patient A visited your home;
    c) You met Patient A in a pub

4) On one or more occasions between 2013 and 2021, contacted Patient A outside of working hours **[PROVED BY ADMISSION]**

5) On one or more occasions between 2014 and 2015, attended Family Court and/or provided reports to the Family Court and/or Social Services proceedings for Patient A **[PROVED BY ADMISSION]**

6) On an unknown date in 2016:

    a) Offered Patient A the use of your caravan; **[PROVED BY ADMISSION]**

b) Gave Patient A a job and/or jobs to do in your office **[NO CASE TO ANSWER]**

7) From 2017 to 2022, acted as a guarantor for Patient A's rented accommodation **[PROVED BY ADMISSION]**

8) On an unknown date in 2018, introduced Patient A to Patient B, one of your male patients and/or encouraged Patient A to spend time with Patient B **[PROVED BY ADMISSION]**

9) Your conduct in any or all of charges 1-8 was a breach of professional boundaries **[PROVED BY ADMISSION]**

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

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

Patient A

At the outset of the hearing, Ms Girven, on behalf of the Nursing and Midwifery Council (NMC) made an application for Patient A's evidence to be heard entirely in private on the basis there will be references in relation to [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms Maqboul, on your behalf supported the application to the extent that any reference to [PRIVATE] matters should be heard in private.

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 may be references [PRIVATE], the panel determined that Patient A's evidence should be heard in private.

Witness 2

During Witness 2's oral evidence, [PRIVATE]. The Chair informed Witness 2 that there will be an application under Rule 19(3) in order to protect her privacy. Therefore, the panel of its own volition considered that Witness 2's evidence in [PRIVATE] should be heard in private.

Ms Girven and Ms Maqboul did not oppose this application.

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

Therefore, the panel of its own volition determined that Witness 2's evidence in relation to [PRIVATE] should be heard in private.

Vulnerable witness application for Patient A

Ms Girven made an application for you to join the Microsoft Teams link via telephone under Rule 23(1) when Patient A joins the hearing to give her evidence.

Ms Maqboul submitted that she did not oppose these measures to ensure Patient A is able to give her best evidence, it is agreed you join via telephone to facilitate her support requirements.

The panel accepted the advice of the legal assessor.

The panel granted this application to enable Patient A to give her best evidence. Accordingly, you will join via telephone during Patient A's evidence.

Decision and reasons on application to admit hearsay evidence (Patient A)

On the first day of the hearing, Ms Girven informed the panel that [PRIVATE]. She referred the panel to the email dated today, 14 December 2023, [PRIVATE].

Ms Girven made an application under Rule 31 of the Nursing and Midwifery (Fitness to Practice) Rules 2004 (the Rules) and submitted that the panel should allow the entirety of Patient A's NMC written witness statement as hearsay evidence.

Ms Girven referred the panel to the principles in *Thorneycroft v Nursing and Midwifery Council [2014] EWHC 1565 (Admin)* that related to *'admitting the statements of absent witnesses', and hearsay'.*

Ms Girven stated that all the charges except charge 6b had been admitted therefore there was no unfairness to you. She conceded that Patient A's evidence is the sole and decisive evidence in support of charge 6b.

Ms Girven submitted that in terms of the nature and extent of the challenges to the contents of Patient A's witness statement it is only charge 6b you cannot challenge. As you admitted the remaining charges, she further submitted there was no suggestion Patient A to fabricate her allegations as you accepted the remainder of the charges made against you.

[PRIVATE].

Ms Girven submitted that it is fair and relevant to admit and allow Patient A's evidence as hearsay evidence. She submitted that there would be no unfairness in allowing all of her evidence, including the parts relating to charge 6b. Further she submitted that Patient A's evidence is admissible, especially due to the reasons for her non-attendance.

Ms Maqboul opposed the application.

Ms Maqboul submitted that it has always been your understanding that Patient A would come to this hearing for the opportunity to cross examine her in relation to charge 6b. [PRIVATE]. She further submitted that Patient A's evidence is the only evidence in relation to charge 6b and the other two witnesses attending the hearing cannot give any direct evidence in relation to this charge. Furthermore, she submitted that you have now lost the opportunity to put your case to Patient A on this matter.

Ms Maqboul submitted that the panel did not hear sufficient evidence for the reason for Patient A's non-attendance. She submitted that the NMC have not done enough to secure Patient A's attendance and it is not accurate to say that reasonable steps have been taken to secure her attendance. [PRIVATE].

Ms Maqboul invited the panel not to admit the entirety of Patient A's evidence as hearsay evidence.

The panel accepted the advice of the legal assessor. He referred the panel to the Rules and to the principles established in case law, principally the cases of *Thorneycroft v NMC* [2014] EWHC 1565 (Admin)*, R (Bonhoeffer) V GMC* [2011] EWHC 1585 (Admin) and *NMC v Ogbonna* [2010] EWCA Civ 1216.

The panel gave consideration to the factors set out in the case of *Thorneycroft*.
The panel first looked at the question of admissibility of Patient A's witness statement and took account of the fact that it was prepared in anticipation of being used in these

proceedings and contained the paragraph, *'This statement … is true to the best of my information, knowledge and belief'* and signed by her.

Considering all of the allegations in a context specific way the panel noted that you had accepted all but one of the charges brought against you and therefore accepted in effect that Patient A was a truthful witness. In that regard, the panel could find no motive for Patient A to mispresent or fabricate her evidence.

The panel noted that there is a risk of unfairness if you are deprived of the opportunity to challenge Patient A's evidence in respect to charge 6b, particularly being denied the opportunity of cross examination. Also, the panel noted there is no corroborative evidence in relation to charge 6b for example documentary evidence.

However, in all the circumstances, the panel came to the view that it was fair and relevant to accept Patient A's evidence as hearsay evidence, but would give appropriate weight to it, once the panel had heard and evaluated all the evidence before it.

Decision and reasons on application of no case to answer

At the closing of the NMC's case, the panel next considered an application from Ms Maqboul that there is a no case to answer in respect of charge 6b.

This application was made under Rule 24(7) of the Rules. This rule states:

> *24 (7) Except where all the facts have been admitted and found proved under paragraph (5), at the close of the Council's case, and –*
>
> *(i) either upon the application of the registrant …*
> *the Committee may hear submissions from the parties as to whether sufficient evidence has been presented to find the facts proved and shall make a determination as to whether the registrant has a case to answer.*

In relation to this application, Ms Maqboul referred the panel to the criminal case of *R v Galbraith* (1981) 73 Cr App R 124, in which it was stated that there would be no case to answer where there was either no evidence to support the allegation or where the evidence was so tenuous that no reasonable tribunal could find the matter proved.

Ms Maqboul asked the panel to consider the wording of charge 6b which *states "Gave Patient A a job and/or jobs to do in your office"*. She submitted that the offer of a job is different to doing a job.

Ms Maqboul submitted that Patient A did not appear before this panel to give evidence in relation to this charge and although the panel accepted Patient A's hearsay evidence, there is no evidence from either NMC witnesses or any other source to suggest that a job was offered by you to Patient A. She further submitted that Witness 2's live evidence heard by the panel today should be properly scrutinised as she had told the panel that she thinks there was an offer of a job but did not think Patient A took the job. She further submitted that Patient A did not appear before the panel to give her evidence and therefore her evidence is tenuous and therefore there is no case to answer in respect of charge 6b.

Ms Girven opposed the application. She submitted that it is the NMC's position that there is enough evidence for the panel to proceed and find that there is a case to answer in relation to charge 6b.

Ms Girven referred the panel to the NMC's guidance on no case to answer Reference: DMA-6.

Ms Girven asked the panel to look closely at the wording of charge 6b and submitted that it is clear from the wording of the charge that it does not necessarily mean paid employment. She further stated that this could also mean that you could have given or asked Patient A to do some form of task within your office.

Ms Girven referred the panel to Patient A's witness statement in which she provides details of jobs involved as well as the transport arrangements.

Ms Girven further referred the panel to your own reflective statement in that you stated that Patient A was given the opportunity to do simple activities under the supervision of your colleagues which would support this charge.

The panel took account of the submissions made and heard and accepted the advice of the legal assessor.

In reaching its decision, the panel has made an initial assessment of all the evidence that had been presented to it at this stage. The panel was solely considering whether sufficient evidence had been presented, such that it could find the facts proved and whether you had a case to answer in relation to charge 6b.

The panel considered the limbs in Galbraith in relation to charge 6b. The panel bore in mind that the only evidence in relation to this charge stems from Patient A who did not attend the hearing and thus her witness statement was hearsay evidence. The panel was therefore unable to seek clarification from Patient A on the job/jobs allegedly given by you and any work or tasks Patient A might have consequently completed. The NMC failed to adduce any further evidence from your colleagues, any documentary evidence or any independent evidence to support the fact that you gave Patient A a job/jobs to do in your office. Further, Witness 2 informed the panel that some years later that Patient A told that she had been offered a job but she believed this was not accepted which further undermined the NMC's case on this charge. The panel therefore could not be satisfied that charge 6b amounted to anything other than carrying out simple tasks within the office.

The panel therefore decided that there is no case answer in respect of charge 6b.

Background

The charges arose whilst you were registered as a Mental Health Nurse and practising in the role of a psychotherapist for [PRIVATE] for which you are [PRIVATE].

The alleged facts are:

[PRIVATE].

From 2015 to 2021 you had continuing contact with Patient A on a non-clinical basis. From 2013 to 2021, you gave Patient A money, amounting to approximately £20 - £30 per week on a regular basis, you stopped making payments in September 2021.

In 2017, Patient A moved house and you assisted by making payments of around £375 for a month's rent upfront, £270 administration fee and £550 in the form of a deposit. You also offered to be Patient A's guarantor. You dealt with the landlord on behalf of Patient A and would visit Patient A at the property regularly.

In both 2017 and 2018 you arranged for Patient A to spend Christmas day with you and your family.

You introduced Patient A to another client of yours (Patient B) and suggested that Patient A do their washing at Patient B's house and spend time with them in a mutually beneficial relationship as they were both lonely. However, Patient B was unpleasant to Patient A and would call her names such as *'thick'* and would request sex via text message. Patient A told you that she did not want to see Patient B again.

Patient A reported your relationship with her to her social worker and you ceased contact in 2021. You continued to practice as a psychotherapist for [PRIVATE].

Decision and reasons on facts

At the outset of the hearing, the panel heard from Ms Maqboul, who informed the panel that you admit to charges 1, 2a, 2b, 3a, 3b, 3c, 4, 5, 6a, 7, 8 and 9.

The panel therefore finds charges 1, 2a, 2b, 3a, 3b, 3c, 4, 5, 6a, 7, 8 and 9 proved in their entirety, by way of your admissions.

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

- Witness 1: Social Worker, working as a Therapist for the Complex Needs Service at Cheshire and Wirral Partnership (CWP).
- Witness 2: Friend of Patient A and ex-patient of yours.

The panel also heard evidence from you under affirmation.

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.'*

Ms Girven invited the panel to take the view that the facts found proved amount to misconduct. She directed the panel to the terms of ''The Code: Professional standards of practice and behaviour for nurses and midwives (2018) (the Code) and to the specific paragraphs where, in the NMC's view, your actions amounted to a breach of those standards.

Ms Girven 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).

Ms Girven submitted that the charges occurred over a prolonged period of time and had caused harm to Patient A. She submitted that your actions are a clear breach of the code

and for those reasons the panel could be satisfied that there was misconduct in your case for all the charges individually and as a whole.

Ms Girven moved onto impairment and submitted that a finding of impairment is needed both on public protection and public interest grounds. She referred the panel to the case of *Cohen*.

Ms Girven submitted in accordance with NMC guidance FTP-13a that your actions will be harder to remediate as you breached professional boundaries with Patient A over a prolonged period and that there is evidence of some attitudinal issues.

Ms Girven submitted that there is evidence that actual harm was caused to Patient A and there was a past and ongoing risk of harm. She submitted that you breached a fundamental tenet of the profession by failing to maintain professional boundaries. She submitted that you have brought the profession into dispute by your misconduct.

In terms of insight, the NMC accept that you have some insight, however it is very limited and still developing. She submitted that you could not currently practise safely, kindly and professionally.

For all of the reasons mentioned above, Ms Girven invited the panel to make a finding on misconduct and impairment on the grounds of public protection and public interest.

Ms Maqboul made submission on misconduct and impairment.

Ms Maqboul began by addressing charge 5 and highlighted the panel to the guidance in family court proceedings. She submitted that although you accept your actions in charge 5 on a factual basis, it does not amount to misconduct as you were instructed to provide reports to support information for private proceedings. She submitted it is a matter for the panel to decide whether your actions in charge 5 amount to misconduct and impairment.

Ms Maqboul submitted that in relation to the remainder of the charges, you accept that you had breached professional boundaries and accept that it was misconduct.

Ms Maqboul submitted that your position has changed from the outset of these proceedings in relation to your fitness to practice. She submitted that following your oral evidence yesterday, during which you made some *"uncomfortable concessions"*, you subsequently reflected overnight on your actions. You now accept that your fitness to practice is currently impaired on the grounds of public protection and public interest. She submitted that despite the insight you have shown in your written reflections and in your oral evidence, you admit that there is still work to be done. She submitted that there are still areas that require development in your insight, and for this reason you recognise that you remain impaired at this stage.

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, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin).

Decision and reasons on misconduct

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

The panel was of the view that 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:

> ***'4 Act in the best interests of people at all times***
>
> *To achieve this, you must:*
>
> ***4.2** Make sure that you get properly informed consent and document it before carrying out any action*

5 Respect people's right to privacy and confidentiality

To achieve this, you must:

5.1 *Respect a person's right to privacy in all aspects of their care.*

5.2 *Make sure that people are informed about how and why information is used and shared by those who will be providing care.*

8 Work co-operatively

To achieve this, you must:

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

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

8.6 *Share information to identify and reduce risk.*

13 Recognise and work within the limits of your competence

To achieve this, you must:

13.4 *Take account of your own personal safety as well as the safety of people in your care.*

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

To achieve this, you must:

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

17.3 *Have knowledge of and keep to the relevant laws and policies about protecting and caring for vulnerable people.*

20 Uphold the reputation of your profession at all times

To achieve this, you must

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.*
20.6 *Stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers.*

21 Uphold your position as a registered nurse, midwife or nursing associate
To achieve this, you must
21.3 *Act with honesty and integrity in any financial dealings you have with everyone you have a professional relationship with, including people in your care.'*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. The panel considered each of the charges individually.

The panel in considering the question of misconduct, took into account that at the time of these charges, you were a nurse with significant experience of around 20 years. [PRIVATE]. You also told the panel that you were an experienced psychotherapist having qualified and worked as a CBT practitioner since 2005.

[PRIVATE].

The panel also noted that you admitted through your counsel, after the conclusion of your evidence, that your actions amounted to misconduct and that you were currently impaired.

Charge 1

1) Maintained contact with Patient A without clinical justification beyond December 2015

The panel was of the view that this charge amounted to misconduct. The panel noted that you had maintained contact with Patient A without any clinical justification for over 6 years and that there was no formal role for you with Patient A during this time. [PRIVATE], in your oral evidence, you admitted to the panel that there was no clinical reason for you to maintain contact with Patient A after December 2015.

The panel determined that a nurse is expected to be professional at all times and your actions in this charge would by the standards of ordinary people, and fellow professional nurses, be judged to fall far below the standard expected of a registered nurse. The panel determined that your actions in relation to this charge amounted to a serious departure from acceptable standards expected of a registered nurse.

Charge 2a and 2b

2) On one or more occasions between 2013 and 2021 provided financial support to Patient A by way of:

    a) Frequent payments of between £10 - £30;
    b) A deposit and/or the first month's rent in respect of Patient A's rented accommodation

The panel was of the view that these charges amounted to misconduct. In addition to admitting these charges, the panel took into account the copy of your bank statements with multiple transfers that you had sent to Patient A from 2013 to 2021 a period of 8 years. You had sent Patient A frequent payments of usually between £10 - £30 amounting to approximately £1000. You also admitted that you gave regular amounts of cash to Patient A. You also made a deposit on Patient A's new rental address, paid the first months' rent and an administration fee amounting to approximately £1000. The panel noted that at the time Patient A moved address, she was employed and had access to financial means, and yet you continued to give Patient A money during this time. The

panel further noted that due to your financial assistance, Patient A could have potentially felt obligated or beholden towards you.

[PRIVATE]. You also accepted in your oral evidence that you were aware that the money you were providing Patient A would have possibly funded this activity. The panel found it difficult to understand why you provided money to Patient A personally and not via your organisation. After questions from the panel, you accepted that [PRIVATE] had funds to provide in such situations and the correct course would have been to place this before the Board to obtain funds for Patient A. You also accepted that you could have referred Patient A to other agencies for support but chose not to do so. Further, you never explicitly told others that you were providing money to Patient A and her landlord from your own personal funds.

The panel therefore determined that you had breached professional boundaries and decided that your actions in relation to this charge amounted to a serious departure from acceptable standards expected of a registered nurse.

Charge 3a

3) On one or more occasions between 2013 and 2021, met Patient A in non-clinical settings in that:

    a) You visited Patient A's home;

The panel was of the view that this charge amounted to misconduct. The panel noted that you had maintained contact with Patient A without any clinical justification for over 6 years and that there was no formal role for you with Patient A during this time. [PRIVATE]. [PRIVATE], in your oral evidence, you admitted to the panel that there was no clinical reason for you to visit Patient A at her home after December 2015.

The panel determined that a nurse is expected to be professional at all times and your actions in this charge would by the standards of ordinary people, and fellow professional nurses, be judged to fall far below the standard expected of a registered nurse. The panel determined that your actions in relation to this charge amounted to a serious departure from acceptable standards expected of a registered nurse.

Charge 3b

3) On one or more occasions between 2013 and 2021, met Patient A in non-clinical settings in that:

b) Patient A visited your home;

The panel was of the view that this charge amounted to misconduct. The panel noted that you had maintained contact with Patient A without any clinical justification for over 6 years and that there was no formal role for you with Patient A during this time. [PRIVATE]. [PRIVATE], in your oral evidence, you admitted to the panel that there was no clinical reason for Patient A to visit your home.

[PRIVATE].

The panel determined that a nurse is expected to be professional at all times and your actions in this charge would by the standards of ordinary people, and fellow professional nurses, be judged to fall far below the standard expected of a registered nurse. The panel determined that your actions in relation to this charge amounted to a serious departure from acceptable standards expected of a registered nurse.

Charge 3c

3) On one or more occasions between 2013 and 2021, met Patient A in non-clinical settings in that:

c) You met Patient A in a pub

The panel was of the view that this charge amounted to misconduct. The panel had concerns regarding the purpose of the visit to the pub as there was a lack of explanation from you to why this had occurred. The panel further noted that during this time, you were no longer meeting Patient A for clinical reasons and therefore there was no clinical justification for you to have met Patient A in a pub. The panel noted that in your oral evidence, you admitted that you felt that your actions in 3a, 3b and 3c amounted to misconduct.

The panel therefore determined that you had breached professional boundaries and decided that your actions in relation to this charge amounted to a serious departure from acceptable standards expected of a registered nurse.

Charge 4

4) On one or more occasions between 2013 and 2021, contacted Patient A outside of working hours

The panel was of the view that this charge amounted to misconduct. The panel noted that you had maintained contact with Patient A without any clinical justification for over 6 years and that there was no formal role for you with Patient A during this time. [PRIVATE]. [PRIVATE], in your oral evidence, you admitted to the panel that there was no clinical reason for you to contact Patient A outside of working hours.

The panel determined that a nurse is expected to be professional at all times and your actions in this charge would by the standards of ordinary people, and fellow professional nurses, be judged to fall far below the standard expected of a registered nurse. The panel determined that your actions in relation to this charge amounted to a serious departure from acceptable standards expected of a registered nurse.

Charge 5

5) On one or more occasions between 2014 and 2015, attended Family Court and/or provided reports to the Family Court and/or Social Services proceedings for Patient A

The panel was of the view that this charge did not amount to misconduct. On the basis of the agreed admission between the parties in respect of charge 5, the panel had regard to the explanation provided by Ms Maqboul in relation to this charge. The panel accepted your account and that you were instructed to give evidence and provide reports to [PRIVATE]. These are private matters and therefore the panel did not have sight of any documentation but noted that the NMC did not challenge this matter. The information below was provided by Ms Maqboul to the panel at the start of the misconduct and impairment stage:

[PRIVATE].

Therefore, the panel determined that your actions in relation to this charge were clinically appropriate and do not amount to misconduct.

Charge 6a

6) On an unknown date in 2016:

a. Offered Patient A the use of your caravan;

The panel was of the view that this charge amounted to misconduct. The panel noted that offering Patient A the use of your caravan breached professional boundaries as there was no clinical justification for you to do so. The panel noted that this could have been seen as a benefit and could have made Patient A feel obligated and beholden towards you. The

panel considered that it is unethical for a nurse to offer a current or former patient the use of their caravan.

The panel determined that your actions in relation to this charge amounted to a serious departure from acceptable standards expected of a registered nurse.

Charge 7

7) From 2017 to 2022, acted as a guarantor for Patient A's rented accommodation

The panel was of the view that this charge amounted to misconduct. The panel noted since you acted as Patient A's guarantor, you would have been aware this was a long-term commitment. The panel was of the view that this would have placed Patient A under a significant obligation to you as the security of her home was in your control. The panel found it both unacceptable and unethical that you would act as a personal guarantor for a former patient.

The panel determined that you had breached professional boundaries and therefore decided that your actions in relation to this charge amounted to a serious departure from acceptable standards expected of a registered nurse.

Charge 8

8) On an unknown date in 2018, introduced Patient A to Patient B, one of your male patients and/or encouraged Patient A to spend time with Patient B

The panel was of the view that this charge amounted to misconduct. The panel were of the view that introducing Patient A to Patient B you would have to breach patient confidentiality in that both patients would have known they would have been treated by you. Patient A said in her witness statement that you divulged a wide range of confidential information in respect of Patient B.

[PRIVATE].

The panel have been unable to establish your motivation by arranging an introduction to Patient B and encouraging them to spend time together in private, particularly as you had admitted in your oral evidence that there were other options for patients to meet such as formal group therapy sessions. On any view the panel considered there were fair more suitable options than a private meeting.

The panel were concerned that your actions caused Patient A and potentially Patient B psychological harm. In her witness statement she stated:

> [PRIVATE]

The panel determined that this was the most significant breach of professional boundaries as well as patient confidentiality and therefore decided that your actions in relation to this charge amounted to a serious departure from acceptable standards expected of a registered nurse.

Charge 9

9) Your conduct in any or all of charges 1-8 was a breach of professional boundaries

The panel was of the view that this charge amounted to misconduct. The panel determined that you were responsible for multiple breaches of professional boundaries, and that these breaches occurred over a prolonged period of time and appeared to the panel to have escalated when there was no clinical justification for any contact with Patient A. It was the panels view that at the time and during the course of this hearing you had showed a minimal appreciation of these breaches of professional boundaries with Patient A and the potential consequences for both her and you.

The panel noted that this was also a breach of your own organisations Safeguarding Policy as well as the CWP's Safeguarding Adult Policy and the NMC code all of which you would reasonably be expected to be aware of and comply with. Notably:

> *'**3.3***
> *Responding to Concerns about a Person in a Position of Trust There are occasions when staff may have a concern regarding a person in a position of trust for example that person may be taking advantage of their client or patient's trust, exploits their vulnerability, does not act in their best interests and/or fails to keep professional boundaries.'*

The panel determined that you had clearly breached professional boundaries and therefore decided that your actions in relation to this charge amounted to a serious departure from acceptable standards expected of a registered nurse.

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/midwives 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 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*

The panel considered that limbs a), b), c) and d) were engaged. The panel finds that Patient A were put at risk and were caused psychological harm as a result of your misconduct. The panel also found that there is an ongoing risk of placing patients at risk of harm. The panel determined that your misconduct breached the fundamental tenets of the nursing profession and consequently also brought its reputation into disrepute.

The panel went on to consider whether there is a risk of repetition and in doing so it assessed your current insight, remorse and remediation.

The panel determined that your insight was minimal at best in that you did not recognise how your conduct had impacted negatively on Patient A and the reputation of the nursing profession, notwithstanding your apparent belated reflection. The panel acknowledged a number of positive testimonials but noted its concerns that there appears to be a continuation of blurred boundaries with previous patients. This includes your employment of a previous patient in your practice, whom you confirmed in your evidence to the panel that you directly supervise. The panel were concerned that at the start of this hearing you had denied that your fitness to practice was impaired, and only accepted that your fitness to practice is currently impaired after giving your evidence. The panel had no clear and meaningful explanation for the reasons of your late acceptance.

The panel was of the view that repeatedly breaching professional boundaries with a [PRIVATE] in a variety of ways over a prolonged period of time reflects a deep-seated attitudinal issues. The panel noted that you stayed in contact with Patient A without any clinical justification for a long period of time, and that despite being an experienced health professional and a nurse, you either chose to ignore or did not recognise the safeguarding issues associated with your actions. The panel further noted that you were in a position of trust as a mental health nurse throughout this period and that you abused this trust through your misconduct. The panel determined that your misconduct created a clear imbalance of power in your relationship with Patient A and resulted in unnecessary risks to [PRIVATE] Patient A, the reputation of the nursing profession and also to yourself.

For the reasons above, the panel determined that there is a significant current and future risk to of harm to patients should you be permitted to practise unrestricted. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind 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 considered that this was an abuse of a position of trust and an informed member of the public or any fellow nurse, who knew the particulars of this case would find your actions unacceptable. The panel did not feel that you could practise safely, kindly and professionally. The panel concluded that public confidence in the profession would be undermined if a finding of current impairment was not made and therefore finds your fitness to practise is also impaired on the grounds of public interest.

Having regard to all of the above, the panel determined that your fitness to practise is currently impaired on the grounds of public protection and public interest.

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

Ms Girven submitted that the NMC sanction bid for your case was originally a suspension order, however, this has been reviewed by the NMC in light of the panel's finding on facts and impairment. She stated that the sanction bid now is a striking off order.

Ms Girven outlined the mitigating and aggravating features in your case.

Ms Girven submitted that no further action is clearly not appropriate in your case as this will not protect the public or uphold public interest. She stated that a caution order is also not appropriate in this case and referred the panel to the NMC's guidance on considering sanctions for serious cases on Reference: SAN-2. She submitted that the misconduct in this case is clearly not at the lower end of the spectrum and would not be appropriate and would not adequately protect the public.

Ms Girven submitted that imposing a conditions of practice order would not sufficiently protect the public as there is evidence of deep-seated attitudinal problems that occurred over a prolonged period of time and this order would not protect the public or uphold public interest. She further submitted that the NMC accept there is no evidence of general incompetence in relation to your practice.

Ms Girven submitted that a suspension order would not be appropriate in this case. She referred the panel to the NMC's guidance on *'Suspension order, Reference: SAN-3d (Last updated 12/10/2018)'* where a checklist was provided.

Further, Ms Girven submitted that a suspension order would not be sufficient to address the public protection and public interest concerns arising in this case. It was not an isolated or single incident, but had taken place over a period of time. The misconduct indicates an attitudinal problem and in the absence of insight, remorse or remediation there was a risk of repetition. For these reasons, she submitted that a suspension order would not be sufficient and therefore only a striking-off order would adequately protect the public.

Ms Maqboul submitted that in spite of the panels determination there have been attempts to develop your insight and remediation. She submitted that all of the charges that the

panel found misconduct were admitted by you at the outset of the hearing which demonstrates that you have shown some developing insight into your misconduct.

Ms Maqboul asked the panel to accept that your reflection is ongoing and although the panel have determined it has come late in the day, you have shown development within your reflection process, particularly within your written reflective piece, but also in your oral evidence to the panel.

Ms Maqboul submitted that you accept that you could have done things differently however, she asked the panel to give you some credit for your concession in terms of impairment.

Ms Maqboul submitted that your reflection is an ongoing process, and that you continue to reflect today.

Ms Maqboul submitted that you take pride in your nursing qualification. She referred the panel to a number of positive testimonials. Further, she submitted that you recognise the distress that you have caused Patient A, but you asked the panel to take into account your long standing career history. She submitted that it is your plan to retire from nursing in April 2024, [PRIVATE], and would ask the panel to bear that in mind when you consider what appropriate sanction to impose.

Ms Maqboul submitted that if the panel were to impose a conditions of practice order, you are willing to comply with those conditions.

Ms Maqboul invited the panel to impose a conditions of practice order rather than a striking-off order.

Ms Girven in a short response, submitted that there would be no clinical conditions that could be applied.

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

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:

- [PRIVATE]
- Psychological harm caused to Patient A and possibly Patient B
- Pattern of misconduct in respect of Patient A over a prolonged period of time (8 years)
- Abuse of a position of trust
- A serious departure from relevant professional standards
- A persistent lack of meaningful insight into the seriousness of your actions and its consequences

The panel also took into account the following mitigating features:

- Some remediation
- Evidence of limited relevant training
- Number of positive testimonials in relation to your general practice
- Limited expression of remorse in your reflective piece
- Admission of the charges and subsequent acceptance by your counsel of misconduct and impairment

Further the panel had regard to the NMC sanctions guidance 'Considering sanctions for serious cases'. The panel determined that your misconduct was serious in that it involved a [PRIVATE] patient with whom you breached professional boundaries with harm.

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

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case and the public protection issues identified, an order that does not restrict 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 a conditions of practice order 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 in this case. The misconduct identified in this case was not something that could not be adequately addressed through conditions of practice due to the deep-seated attitudinal concerns identified by the panel. The panel also referred to the NMC guidance FTP-13a which relates to whether concerns can be addressed. It states examples of conduct that are unlikely to be addressed through training courses or supervision include *"inappropriate personal…relationships with patients, service users or other vulnerable people".* Furthermore, the panel concluded that the placing of conditions on your practice would not be practical or workable in your role, neither would they adequately address the seriousness of this case and would not sufficiently protect the public or serve the public interest.

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 has found a concerning lack of insight, and consequently a significant risk of repetition. It has found that the misconduct may be illustrative of an attitudinal problem, and that the misconduct took place over a prolonged period of time and was not a single incident.

The conduct, as highlighted by the facts found proved, were a serious departure from the standards expected of a registered nurse. In this particular case, the panel determined that a suspension order would not be sufficient, appropriate or a proportionate sanction. Further it would not address the risk of harm, nor adequately address the seriousness of this case or protect patients and the public interest.

Finally, in considering 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?*

The panel determined that your actions were a serious departure from the standards expected of a registered nurse, and a breach of the fundamental tenets of the profession. Your actions were 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 to practice would not adequately protect the public and would undermine public confidence in the profession and in the NMC as a regulatory body. Taking account of the SG, the panel could not be satisfied that anything less than a striking-off order would keep the public protected and address the public interest in your case.

Balancing all of these factors and 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 himself, the panel has concluded that nothing short of a striking off order would be sufficient in this case.

The panel considered that a striking off 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 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 your interest until the striking-off sanction takes effect.

Submissions on interim order

The panel took account of the submissions made by Ms Girven. She submitted that an interim suspension order is necessary for a period of 18 months.

Ms Maqboul made no objection to the application.

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

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and 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. The panel also determined to not impose an interim suspension order would be inconsistent with its earlier findings.

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

This decision will be confirmed to you in writing.

That concludes this determination.