Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Thursday, 23 February 2023 – Friday, 24 February 2023

Virtual Hearing

Name of Registrant:	**Regina Ogunyanwo**
NMC PIN	99C2484E
Part(s) of the register:	Registered Nurse – Adult Nursing July 2002
Relevant Location:	Havering and North Lincolnshire
Type of case:	Misconduct
Panel members:	John Kelly (Chair, lay member) Judith McCann (Registrant member) Isobel Leaviss (Lay member)
Legal Assessor:	Fiona Barnett
Hearings Coordinator:	Clara Federizo
Nursing and Midwifery Council:	Represented by Robert Rye, Case Presenter
Mrs Ogunyanwo:	Not present and unrepresented at the hearing
Consensual Panel Determination:	Accepted
Facts proved by admission:	All charges
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	**Striking-off order**
Interim order:	**Interim suspension order (18 months)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Ogunyanwo was not in attendance and that the Notice of Hearing letter had been sent to her registered email address by secure email on 18 January 2023.

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

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Ogunyanwo's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

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

Decision and reasons on proceeding in the absence of Mrs Ogunyanwo

The panel next considered whether it should proceed in the absence of Mrs Ogunyanwo. It had regard to Rule 21 and heard the submissions of Mr Rye who invited the panel to continue in the absence of Mrs Ogunyanwo.

Mr Rye informed the panel that a provisional Consensual Panel Determination (CPD) had been agreed on 16 February 2023. The provisional CPD agreement, signed by Mrs Ogunyanwo and the NMC, stated:

> *"Mrs Ogunyanwo is aware of the CPD hearing. Mrs Ogunyanwo does not intend on attending the hearing and is content for it to proceed in her and her representative's absence. Mrs Ogunyanwo's representative, the Royal College of Nursing, will endeavour to be available by telephone should clarification on any point be required."*

Mr Rye also referred the panel to the email, dated 22 February 2023, from Mrs Ogunyanwo's representative in which she stated:

> *"We will not be in attendance tomorrow but I will be available should the panel have any queries."*

In light of the above, Mr Rye submitted that Mrs Ogunyanwo voluntarily absented herself. Further, he submitted that Mrs Ogunyanwo has not requested an adjournment and that it is in her interest, as well as in that of the public, that this matter is dealt with expeditiously.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised "*with the utmost care and caution*" as referred to in the case of *R. v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel decided to proceed in the absence of Mrs Ogunyanwo. In reaching this decision, the panel considered the submissions of Mr Rye, the provisional CPD agreement and the advice of the legal assessor. It had regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and the overall interests of justice and fairness to all parties. It noted that:

- Mrs Ogunyanwo has engaged with the NMC through her representative and signed a provisional CPD agreement which is before the panel;

- In the provisional CPD agreement, it states that Mrs Ogunyanwo does not intend to attend the hearing in paragraph 1;
- No application for an adjournment has been made by Mrs Ogunyanwo;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a strong public interest in the expeditious disposal of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mrs Ogunyanwo.

Details of charge

That you, a registered nurse, whilst employed at Queens Hospital ("the Hospital");

1) Between January 2018 & September 2019:
   a) Shouted at Nurse V;
   b) On one or more occasion shouted at patients whilst in the Hospital/on a ward;
   c) On one or more occasion shouted whilst in the Hospital/on a ward;
   d) Told Nurse V, words to the effect *"that if Nurse B was to drop to the floor that you would step on them and not help"*.

2) On or around 31 August 2018:
   a) Did not record information regarding an unknown patient on a seizure chart;
   b) Shouted at Nurse D, using words to the effect *"Why can't you people just be happy about the things that we have done, rather than saying everything that we haven't done"*.

3) On or around 3 September 2018;
   a) During a handover with Nurse E:
      i) Rolled your eyes;
      ii) Kissed your teeth;

iii) Turned around/walked away from Nurse E;

iv) Ignored the information in the handover.

b) On one or more occasion shouted down the Ward regarding a Deprivation of Liberty Safeguarding Assessment;

c) On one or more occasion shouted at Nurse F;

d) Shouted/said to Nurse F, words to the effect *"I know people bigger than you and I am telling you don't you dare insult me again"*.

4) On or around 10 September 2018;

a) Poured milk into a plastic cup/prepared porridge for yourself on the Ward.

b) Became aggressive towards Nurse E.

c) Shouted at Nurse E, using words to the effect;

i) *"I know what I am doing"*.

ii) *"If I see the matron, I will deal with it"*.

5) On or around 12 May 2019;

a) Shouted at an A&E staff nurse.

b) Shouted at in Nurse G's face, using words to the effect;

i) "*You are a bully*".

ii) *"You do not support your own staff*".

6) On or around 26 June 2019;

a) On one or more occasion shouted at Nurse H.

b) On one or more occasion shouted on the Ward.

On or around 29 March 2020,

7) Between 15:56 and 20:00/20:30:

a) Did not ensure that you undertook/recorded Patient A's observations;

b) Did not assign/check/ensure that another member of staff undertook/recorded Patient A's observations;

c) Did not ensure that you undertook/recorded Patient A’s observations every 30 minutes/1 hour;
d) Did not assign/check/ensure that another members of staff undertook/recorded Patient A’s observations every 30 minutes/1 hour.

8) Did not enter Patient A’s Covid-19 swab for analysis on Cyberlab.

9) Did not refer Patient A to:
a) The Safeguarding Team;
b) The Learning Disability Team;
c) The Out of Hours Team/Pathway.

10) Did not escalate that Patient A had been receiving 1:1 care overnight for removing his oxygen mask, to the Nurse in Charge, Nurse Y.

11) Did not record that you escalated Patient A’s decreasing saturations levels to the Senior House Officer at 13:40 in Patient A’s nursing records.

12) Did not action, special 1:1 care during the day shift for Patient A.

13) At 19:40 after Patient A had pulled out his cannula, did not check Patient A’s:
a) Saturation levels;
b) Observations.

14) After being informed/discovering that Patient A was unresponsive, did not follow the resuscitation procedure in that you:
a) Did not ring 2222 to alert the resuscitation team;
b) Did not press the emergency buzzer/call bell to alert the resuscitation team;
c) Incorrectly went over to inform Dr X who was leaving the ward.
d) Did not immediately alert Dr X to the identity of Patient A, in that when informing Dr X used words to the effect:

i) *“The patient is dead*”;

ii) *“The patient has died”*.

e) Did not immediately commence CPR on Patient A.

15) Around/after March 2020 whilst on shift on one or more occasion;

a) Shouted at Nurse S.

b) Shouted over an unknown Patient.

Whilst working at Northern Lincolnshire & Goole NHS Foundation Trust

16) On or around 9 January 2021;

a) Did not check on Patient W’s respiration rate correctly.

b) Incorrectly informed Colleague Z that Patient W’s respiration rate was 22/23.

c) After Colleague Z had correctly recorded Patient W’s respiratory rate at 9, used words to the effect *‘Maybe the patient was holding his breath when you counted it.’*

17) On 25 January 2021;

a) Refused to cannulate one or more patients.

b) Refused to take bloods for one or more patients.

c) Shouted whilst on the ward in front of one or more patients.

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

Consensual Panel Determination

At the outset of this hearing, Mr Rye informed the panel that a provisional CPD agreement had been reached with regard to this case between the NMC, Mrs Ogunyanwo and her representative.

The agreement, which was put before the panel, sets out Mrs Ogunyanwo's full admissions to the facts alleged in the charges, that her actions amounted to misconduct, and that her fitness to practise is currently impaired by reason of that misconduct. It is further stated in the agreement that an appropriate sanction in this case would be a striking-off order.

The panel has considered the provisional CPD agreement, as reached by the parties, the relevant parts read as follows:

"…

<u>Background</u>

3. *Mrs Ogunyanwo appears on the register of nurses, midwives and nursing associates maintained by the NMC as a Registered Nurse, specialising in adult care. Mrs Ogunyanwo has been on the register since July 2002. This case represents the first time Mrs Ogunyanwo's fitness to practise has been referred to the NMC.*

4. *On 8 February 2023, the NMC received a referral from Barking Havering and Redbridge University Hospitals NHS Trust ("the Trust"). Mrs Ogunyanwo started working for the Trust in August 2011 until November 2014. Mrs Ogunyanwo was then employed at the Trust again in January 2017 at the Queen's Hospital ("the Hospital") as a Band 5 Nurse on Elderly Receiving Unit ("ERU").*

5. *ERU was a 30 bed elderly assessment unit. The aim was that patients would only be kept on the unit for around 72 hours to complete assessments before they would either be discharged, referred, or moved to the care of another unit.*

6. *On 16 December 2020, Mrs Ogunyanwo was dismissed from the Trust following a disciplinary hearing. As such, on 12 November 2020, Mrs Ogunyanwo started working for Altrix Nursing Agency ("the Agency"). Whilst working for the Agency,*

Mrs Ogunyanwo completed 76 shifts, primarily at Northern Lincolnshire & Goole NHS Foundation Trust ("Northern Trust") over various hospital sites.

7. *At the time of the concerns, Mrs Ogunyanwo was working at Scunthorpe, part of Northern Trust on the Admissions Unit ("the Unit").*

8. *The Unit dealt with all admissions, including surgical, medical and orthopaedic admissions. All patients that came through accident and emergency ("A&E") needing to be admitted to hospital would come to the Unit. The Unit would care for the patient until a specialist doctor would come and collect the patient. During this time, staff were responsible for completing the observations, admissions paperwork and administering any prescribed medication.*

9. *As part of the NMC's investigation process witness statements have been obtained from:*
   - *Colleague 1, Matron for the Surgical Division at the Trust;*
   - *Dr X, who was, at the material time, Foundation Year 1 Doctor at the Hospital;*
   - *Colleague 2, who was, at the material time, Charge Nurse at the Hospital and King George's Hospital;*
   - *Nurse Y, who was, at the material time, Charge Nurse on the Unit;*
   - *Dr 1, who was, at the material time, Respiratory Registrar at the Trust;*
   - *Colleague 3, Clinical Director at the Agency;*
   - *Nurse V, who was, at the material time, Ward Manager for ERU;*
   - *Nurse Z, Staff Nurse at the Agency; and*
   - *Colleague 4, Ward Sister at Scunthorpe General Hospital ("Scunthorpe")*

10. *On 7 December 2022 the Royal College of Nursing, on behalf of Mrs Ogunyanwo, admitted to all the charges and that her fitness to practise is impaired.*

Facts relating to Charge 1

11. Between January 2018 and September 2019, Mrs Ogunyanwo spoke aggressively to colleagues by shouting and raising her voice, and at times in front of patients.

12. On one occasion, Nurse V asked Mrs Ogunyanwo to speak to her in her office to discuss concerns relating to her documentation. Mrs Ogunyanwo started shouting at Nurse V, saying that another nurse was bullying her. Nurse V had to tell Mrs Ogunyanwo to stop shouting.

13. On another occasion, Mrs Ogunyanwo was heard shouting at a patient in ERU and Nurse V had to physically stand between Mrs Ogunyanwo and the patient to defuse a situation.

14. Furthermore, Mrs Ogunyanwo tried to administer Co-Amoxiclav to a patient. This medication is a large tablet and the patient was unable to swallow it. Mrs Ogunyanwo proceeded to drop the tablet into the patient's water, however, this was not a tablet that could be dissolved in water. This was witnessed by Nurse B. Mrs Ogunyanwo then started shouting at Nurse B who reported the incident to Nurse V.

15. Later that day, Mrs Ogunyanwo went into Nurse V's office to discuss the incident. When Mrs Ogunyanwo came to the office she said words to the effect "that if Nurse B was to drop to the floor that you would step on them and not help".

16. As a result of these concerns, in July 2018 Mrs Ogunyanwo was managed under the informal capability policy and placed on an action plan.

Facts relating to Charge 2

17. On 31 August 2018, Mrs Ogunyanwo was allocated to care for an epileptic patient experiencing seizures. However, Mrs Ogunyanwo did not complete a seizure chart. When Nurse D challenged this, Mrs Ogunyanwo told them that the patient had not

had any seizures and shouted "Why can't you people just be happy about the things that we have done, rather than saying everything that we haven't done".

18. *The seizure chart is required to be completed regardless of whether the epileptic patient has had any seizures. This is basic nursing knowledge which Mrs Ogunyanwo would have been expected to know.*

Facts relating to Charge 3

19. *On 3 September 2018, whilst Nurse E was handing over a patient to Mrs Ogunyanwo, she rolled her eyes, kissed her teeth and turned around, ignoring what was being said. Nurse E tried to re-approach Mrs Ogunyanwo regarding the patient's skin & bruising to advise on the best way to handle the patient when assisting with walking as he was complaining of pain. However, Mrs Ogunyanwo walked away.*

20. *Later in the day, the patient began to ask for his wife and became distressed and started crying and walking away. Mrs Ogunyanwo's response was that he's crying for his wife and there's nothing she can do, she therefore left him to wander to the next unit.*

21. *Shortly afterwards, Nurses E and F were on the computers and Mrs Ogunyanwo started shouting down from Bay 6 on ERU questioning why no Deprivation of Liberty Safeguarding ("DoLS") had been put in place for the patient. Bay 6 was less than a 30 second walk around the corner from the computers. Mrs Ogunyanwo had previously been told that the patient had been fine during the night shift so no DoLS would be required. Normally a DoLS would be required when a patient does not have full capacity and therefore cannot give consent, and a practitioner is permitted to act in their best interest. In this situation, Mrs Ogunyanwo stated that the patient had been confused and argued that a DoLS would not have been appropriate. However, Mrs Ogunyanwo continued to shout at Nurse F, where she then*

demanded that the patient is sedated and said "I know people bigger than you and I am telling you don't you dare insult me again".

Facts relating to Charge 4

22. *On 10 September 2018, Mrs Ogunyanwo poured milk into a plastic cup and prepared porridge for herself in one of the bays on ERU. Staff were not allowed to eat in the bays due to infection control purposes. Mrs Ogunyanwo would have known this as all staff on ERU completed a yearly infection control training, which covered eating on ERU.*

23. *Nurse E reminded Mrs Ogunyanwo that they were not allowed to eat in the bays. Mrs Ogunyanwo became aggressive to Nurse E and started shouting saying that she knew what she was doing and that she will deal with it if she sees the matron.*

Facts relating to Charge 5

24. *On 12 May 2019 at approximately 19:30, Nurse G (an A&E Nurse) was handing a patient over to Mrs Ogunyanwo. During the handover, Mrs Ogunyanwo was shouting in an aggressive manner. When Nurse G questioned Mrs Ogunyanwo about her behaviour, Mrs Ogunyanwo started shouting in their face, accusing them of being a bully, stating that she doesn't support her own staff.*

Facts relating to Charge 6

25. *On 26 June 2019, Mrs Ogunyanwo was looking after a patient who was very agitated and required Midazolam as he did not have it for a long time. Nurse H (Ward Manager) went to give the medication to the patient and asked Mrs Ogunyanwo for assistance. At this point, Mrs Ogunyanwo became very aggressive and started shouting at Nurse H in front of staff and patients on ERU.*

Facts relating to Charge 7 – 14

26. *On 28 March 2020, at the beginning of the Covid-19 pandemic, Patient A was admitted to the Hospital with suspected Covid-19. Patient A was known to have*

learning difficulties as they had Down's syndrome. Patient A was assessed for admission to the Intensive Therapy Unit ("ITU"), however as Patient A was stable it was decided to admit them to ERU, which was being used as a Covid-19 receiving ward at the time.

27. *Patient A was receiving oxygen therapy and had not yet been swabbed for Covid-19. It was documented that should Patient A's condition deteriorate, then they would be considered for ITU admission, as it was thought that they would not tolerate non-invasive ventilator support. It was also noted that they were for full resuscitation. There was no application made for a DoLS or referral to safeguarding due to Patient A's learning disability; as it was considered that Patient A did not have sufficient capacity.*

28. *Mrs Ogunyanwo was allocated to care for Patient A on the day shift of 29 March 2020 after they had been transferred to ERU. In the morning, Patient A although unwell, was stable. However, due to their learning disabilities, they did not understand the need to keep their oxygen mask in place. This should have been escalated to Nurse Y (the Nurse in Charge). Patient A had received 1:1 care overnight in order to ensure that they kept their oxygen mask in place. However, this did not continue during the day when Mrs Ogunyanwo was caring for them.*

29. *At around 9:30, Dr X conducted the post-take ward round, which is the first consultant review of the patients after their admission to the Hospital. Patient A was on 15 litres/minute of oxygen and presented as short of breath.*

30. *The post-take plan was to perform an arterial blood gas ("ABG") and thereby determine whether to wean Patient A off oxygen as tolerated. An ABG is a small blood sample taken from the radial artery, in the wrist, to assess blood oxygen. If Patient A remained short of breath it may not have been possible to wean them off the oxygen.*

31. *At around 12:00, Colleague 5 helped Patient A with their lunch and noted that they appeared more breathless than earlier. Colleague 5 took Patient A's observations, which resulted in them having a National Early Warning Score ("NEWS") of seven. This indicated that their condition needed to be escalated and observations taken more often. Colleague 5 informed Mrs Ogunyanwo of this and Mrs Ogunyanwo escalated this to Nurse Y.*

32. *Dr X reviewed Patient A at around 13:40 and attempted to perform an ABG but was unsuccessful. Dr X requested the assistance of the Senior House Officer who successfully took the sample, which indicated an oxygen saturation of 93%. This was discussed with the consultant who said that the oxygen saturations should be aimed to be kept at 90%; however, there were concerns with some of the blood test results so intravenous fluids were started.*

33. *Mrs Ogunyanwo went on her break at around 16:00 and asked Nurse Y to get a Healthcare Assistant ("HCA") to perform observations on Patient A. Mrs Ogunyanwo returned from her break after approximately one hour. No observations were recorded for Patient A between 16:00 and 20:00. It would have been expected for observations to have been completed every 30 minutes, in line with national guidance on NEWS.*

34. *Around 17:00. Colleague 5 went to help Patient A as they had soiled the bed and were unclothed. Colleague 5 continued to be concerned with Patient A's condition and noted that oxygen saturations were now at 64%. Colleague 5 informed Mrs Ogunyanwo of Patient A's condition and said they thought a doctor's review was needed. Mrs Ogunyanwo told them that it was not their role to decide who needed to see a doctor.*

35. *Patient A pulled out their cannula and Dr X was asked to re-site this around 19:30, which was completed at 19:40.*

36. Mrs Ogunyanwo's shift finished at 20:00; the night-time HCA had already begun working on ERU prior to this time. When the HCA went to Patient A's bedside, they found them unresponsive and called Mrs Ogunyanwo. On attending to Patient A, Mrs Ogunyanwo thought they had died.

37. Mrs Ogunyanwo informed Dr X, who was leaving his shift and was told a patient had died. Upon reviewing Patient A, Dr X checked for signs of life as they knew Patient A to be for resuscitation. Mrs Ogunyanwo made no emergency call by using the buzzer or calling 2222. Furthermore, Mrs Ogunyanwo did not commence CPR. Patient A was for full escalation and resuscitation. It is stated on the nursing handover and in the patients' medical notes if a patient is not for resuscitation. This was also in accordance with the Trust's Resuscitation Policy, which Mrs Ogunyanwo failed to follow.

38. Following this, Dr X alerted the resuscitation team who were in the next room. This occurred around 20:30. Dr 1 and a colleague attended immediately. However, after assessing Patient A they considered that Patient A had died at least 30 minutes earlier as they were cold to touch and there were no signs of life. Therefore, CPR was not commenced.

Facts relating to Charge 15

39. On an unknown date after March 2020, Mrs Ogunyanwo and Nurse S (an A&E Nurse) were discussing a handover of a patient in a four bedded bay on ERU. During this conversation, Mrs Ogunyanwo shouted at Nurse S about what tasks should have been completed in the emergency department but had not been done.

Facts relating to Charge 16

40. On 9 January 2021, Patient W had come to the Unit from A&E with a history of Opioid overdose. They had been given Naloxone in A&E and were very drowsy and unresponsive when they came to the Unit.

41. *Colleague Z completed the patient's admission and Mrs Ogunyanwo started to take Patient W's observations. Colleague Z asked Mrs Ogunyanwo to read out the observations so that they could record them on the admission paperwork. Mrs Ogunyanwo said that Patient W's respiration rate was either 22 or 23, when it should have been between 12 and 20. Colleague Z went and checked the respiratory rate herself and got a reading of nine. A respiration rate of nine is low and needs to be acted upon as it could lead to respiratory arrest. When Colleague Z questioned Mrs Ogunyanwo on the respiratory rate, Mrs Ogunyanwo said "Maybe the patient was holding his breath when you counted it."*

42. *As a result, Patient W needed to be seen by an intensive care consultant and prescribed further Naloxone to try and wake them up.*

43. *A qualified healthcare professional would know that a reading of 22 or 23 was a concern in a patient who was not alert due to an Opioid overdose.*

<u>Facts relating to Charge 17</u>

44. *On 25 January 2021, Mrs Ogunyanwo was working on the Unit and refused to take bloods or cannulate patients, resulting in a Doctor being asked to cannulate a patient as the Unit was so busy. When questioned by staff about this, Mrs Ogunyanwo shouted that she had been working non-stop since the shift started and to let her be.*

<u>Misconduct</u>

45. *The Parties agree that Mrs Ogunyanwo's actions, as outlined in the charges above, amounts to misconduct and that her actions and/or omissions fell significantly short of the standards expected of a registered nurse. The misconduct is a serious departure from expected standards, constitutes a risk to patients and a risk to the reputation of the profession.*

46. *The comments of* ***Lord Clyde in Roylance v General Medical Council [1999] UKPC 16*** *may provide some assistance when seeking to define misconduct:*

> *'[331B-E] Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a [nurse] practitioner in the particular circumstances'.*

47. *As may the comments of* ***Jackson J in Calheam v GMC [2007] EWHC 2606 (Admin) and Collins J in Nandi v General Medical Council [2004] EWHC 2317 (Admin):***

> *'[Misconduct] connotes a serious breach which indicates that the doctor's (nurse's) fitness to practise is impaired'*
>
> *And*
>
> *'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 practitioner'.*

48. *At the relevant time, Mrs Ogunyanwo was subject to the provision of* ***The Code: Professional standards of practice and behavior for nurses and midwives (2015)*** *("the Code"). The Parties agree that the following provisions of the Code were engaged, and breached, in this case;*

1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion

1.2 make sure you deliver the fundamentals of care effectively

1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay

1.5 respect and uphold people's human rights

2 Listen to people and respond to their preferences and concerns

To achieve this, you must:

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

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

8.2 maintain effective communication with colleagues

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

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

To achieve this, you must:

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

10 Keep clear and accurate records relevant to your practice

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

To achieve this, you must:

10.1 complete records at the time or as soon as possible after an event, recording if the notes are written sometime after the event

10.3 complete records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements

13 Recognise and work within the limits of your competence

To achieve this, you must, as appropriate:

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

13.2 make a timely referral to another practitioner when any action, care or treatment is require

15 Always offer help if an emergency arises in your practice setting or anywhere else

To achieve this, you must:

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

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 … policies about protecting and caring for vulnerable people

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

To achieve this, you must:

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

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

20.2 act with … integrity at all times, treating people fairly and without … 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
20.6 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
20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to

49. It is acknowledged that not every breach of the Code will result in a finding of misconduct. However, Mrs Ogunyanwo accepts that the failings set out above are a serious departure from the professional standards and behaviour expected of a registered professional.

50. Individually, and collectively, the conduct referred to in the charges are sufficiently serious so as to amount to misconduct.

Impairment

51. The Parties agree that Mrs Ogunyanwo fitness to practise is currently impaired by reason of her misconduct.

52. Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones and therefore it is imperative that nurses make sure that their conduct at all times justifies both their patients' and the public's trust in them and in their profession.

*53. A general approach to what might lead to a finding of impairment was provided by Dame Janet Smith in her Fifth Shipman Report. A summary is set out in the case of **CHRE v Nursing and Midwifery Council & Grant [2011] EWHC 927** at paragraph 76 in the following terms:*

"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:

i. 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
ii. has in the past brought and/or is liable in the future to bring the medical rice
iii. 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
iv. has in the past acted dishonestly and/or is liable to act dishonestly in the future."

54. The Parties agree that limbs i, ii and iii above can be answered in the affirmative in this case. The fourth limb is not applicable in this case. Dealing with each applicable limb in turn:

<u>Public Protection</u>

*55. In accordance with **Article 3(4) of the Nursing and Midwifery Order 2001** ("the Order") the overarching objective of the NMC is the protection of the public.*

56. The Order states:

"The pursuit by the Council of its overarching objective involves the pursuit of the following objectives-

a) to protect, promote and maintain the health, safety and well-being of the public;

b) to promote and maintain public confidence in the professions regulated under this Order; and

c) to promote and maintain proper professional standards and conduct for members of those professions."

57. The case of Grant makes it clear that the public protection must be considered paramount and Cox J stated at para 71:

"It is essential, when deciding whether fitness to practise is impaired, not to lose sight of the fundamental considerations … namely, the need to protect the public and the need to declare and uphold proper standards of conduct and behaviour so as to maintain public confidence in the profession"

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

58. The misconduct referred to in the charges had the potential to cause unwarranted harm to patients. Taking and recording accurate observations and acting appropriately in emergency situations are fundamental nursing skills. Any failure in these areas can compromise patient safety. By failing to document properly, Mrs Ogunyanwo risked the patient receiving inadequate care by someone who would not know everything about that patient.

59. Regarding Patient A, there was very serious patient harm, in that Patient A died without appropriate care being given. Whilst the events took place on the onset of the Covid-19 pandemic shortly after a countrywide lockdown was imposed, when there was also uncertainty in relation to the appropriate personal protective equipment, Mrs Ogunyanwo still had a duty to ensure that Patient A's observations were carried out, documented and acted upon.

60. In relation to Patient W, Mrs Ogunyanwo would have recorded the respiration rate incorrectly, which would have led to the patient having different treatment. The actual rate of nine is more fitting with this type of patient and this needs immediate action, which would have been missed had Colleague Z not checked the respiration rate and been aware of this.

61. The Parties also agree that being courteous and professional to patients and colleagues is of the utmost importance as a registered professional. Should similar failings to be repeated in the future, then patient safety would be put at risk. The Parties agree that Mrs Ogunyanwo's failings involved a serious departure from professional standards and placed those in her care at a serious and unwarranted risk of harm.

<u>Public Interest</u>

Has in the past brought and/or is liable in the future to bring the medical profession into disrepute

62. Registered professionals occupy a position of trust in society. The public, quite rightly, expects nurses to provide safe and effective care, and conduct themselves in ways that promotes trust and confidence. Mrs Ogunyanwo's actions and omissions have the potential to cause patients and members of the public to be concerned about their safety and feel unnecessarily anxious about their healthcare treatment. This, the Parties agree, could result in patients, and members of the public, being deterred from seeking medical assistance when they should. Therefore, it is agreed that Mrs Ogunyanwo's conduct has brought the profession into disrepute and that she has breached the trust placed in her.

63. The Parties agree that such behaviour not only brought Mrs Ogunyanwo's reputation into disrepute, but also that of the wider profession. This in turn undermines the public's confidence in the profession as a whole.

Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession

64. *The Code divides its guidance for nurses in to four categories which can be considered as representative of the fundamental principles of nursing care. These are:*
    a) *Prioritise people;*
    b) *Practice effectively;*
    c) *Preserve safety and*
    d) *Promote professionalism and trust*

65. *Providing a high standard of care is also a fundamental tenet of the nursing profession. Further the provisions of the Code, as referred to above, constitute tenets of the nursing profession. By failing to provide a high standard of care at all times and comply with the core principles and specific paragraphs of the Code as set out above, Mrs Ogunyanwo's breached fundamental tenets of the profession.*
66. *The panel may also find it useful to consider the comments of* ***Cox J in Grant at paragraph 101****:*

> *"The Committee should therefore have asked themselves not only whether the Registrant continued to present a risk to members of the public, but whether the need to uphold proper professional standards and public confidence in the Registrant and in the profession would be undermined if a finding of impairment of fitness to practise were not made in the circumstances of this case".*

<u>Remediation, reflection, training, insight, remorse</u>

67. *With regard to future risk the Parties have considered the comments of* ***Silber J in Cohen v General Medical Council [2008] EWHC 581 (Admin)*** *namely (i) whether the concerns are easily remediable; (ii) whether they have in fact been remedied; and (iii) whether they are highly unlikely to be repeated.*

68. *The NMC's guidance entitled* ***"Can the concern be addressed (FTP-13a)"*** *states that "Generally issues relating to the safety of clinical practice are easier to address, particularly where they involve isolated incidents". However, it continues to state that "It can often be very difficult, if not impossible, to put right the outcome of the clinical failing or behaviour, especially where it has resulted in harm to a patient […] In cases like this, and in cases where the behaviour suggests underlying problems with the nurse, midwife or nursing associate's attitude, it is less likely the nurse, midwife or nursing associate will be able to address their conduct by taking steps, such as completing training courses or supervised practice."*

69. *Although there are identifiable areas of clinical practice which can be easily remediated, Mrs Ogunyanwo's behaviour towards colleagues and patients raises significant attitudinal and behavioural concerns which are more difficult to remediate.*

70. *The Parties next considered if Mrs Ogunyanwo has reflected and taken opportunities to show insight into what happened. The Parties acknowledge that Mrs Ogunyanwo has demonstrated some level of insight, evidenced by way of her admission to the charges. However, Mrs Ogunyanwo has not submitted a detailed reflective piece addressing the concerns, or demonstrating learning or any form of remediation at this stage.*

71. *In February 2021, Mrs Ogunyanwo appealed against the Trust's decision to terminate her employment, which took place on 16 December 2010. North Ford Solicitors, submitted a letter on behalf of Mrs Ogunyanwo. The letter states:*

> *"Our Client [Mrs Ogunyanwo] accepts responsibility for her errors however she strongly asserts that she was not solely to blame for the downfalls of the hospital but feels scapegoated for the same. Our Client [Mrs Ogunyanwo] instructs that the witnesses investigated during the investigation have lied*

against her … Our Client [Mrs Ogunyanwo] believes she has been discriminated as a result of her race and age."

72. In relation to the incidents surrounding Patient A, North Ford Solicitors state:

"Our Client [Mrs Ogunyanwo] disagrees with this decision and denies the allegation. Our Client [Mrs Ogunyanwo] instructs that she monitored [Redacted - Patient A] as well as anyone else could in her position on her day. You will note that [Redacted - Patient A] was admitted during a time where coronavirus was widely and rapidly spreading leading to the first emergency lockdown on the 23 March 2020. As such, the pressure was intense for care workers and this should be considered when investigating the matter. On the day of the incident our Client [Mrs Ogunyanwo] was looking after 8 patients in a busy ward … This allegation particularly hurt our Client [Mrs Ogunyanwo] because she is certain no one else could have provided [Redacted - Patient A] with better care apart from her mother as [Redacted - Patient A] would be more receptive."

73. Furthermore, North Ford Solicitors continues to say:

"Our Client [Mrs Ogunyanwo] instructs that she did not record her observations between 16:00pm to 20:00pm simply because she was engrossed with the workload on the day. As already highlighted, this period was very hectic for all staff due to the excessive rise in Covid Cases".

74. Mrs Ogunyanwo's comments do not provide reassurance that she has shown sufficient insight or addressed the concerns about her poor attitude and behaviour towards colleagues and patients. Mrs Ogunyanwo does not explain how she might act differently in the future. Furthermore, there has been a repetition of Mrs Ogunyanwo's behaviour when consider her actions at the Trust between 2018 and 2019 and her conduct at Northern Trust in 2021. Therefore, there remains a risk of repetition.

Public protection impairment

75. For the reasons referred to above, it is agreed that a finding of impairment on public protection grounds is necessary.

Public interest impairment

76. A finding of impairment is also necessary on public interest grounds.

*77. In **CHRE v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) Cox J** commented as follows:*

"71. It is essential, when deciding whether fitness to practise is impaired, not to lose sight of the fundamental considerations… namely, the need to protect the public and the need to declare and uphold proper standards of conduct and behaviour so as to maintain public confidence in the profession .."

74. "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."

75. "I regard that as an important consideration in cases involving fitness to practise proceedings before the NMC where, unlike such proceedings before the General Medical Council, there is no power under the rules to issue a warning, if the committee finds that fitness to practise is not impaired. As Ms McDonald observes, such a finding amounts to a complete acquittal, because there is no mechanism to mark cases where findings of misconduct have been made, even where that misconduct is serious and has persisted over a substantial period of time. In such

circumstances the relevant panel should scrutinise the case with particular care before determining the issue of impairment."

78. *Having regard to the serious nature of the misconduct, and the principles referred to above, a finding of impairment is necessary on public interest grounds. As recognised above, an important consideration is that a finding of no impairment would lead to no record of these regulatory charges and the conduct being marked, which would be contrary to the public interest.*

79. *The public would be concerned about the serious failings in this case. The concerns are of such a serious nature the need to protect the wider public interest calls for a finding of impairment to uphold the standards of the profession, maintain confidence in the profession and the NMC as its regulator. Without a finding of impairment, public confidence in the profession and the NMC would be undermined.*

80. *The Parties agree that Mrs Ogunyanwo's fitness to practice is impaired on public protection and public interest grounds.*

Sanction

81. *Whilst sanction is a matter for the panel's independent professional judgement, the Parties agree that the appropriate sanction in this case is a striking-off order. A striking-off order is the most appropriate and proportionate sanction which properly reflects the seriousness of the misconduct.*

82. *In reaching this agreement, the Parties considered the* ***NMC's Sanctions Guidance*** *("the Guidance"), bearing in mind that it provides guidance and not firm rules. The panel will be aware that the purpose of sanctions is not to be punitive but to protect the public and public interest. The panel should take into account the principle of proportionality and it is submitted that the proposed sanction is a*

proportionate one that balances the risk to the public and the public interest with Mrs Ogunyanwo's interests.

83. The aggravating features in this case have been identified as follows:

- *A pattern of failure across fundamental and clinical areas of nursing practices*
- *Harmful deep-seated personality or attitudinal problems*
- *A failure to provide life-saving care to a vulnerable patient*
- *Placing multiple vulnerable patients at a significant risk of harm*
- *A pattern of failures across two separate employers*
- *A repeated demonstration of misconduct and verbal abuse towards colleagues.*
- *A limited demonstration of insight, remorse & remediation*

84. The mitigating features of this case have been identified as follows: • Acceptance of the wider regulatory concerns • Engagement with their regulator

85. With regards to the Guidance, the following aspects have led the Parties to conclude that a striking-off order is appropriate and proportionate. Taking the available sanctions in ascending order starting with the least restrictive:

*a) **Taking no action or a caution order** - The NMC's guidance (SAN-3a and SAN-2b) states that it will be rare to take no action where there is a finding of current impairment and this is not one of those rare cases. The seriousness of the misconduct means that taking no action would not be appropriate. A caution order would also not be in the public interest nor mark the seriousness and would be insufficient to maintain high standards within the profession or the trust the public place in the profession.*

*b) **Conditions of Practice Order** – The NMC's guidance (SAN-3c) states that a conditions of practice order may be appropriate when there is "no evidence of harmful deep-seated personality or attitudinal problems". Although there are*

identifiable areas of clinical practice which can be addressed by formulating workable, measurable and proportionate conditions to focus on areas such as record keeping, observations, escalation and communication, Mrs Ogunyanwo's behaviour towards colleagues and patients raise significant attitudinal and behavioural concerns which may not be addressed by a conditions of practice. A conditions of practice order would not reflect the seriousness of the concerns raised or maintain public confidence.

c) ***Suspension Order*** *- Imposing a suspension order would only temporarily protect the public. It cannot be said that this was a single instance. Mrs Ogunyanwo repeated the behaviour across two employers. There is also evidence of harmful deep-seated personality or attitudinal problems. This sanction would not reflect the seriousness of the conduct and therefore public confidence in the profession would not be maintained. According to the NMC guidance (SAN-d), a suspension order would not be appropriate in this case as the misconduct is fundamentally incompatible with Mrs Ogunyanwo continuing to be a registered professional. The overarching objective of public protection would not be satisfied by a suspension order and it would not be in the public interest to impose a suspension order in this case. The public's confidence in the NMC as a regulator would be undermined if Mrs Ogunyanwo was allowed to practice once the suspension order comes to an end.*

d) *Striking-off Order – Mrs Ogunyanwo's behaviour has raised fundamental questions about her professionalism and public confidence can only be maintained if she is removed from the register. Mrs Ogunyanwo's action of failing to follow the resuscitation policy by not pressing the emergency buzzer and making a decision outside the scope of her practice that Patient A was for not for resuscitation raises fundamental concerns about her professionalism and trustworthiness as a nurse. Mrs Ogunyanwo's actions placed Patient A at a significant risk of harm when they were at their most vulnerable. Taking into account all of the factors, the conduct is fundamentally incompatible with*

ongoing registration as a nurse. Only a striking-off order would be sufficient to protect the public and maintain public confidence in the profession.

<u>Interim Order</u>

86. An interim order is required in this case. The interim order is necessary for the protection of the public and is otherwise in the public interest. The interim order should be for a period of 18 months in the event Mrs Ogunyanwo's sought to appeal against the panel's decision. The interim order should take the form of an interim suspension order.

The Parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings impairment and sanction is a matter for the panel. The Parties understand that, in the event that a panel does not agree with this provisional agreement, the admissions to the charges and the agreed statement of facts set out above, may be placed before a differently constituted panel that is determining the allegation, provided that it would be relevant and fair to do so."

Here ends the provisional CPD agreement between the NMC and Mrs Ogunyanwo. The provisional CPD agreement was signed by Mrs Ogunyanwo and the NMC on 16 February 2023.

Decision and reasons on the CPD

The panel accepted the CPD for the reasons set out below.

Mr Rye provided a summary of the facts and outlined for the panel that Mrs Ogunyanwo accepts the charges. Mr Rye submitted that her actions were seriously below the standards expected of her, amounting to misconduct. He submitted that Mrs Ogunyanwo's misconduct was serious, that her fitness to practise is currently impaired and that limbs i, ii, iii in the case of *Grant* are engaged, the details of which are set out in the CPD agreement.

Mr Rye referred the panel to the ‘NMC Sanctions Guidance’ (SG) and to the ‘NMC’s guidance on Consensual Panel Determinations’. He submitted that the proposed sanction is also set out in the CPD along with the reasons why the parties agree that a striking-off order is appropriate and proportionate. He reminded the panel that they can accept or reject the CPD agreement reached between the NMC and Mrs Ogunyanwo. Further, the panel should consider whether the CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the profession and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

The panel heard and accepted the legal assessor’s advice, who referred the panel to the NMC Code: Professional standards of practice and behaviour for nurses and midwives (2015) (‘the Code’), the case of *Roylance* and the general approach provided by Dame Janet Smith in her Fifth Shipman Report as set out in *Grant*.

The panel noted that there were minor elements of the provisional CPD agreement that required correcting, such as dates and typing errors.

The panel noted that paragraph 4 of the provisional CPD agreement states: “*On 8 February 2023, the NMC received a referral…*”. The date should be amended to 8 February 2021 as the correct date the referral was received. Further, the panel noted a typing error in paragraph 53 of the provisional CPD agreement, where paragraph 76 of the case of *Grant* is quoted: “*ii. has in the past brought and/or is liable in the future to bring the medical rice*”. This should be amended to read “*has in the past brought and/or is liable in the future to bring the medical profession into disrepute…*”.

In addition, the panel noted an email from the referrer in Havering, which supported the sanction of striking-off order in this case.

Decision and reasons on facts

The panel had regard to all the documentation placed before it and the relevant case law. It noted that Mrs Ogunyanwo admitted the facts of the charges and recognised that she had professional representation and also signed the provisional CPD agreement. Accordingly, the panel found all the charges proved by way of Mrs Ogunyanwo's admissions.

Decision and reasons on impairment

The panel then went on to consider whether Mrs Ogunyanwo's fitness to practise is currently impaired.

The panel took into account and accepted paragraphs 51 to 80 of the CPD agreement.

Whilst acknowledging the agreement between the NMC and Mrs Ogunyanwo, the panel has exercised its own independent judgement in reaching its decision on impairment.

In making its decision, the panel had regard to the Code. It determined that the sections of the Code as set out in the CPD agreement were relevant in this case.

In respect of misconduct, the panel determined that the facts found proved are serious in nature and identify deep-seated attitudinal concerns and unprofessional behaviour towards patients and colleagues. Mrs Ogunyanwo's actions fell below the standard expected in accordance with the Code and put vulnerable patients at risk of harm on more than one occasion. The panel was of the view that this indicated a pattern of behaviour, spanning a period of two and half years, which fell seriously short of the standards expected of a registered nurse. The panel concluded that the facts found proved amount to misconduct and it accept paragraph 50 of the CPD agreement in that:

> "*Individually, and collectively, the conduct referred to in the charges are sufficiently serious so as to amount to misconduct*".

The panel then considered whether Mrs Ogunyanwo's fitness to practise is currently impaired by reason of misconduct. None of the information available to the panel shows that Mrs Ogunyanwo has developed insight into the impact of her behaviour, beyond that indicated by her admission to the charges. She had not expressed remorse in relation to her misconduct nor demonstrated awareness of the impact that her behaviour had on patients, colleagues and public confidence in the profession. The panel determined that there was no information before it to evidence that Mrs Ogunyanwo had taken reasonable steps to strengthen her practice.

In light of this, the panel agreed that the first three limbs of the test in *Grant* are engaged in this case, with particular reference to the risk of repetition. Mrs Ogunyanwo's actions put patients at risk of serious harm and, in the absence of any insight (except her admissions), remorse or remediation, she remains highly likely to do so in the future. Therefore, the panel determined that a finding of impairment is necessary on the grounds of public protection.

The panel further determined that a finding of impairment on public interest grounds is also required. It concluded that a reasonable and well-informed member of the public would expect a finding of impairment to follow and would be extremely concerned if a nurse was not found impaired in these circumstances. Any other outcome would undermine confidence in the profession.

Decision and reasons on sanction

Having found Mrs Ogunyanwo's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case.

The panel took into account and accepted paragraphs 81 to 85 of the provisional CPD agreement.

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:

- A pattern of failure across fundamental and clinical areas of nursing practices
- Harmful deep-seated personality or attitudinal problems
- A failure to provide potentially life-saving care to a vulnerable patient
- Placing multiple vulnerable patients at a significant risk of harm
- A pattern of failures across two separate employers
- A repeated demonstration of misconduct and verbal abuse towards patients and colleagues over a long period of time
- A limited demonstration of insight, remorse and remediation

The panel also took into account the following mitigating features:
- Acceptance of the wider regulatory concerns

The panel acknowledged that Patient A was admitted during the early days of the Covid-19 pandemic. However, the panel was mindful that Mrs Ogunyanwo's care fell seriously below the standards set out in the Code, and the impact of the pandemic on the health service at that time does not excuse her failures.

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, as well the panel's finding of current impairment on public protection grounds, an order that does not restrict Mrs Ogunyanwo's practice would not be

appropriate in the circumstances. The SG states that a caution order may be appropriate where *"the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again."* The panel considered that Mrs Ogunyanwo's misconduct was not at the lower end of the spectrum. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mrs Ogunyanwo's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case goes beyond that which can be addressed through retraining or a period of supervised practise due to the concerns around deep-seated attitudinal behaviour. Furthermore, the panel concluded that placing conditions on Mrs Ogunyanwo's registration would not adequately address the seriousness of this case and would not protect the public, uphold public confidence in the profession and maintain professional standards.

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 determined that none of the above factors are engaged in this case. Consequently, it found 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 key considerations of the SG (Reference: SAN-3e):

- *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?*

In addition to Patient A, whom the provisional CPD reasoning appears to focus on in relation to striking-off, the panel considered that Patient W was also placed at a real risk of harm due to Mrs Ogunyanwo's failure to report the correct respiratory rate. The panel also considered that many patients under her care were placed at risk of physical harm by lack of appropriate and responsive nursing care and emotional harm by being shouted at or over. The panel were concerned that Mrs Ogunyanwo's shouting at nursing colleagues handing over care of patients or identifying concerns around her poor practice, which is unacceptable, unprofessional and likely to cause emotional harm.

The panel considered there remains a real risk to the health, safety, and wellbeing of the public as the concerns relate to attitudinal issues and failings in basic nursing care, which appear to form a pattern over an extended period of two and a half years with two employers.

Mrs Ogunyanwo's actions were significant departures from the standards expected of a registered nurse. The panel took the view that overall Mrs Ogunyanwo's behaviour had breached fundamental tenets of the profession, in particular relating to providing safe nursing care, treating people as individuals and upholding their dignity, working cooperatively and upholding the reputation of the nursing profession at all times.

Consequently, the panel determined that her actions are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this case demonstrate that Mrs Ogunyanwo's actions were serious and to allow her 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 agreed with the provisional CPD agreement that the appropriate and proportionate sanction is that of a striking-off order.

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

This will be confirmed to Mrs Ogunyanwo in writing.

Decision and reasons on interim order

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

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

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

That concludes this determination.