

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

**Substantive Hearing  
Wednesday, 4 October 2023 – Thursday, 5 October 2023**

Nursing and Midwifery Council  
2 Stratford Place, Montfichet Road, London, E20 1EJ

<b>Name of Registrant:</b>	<b>Simon Watts</b>
<b>NMC PIN</b>	11K0200E
<b>Part(s) of the register:</b>	Registered Nurse – Sub Part 1 Adult Nursing – (March 2012)
<b>Relevant Location:</b>	Leicester
<b>Type of case:</b>	Conviction
<b>Panel members:</b>	Clive Chalk (Chair, Lay member) Rachel Carter (Registrant member) Christopher Reeves (Lay member)
<b>Legal Assessor:</b>	Lachlan Wilson
<b>Hearings Coordinator:</b>	Dilay Bekteshi
<b>Nursing and Midwifery Council:</b>	Represented by Sophia Ewulo, Case Presenter
<b>Mr Watts:</b>	Present and represented by Gail Adams, (UNISON)
<b>Facts proved:</b>	Charge 1
<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	Suspension order (6 months)
<b>Interim order:</b>	Interim suspension order (18 months)

## **Details of charge**

*That you, a registered nurse:*

- 1) *On 30 June 2022 In the Crown Court at Leicester were convicted of Inflicting Grievous Bodily Harm contrary to section 20 of the Offences Against the Person Act 1861.*

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

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

At the outset of the hearing, Dr Adams made an application on your behalf for the entirety of the case to be held in private. She submitted that a proper examination of your case would involve discussing [PRIVATE]. However, she also submitted that if the panel disagrees, she is willing to separate and handle the matters concerning your private life separately. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms Ewulo, representing the Nursing and Midwifery Council (NMC), stated that she did not oppose the application regarding matters involving [PRIVATE]. She suggested that it was up to the panel to decide on this.

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

Having heard that there will be reference to [PRIVATE], the panel determined to hold parts of the hearing in private. The panel recognised that there is a public interest in addressing

these matters in public, while also ensuring the protection of your right to privacy. It was agreed that when such matters are being discussed, it would be clearly communicated, and the panel would ensure that those parts of the hearing are held in private.

## **Background**

You first appeared on the NMC's Register on 10 March 2012. You were employed as a Band 5 nurse since 29 April 2019, having been redeployed from the fracture clinic at Leicester Royal Infirmary.

You were referred to the NMC on 23 December 2021 by Leicestershire Police (the Police).

The incident that took place on 17 December 2021 at the Stirrup Cup Public House involved a victim who knew of you by name/living in the same area but is not an acquaintance. Inside the Public House the victim's mobile phone was used to live stream. You took offence to this. A verbal altercation occurred. The victim left the public house. You followed the victim and punched him while he had his back turned to you causing the victim to fall to the ground and slump against the wall. As the victim lay on the ground, you hit him again.

The victim sustained serious injuries to the face including a fracture to his nasal passage, and damaged two teeth. The incident was captured on CCTV.

The NMC notes the basis of plea on which you were sentenced. There is no suggestion that you were responsible for homophobic language. The allegation of homophobic comments do not form part of the conviction, charge or facts and should not be taken into consideration. It was accepted by the Crown Prosecution Service (CPS) that you did not make homophobic remarks. However, the NMC say it is important to be transparent about the manner in which the police investigated this case and to make full sense of the basis of plea.

You were arrested and interviewed. You made no comment in the police interview. You appeared on 20 May 2022 at the Magistrates Court charged with inflicting grievous bodily harm, contrary to section 20 of the Offences Against the Person Act 1861. You entered a not guilty plea and raised self-defence.

On 30 June 2022 at Leicester Crown Court, you changed your plea to guilty.  
[PRIVATE].

### **Decision and reasons on facts**

The charge in this case concerns your conviction. The panel was provided with a copy of the Certificate of Conviction dated 18 January 2023. The panel determined that the facts are found proved in accordance with Rule 31 (2) and (3) of the Rules which states:

- (2) Where a registrant has been convicted of a criminal offence—
  - (a) a copy of the certificate of conviction, certified by a competent officer of a Court in the United Kingdom (or, in Scotland, an extract conviction) shall be conclusive proof of the conviction; and*
  - (b) the findings of fact upon which the conviction is based shall be admissible as proof of those facts.**
- (3) The only evidence which may be adduced by the registrant in rebuttal of a conviction certified or extracted in accordance with paragraph (2)(a) is evidence for the purpose of proving that she is not the person referred to in the certificate or extract.*

At the outset of the hearing, you also admitted charge 1, and in doing so you confirmed that you were the person referred to in the certificate.

The panel therefore found charge 1 proved by way of the Certificate of Conviction and your admission.

## **Fitness to practise**

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, your fitness to practise is currently impaired by reason of your conviction. 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.

## **Mr Watts' oral evidence on impairment**

You gave evidence under oath.

[PRIVATE].

[PRIVATE].

[PRIVATE].

[PRIVATE].

[PRIVATE].

[PRIVATE]. You said in a situation similar to the incident, you would take immediate steps to remove yourself from the location of any altercations and involve the authorities.

[PRIVATE].

You said that you deeply regret the impact of your actions on the victim. Expressing sincere remorse, you acknowledge the injuries inflicted and recognise that the event should never have transpired. In any similar situation, you would immediately remove yourself from the establishment to avoid causing harm and report the incident to the authorities.

You said that you understand how your conviction could affect public trust in the nursing profession as a whole and such behaviour would have “*deep impact on public trust*”. You understand that engaging in such behaviour, even outside of work hours, can damage the reputation of the profession and undermine trust among professionals.

Since the incident, you said you have not been working. [PRIVATE].

You said that in your role in the Accident and Emergency (A&E) department, you frequently faced challenging situations. [PRIVATE]. You said you genuinely regret your behaviour on that day and reflect upon it, understanding that you never want to experience such a situation again.

In response to panel questions, you said that if you were faced with a similar situation in the future and unable to walk away, you would use de-escalation techniques and seek help from others. You would employ a calm demeanour, positive communication, and attempt to improve the situation if possible. You affirm that in past challenging situations in nursing, you have successfully used calm communication and sought assistance from colleagues to effectively manage the circumstances.

You said that you possess valuable qualities for the nursing profession and aspire to make a meaningful difference in patient care. While acknowledging that other career paths could be pursued if nursing were not possible, your passion always resided in nursing. It is an area where you have excelled as a good communicator, confident in your abilities, and one that has allowed you to positively impact the workplace through teaching and sharing your knowledge.

Having started nursing in 2012, you have assumed various clinical roles and always stayed true to your passion for helping others and making a difference in their lives. Sharing your knowledge within the nursing community brings you immense satisfaction.

You said that one of the most important lessons learned since the incident has been gaining an understanding of yourself, recognising your limitations, and adopting different approaches to handling challenges. This experience has taught you how to become a better person, [PRIVATE] and decision-making processes.

### **Submissions on impairment**

Ms Ewulo addressed the panel on the issue of impairment and reminded the panel 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) Grant* [2011] EWHC 927 (Admin) and NMC guidance on impairment (DMA-1).

In respect of public protection, Ms Ewulo submitted that your behaviour placed a member of the public at unwarranted risk of harm. There is no suggestion that you were wearing your nursing uniform or acting in a clinical setting. However, a patient could be reluctant to seek care from you in light of your conviction. She submitted that there is unwarranted risk of harm and potential for serious harm.

In respect of public interest, Ms Ewulo submitted that nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and families must be able to trust nurses with their lives and the lives of their loved ones. When considering risk of harm to patients, the panel should also consider the possible consequences of the concerns, such as members of the public feeling reluctant to access healthcare services. Ms Ewulo submitted that such behaviour not only brought your reputation into disrepute, but also that of the wider profession. This in turn undermined the public's confidence in the profession as a whole. She submitted that the public expect nurses to be caring and not commit a serious assault [PRIVATE]. Ms Ewulo submitted that the facts, as set out in the charge, brought the profession into disrepute, and had the potential to undermine trust and confidence in the profession.

Ms Ewulo identified the relevant sections of the Code (updated on 19 October 2018) where your actions breached fundamental tenets of the profession.

Ms Ewulo addressed the panel on remediation, reflection, training and remorse and made reference to the case of *Cohen v GMC* [2008] EWHC 581 (Admin), and that when deciding whether your fitness to practise is impaired, the panel should take account of:

- *Whether the conduct which led to the charge is easily remediable;*
- *Whether it has been remedied; and*
- *Whether it is likely to be repeated.”*

Ms Ewulo submitted that the concerns are serious and could be said to be extremely difficult to put right. These concerns fall into the category of conduct which falls so far short of the standards the public expect. She submitted that it is a matter for the panel to decide whether you have demonstrated insight. She directed the panel to the NMC guidance “*Has the concern been addressed*” (FTP-13b), which states: “*A nurse, midwife or nursing associate who shows insight will usually be able to: step back from the situation and look at it objectively, recognise what went wrong, accept their role and responsibilities and how they are relevant to what happened, appreciate what could and should have been done differently and understand how to act differently in the future to avoid similar problems happening.*”

Ms Ewulo submitted that you have demonstrated some insight. You did plead guilty, although it was not at the first opportunity. You also admitted the facts in relation to charge 1 and impairment in the Case Management Form (CMF). You have also explained why it happened and what you would do differently in the future. You have also provided a reflective piece and gave oral evidence on impairment. You have also demonstrated remorse. However, two days after the incident when you had had the opportunity to reflect, you did not demonstrate remorse in a social media communication. [PRIVATE].



However, Ms Ewulo submitted that it cannot be said that it is highly unlikely that the conduct will be repeated.

In these circumstances, Ms Ewulo submitted that your behaviour that led to your conviction has not been fully remediated and therefore there remains a current impairment on the grounds of public protection and otherwise in the public interest.

Dr Adams informed the panel that you graduated as a nurse in 2012. Since that time, you have been practising in the East Midlands, initially within Trauma & Orthopaedic outpatients and subsequently in the A&E. There are no previous NMC cases or concerns, and you have not been subject to previous disciplinary action.

Dr Adams told the panel that you are complying with the court ruling and have continued to undertake training as suggested by the probation service. She referred the panel to email correspondence between you and your probation officer dated 2 October 2023. In this email, your probation officer provides confirmation of your compliance with the service, including your attendance at appointments and training sessions. Your probation officer describes you as *“markedly different person to the one I met in January 2023 [PRIVATE].”*

Dr Adams submitted that this is an event which occurred whilst outside of work. You were also accused of making homophobic comments, which you refuted throughout. The victim accused you of this, but all of the witnesses denied hearing any comments of that nature.

Dr Adams informed the panel that you have been subject to an interim suspension order since January 2021. You have not worked since the incident, thus preventing you from providing current evidence of practice. Your suspension order has now been in place for almost three years, impacting your livelihood and that of your family.

Dr Adams outlined the context and mitigation in your case. [PRIVATE].

[PRIVATE].

[PRIVATE].

Dr Adams referred the panel to your reflective piece in which you state *“I recognise and accept my actions fell short of the expectations set out in the NMC code 1.1 stating that treat people with kindness, respect and compassion.”* You go on to recognise the importance of public trust and confidence saying, *“I understand how this can have a negative impact on public trust and confidence and fully respect the impact of this conviction could have on the reputation of my employer, nurses and the profession” ... “I want to make clear this in no way excused my action. I am aware of the seriousness of what has happened. I want to understand why I did this and prevent it from happening again in the future”.* In your conclusion you describe the things you could have done differently.

[PRIVATE]. You further say that you are: *“truly sorry for the pain and injuries I caused to the individual. I became a nurse to help people as best I could and nursing means everything to me. I feel I have always done my best to uphold nursing code and never meant to put the profession in any type of disrepute.”* [PRIVATE].

[PRIVATE].

[PRIVATE].

Dr Adams submitted that the incident in question was an isolated event and that there have been no further occurrences of a similar nature since then. Dr Adams reminded the panel that during your oral evidence, you discussed the steps you have taken to address

the issues and if a similar situation were to arise, how you would handle it differently in the future.

Dr Adams submitted that a reasonable member of the public, aware of the high-pressure environment in which you worked during the pandemic, as well as your unblemished disciplinary record, would understand that the incident was a result of [PRIVATE]. She submitted that this single incident does not establish a pattern of behaviour, and you have expressed genuine remorse and regret for your actions. You have also outlined the steps you intend to take to prevent a recurrence. She submitted that it is important to recognise that this incident did not occur in a clinical setting, and there is no evidence to suggest that you pose a risk to the public. Whilst this is clearly a matter for the panel, you accept that your fitness to practice is impaired by your conviction on the grounds of public interest.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included a number of relevant decisions in previous judgements.

### **Decision and reasons on impairment**

The panel next went on to decide if as a result of the conviction, your fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must 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/their fitness to practise is impaired in the sense that S/He/They:*

*a) ...*

*b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*

*c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*

*d) ...*

The panel determined that limbs b and c are engaged in this case when looking at past conduct. The panel was of the view that you had brought the reputation of the nursing profession into disrepute and your actions were considered so disreputable that they resulted in a criminal conviction. The panel found that your conviction had breached the fundamental principles of the nursing profession outlined in the Code. The panel

acknowledged that the public would be shocked upon learning about your conviction. The panel also took into account the gravity of the situation, particularly the sentencing remarks made by the Judge: *"this man left the pub, he was there for by definition no threat to you whatsoever... That was appalling behaviour..."* The panel considered your actions, as described by the judge, to be deplorable and not befitting of a registered nurse.

Recognising the need for a forward-looking approach, the panel assessed whether your conduct is remediable and if any remediation has taken place. It referred itself to the case of *Cohen* and determined that the conduct in question can be remedied. Consequently, the panel went on to consider whether you remained liable to act in a way that would put patients at risk of harm, bring the profession into disrepute and breach fundamental tenets of the profession in the future. In doing so, the panel considered whether there was evidence of insight and remediation.

The panel reviewed the oral and documentary evidence, including your reflection dated September 2023, [PRIVATE] and the email update form Probation Services dated 2 October 2023. Additionally, the panel took into account the contextual factors and mitigating circumstances surrounding the incident [PRIVATE].

The panel acknowledged that you graduated as a nurse in 2012 and had practiced in the East Midlands, initially within Trauma and Orthopaedic outpatients and subsequently in the A&E department. The panel also recognised the challenging nature of your work, especially during the midst of the pandemic and that there had been no concerns raised about your ability to handle pressure effectively in such a demanding environment.

In addition, the panel attached significant importance to the Judge's sentencing remarks. It noted that the Judge had access to CCTV footage which the panel have not seen. It was highlighted that the Judge acknowledged your remorse and regret for your actions on the day in question:

*"[PRIVATE]"*

The panel made its own independent judgement, and it considered this incident as a singular occurrence, characterised in the criminal case by your then counsel as "*impulsive, spontaneous, and short-lived.*", which the judge appears to have accepted in the sentencing remarks.

Furthermore, the panel took into account your reflective statement, which provided insight into the contributing factors leading to the assault. It also acknowledged your proactive approach [PRIVATE].

The panel also considered your explanation of how you would handle a stressful and provocative situation in the future, along with your strategies for managing stress. Importantly, the panel noted that you exhibited genuine remorse and accepted responsibility for your actions.

The panel considered the comments of your probation officer, "*he is a markedly different person to the one I met in January 2023* [PRIVATE]."

The panel bore in mind your career as a nurse without any previous disciplinary or regulatory findings against you. All factors considered, the panel accepted that this was a single isolated incident. Given this fact, as well as your level of remorse and insight and the remediation you have undertaken, the panel considered that a risk of repetition of these or similar actions in the future is low.

The panel therefore determined that you are not liable to put patients or members of the public at unwarranted risk of harm, nor to bring the profession into disrepute or to breach fundamental tenets of the profession in the future. The panel determined that a finding of impairment is not necessary on the grounds of public protection.

However, the panel bore in mind that the overarching objectives of the NMC are not only to protect, promote and maintain the health, safety and wellbeing of the public and

patients, but also to uphold and protect the wider public interest, which includes promoting and maintaining public confidence in the nursing profession and upholding the proper professional standards for members of the profession. The panel considered your actions were seriously contrary to what members of the public would expect from registered nurses. The panel determined that the public interest, in a case where a nurse assaulted a person causing serious injury, would be very high and undermine public confidence. In the panel's view, public confidence in the nursing profession and in the NMC as a regulator would be undermined if a finding of impairment were not made in these circumstances.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired, on public interest grounds alone.

## **Sanction**

The panel has considered this case very carefully and has decided to make a suspension order for a period of six months. The effect of this order is that the NMC register will show that your registration has been suspended.

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

## **Submissions on sanction**

Ms Ewulo submitted that the NMC's stance is that a striking off order is appropriate in this case. She referred the panel to the NMC's SG and its guidance on '*Criminal convictions and cautions*' (FTP-2c). She explained that the purpose of the striking off order is not to punish the individual, but rather it is the only suitable sanction to address the regulatory concerns.

Ms Ewulo outlined the aggravating and mitigating factors in this case. Regarding the aggravating factors, she highlighted that the victim was [PRIVATE], the assault was severe and occurred [PRIVATE], it caused serious injury, [PRIVATE], and it undermined the profession's reputation. Ms Ewulo also identified mitigating factors, including the absence of previous disciplinary findings and [PRIVATE].

Ms Ewulo submitted that taking no further action or a caution order would be inappropriate given the circumstances of this case. She stated that these measures would not effectively address the concerns as the seriousness of the conviction is not at the lower end of the spectrum.

Furthermore, Ms Ewulo submitted that a conditions of practice order is not suitable as this case relates to your conviction rather than your clinical practice. She explained that there are no specific areas that require retraining or supervision, making it impractical to implement such an order in these circumstances.

Ms Ewulo also submitted that a suspension order would not uphold public confidence in the profession and that your conduct is fundamentally incompatible with remaining on the register. Considering the finding that your fitness to practice is impaired, not imposing a striking off order would undermine public confidence.

Dr Adams submitted that you have shown genuine remorse and you have never sought do anything other than to accept the full responsibility of your action. [PRIVATE]. Dr Adams submitted that it was an isolated incident, which occurred outside of work following a series of night shifts. You have worked in a high-pressured role within the A&E department with no accusations of this nature having previously been made.



Dr Adams stated that since the time the event had occurred, there have been no reoccurrence of that conduct and that you have shown true remorse. You acknowledge that your fitness to practise is impaired, [PRIVATE]. You have taken steps to address this and, in your reflection, described this and the learning that has taken place. [PRIVATE].

Dr Adams told the panel that you are a highly skilled nurse whose skills are much needed with vacancy levels of almost fifty thousand nurses. There is no evidence of repetition and the risk of this is unlikely given the steps that you have taken, in addition to the fact you are now twenty-one months on from that point in time.

Dr Adams submitted that she does not seek to suggest that no order is necessary. You acknowledge that this is a conviction for a serious offence. She invited the panel to consider a lengthy caution order or a conditions of practice order of not less than twelve months with a requirement for a review hearing. She submitted that it is important to note that such an order is not a lesser outcome; conditions themselves are a serious recorded outcome. She further submitted that it would give you the opportunity to return to work and provide updated evidence of your compliance to a reviewing panel. It would also satisfy the public interest and that a reasoned member of the public in possession of all of the facts would be satisfied that conditions would be proportionate and would ensure public interest is protected and retained.

Dr Adams set out suggested conditions for the panel to consider, that could include the following:

- To continue to co-operate with the requirement of the probation service bringing an updated report to the next review meeting
- To notify the NMC within 7 days of commencing work as a registered nurse
- To provide updated evidence of training in de-escalation strategies
- [PRIVATE]
- [PRIVATE]

- To provide evidence of your updated continuous professional development to a future review meeting
- To restrict your employment to a single employer so you are afforded continuity of support

Dr Adams submitted that whilst the panel could consider a suspension order, she invited the panel to question whether that order is necessary and proportionate. She highlighted that you have already been subject to an interim suspension order for twenty months and submitted that the risk of repetition is extremely low, and that this is a matter entirely outside of work with no concerns about your clinical practice raised. [PRIVATE]. Dr Adams further submitted that whilst a striking off order is open to the panel, she suggested that a striking off order would be inappropriate given the circumstances outlined in this case.

### **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]
- Your conviction was for a serious assault
- The serious injury inflicted on the victim
- The damage caused to the reputation of the nursing profession

The panel also took into account the following mitigating features:

- [PRIVATE]
- There appears to have been provocation from the victim prior to the incident
- The incident was isolated and impulsive

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the serious nature of your conviction. 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 high public interest considerations previously identified, such an order would not be appropriate as it would not adequately maintain public confidence. 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 the actions that led to your conviction were not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, which indicates conditions of practice may be appropriate when:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *No evidence of general incompetence;*
- *Potential and willingness to respond positively to retraining;*

- *The nurse or midwife has insight into any health problems and is prepared to agree to abide by conditions on medical condition, treatment and supervision;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force; and*
- *Conditions can be created that can be monitored and assessed.*

The panel noted that a conditions of practice order is typically imposed in cases where the regulatory concerns can be remediated by a registrant's strengthened clinical practice through learning and retraining. However, the panel determined that in your case, the charge relates to a conviction resulting from an incident that occurred outside of the clinical environment, while not working. The panel was of the view that there are no practicable or workable conditions that could be formulated that address the issues arising from your conviction. Nor can these issues be addressed through retraining.

Furthermore, the panel concluded that conditions of practice, whether those suggested by Dr Adams or otherwise, would not adequately address the seriousness of this case and would not meet the high 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 was satisfied that in this case, your circumstances, including the isolated nature of the incident that led to your conviction, are not fundamentally incompatible with you remaining on the register. For this reason, the panel concluded that a suspension order was appropriate in your case.

The panel carefully considered the submissions of Ms Ewulo in relation to the sanction that the NMC was seeking in this case. The panel considered whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that in this case, it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in your case to impose a striking-off order.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction to mark the seriousness of this case and meet the public interest.

The panel noted the hardship such an order will inevitably cause you. However, this is outweighed by the public interest in this case.

The panel considered that this order is necessary to 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 in both their professional and private lives. The panel took into account the NMC's guidance on "*Considering sanctions for serious cases*" (SAN-2), which states: "*Cases about criminal offending by nurses, midwives or nursing associates illustrate the principle that the reputation of the professions is more important than the fortunes of any individual member of those professions. Being a registered professional brings many benefits, but this principle is part of the 'price'.*"

The panel determined that a suspension order for a period of six months was appropriate in this case to mark the seriousness of your conduct. The panel bore in mind that you have not been working as a nurse since the incident as you have been subject to an

interim suspension order since January 2022. The panel was of the view that imposing a longer suspension period would be unduly punitive as you have already served an extended period of suspension. The panel determined that an additional six-month suspension would sufficiently serve the public interest in this case.

The panel was mindful of the general rule outlined in the NMC guidance entitled '*Considering sanctions for serious cases*' (SAN-2), which states: "*In general, the rule is that a nurse, midwife or nursing associate should not be permitted to start practising again until they have completed a sentence for a serious offence.*"

The panel noted that you were not sentenced until 6 January 2023, and you were given a two-year community order, which will not expire until January 2025. However, the panel took into account the significant delay in the criminal process, in part because of the COVID-19 pandemic and the defence counsels' strike action and consider that these factors would count unfairly and oppressively against you if the panel were bound by this general rule. For this reason, and the reasons given above as to the appropriateness of the sanction of six months' suspension meeting the public interest, the panel have considered it reasonable to depart from the general rule.

The panel bore in mind that as it had determined that there are no public protection concerns arising, it decided to exercise its discretionary power in accordance with Article 29 (8A) of the Order and determined that a review of the substantive order under Article 30 (1) is not necessary.

The panel made the substantive order having found your fitness to practise currently impaired in the public interest. The panel was satisfied that the substantive order will satisfy the public interest in this case and will maintain public confidence in the profession(s) as well as the NMC as the regulator. Further, the substantive order will declare and uphold proper professional standards. Accordingly, the current substantive order will expire six months after it comes into effect, without a review.

## **Interim order**

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

## **Submissions on interim order**

The panel considered the submissions made by Ms Ewulo that an interim suspension order for a period of eighteen months should be made on the grounds that it is in the public interest, in order to cover any appeal period. Ms Ewulo submitted that if an interim order was not imposed, you would be able to practise without restriction during any appeal period, which would run contrary to the substantive suspension order imposed.

Ms Adams, on your behalf, submitted that you do not oppose the application.

## **Decision and reasons on interim order**

The panel was satisfied that an interim order is necessary on the grounds of 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 eighteen months to allow for the possibility of an appeal to be made and determined.

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

That concludes this determination.

This will be confirmed to you in writing.