

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

**Substantive Hearing
Tuesday 5 September 2023 – Friday 8 September 2023
Monday 11 September 2023 – Tuesday 12 September 2023**

2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of Registrant: Kirsty Victoria James

NMC PIN 18G0079W

Part(s) of the register: Registered Nurse - Sub Part 1
RNA Adult Nurse L1 – October 2018

Relevant Location: Cheshire

Type of case: Misconduct

Panel members: Michelle McBreeze (Chair, lay member)
Patricia Richardson (Lay member)
Terry Shipperley (Registrant member)

Legal Assessor: Charles Conway

Hearings Coordinator: Shela Begum

Nursing and Midwifery Council: Represented by Giedrius Kabasinskas, Case
Presenter

Mrs James: Present and represented by Rosalia Myttas-Perris,
(instructed by Royal College of Nursing)

Facts proved by admission: Charges 1, 2a, 2b, 2c, 3a, 3b, 4k, 4l, 5a, 5b, 5c, 5e,
5f, 5g, 5h, 5j, 5k, 5l, 6a, 6b, 6c, 6e, 6f, 6g, 6h, 6i, 6j,
6k, 6l, 7a, 7b, 7c, 7e, 7d, 7e, 7f, 7g, 7h, 7i, 7j, 7k,
7l, 8a, 8b, 9a, 9b, 9c, 9d, 9e, 10a, 10b, 10c, 10d,
11, 12, 13a, 13b, 13c, 14a, 14b, 14c, 15a, 15b,
15c, 15d, 16, 17a, 17b, 18a, 18b, 19a, 19b, 20,
21a, 21b, 22, 24a, 24b, 24c, 25, 26, 27a, 27b, 27c,
28, 29a, 29b, 30a, 30b, 30c, 31, 32, 33a, 33b, 34,
35, 36a, 36b, 37a and 37b

Facts not proved:	Charges 4a, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4j, 5d, 5i, 6d, and 23.
Fitness to practise:	Impaired
Sanction:	Conditions of practice order (24 months)
Interim order:	Interim conditions of practice order (18 months)

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

On day one of the hearing, Ms Mattys-Perris made a request that parts of this case be held in private [PRIVATE].

The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Kabasinkas did not oppose the application that parts of this case be heard in private. In relation to Ms Mattys-Perris's subsequent application to hear the entirety of the hearing in private, he submitted that the NMC's position is neutral.

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.

On day one, the panel determined to go into private session [PRIVATE] as and when such issues are raised. On day two of the hearing, the panel considered the application to hold the entirety of the hearing in private. [PRIVATE]. However, it determined that it could maintain the privacy of such matters by going into private session as and when such issues are raised. The panel concluded that it would not be necessary, proportionate or appropriate to hear the entirety of this case in private. The panel also considered the NMC guidance that hearings should only be heard entirely in private in exceptional circumstances. The panel did not find that these were exceptional circumstances.

Decisions and reasons on application for adjournment on day one of the hearing

In your absence the panel heard an application from Ms Myttas-Perris for an adjournment of this hearing. She made this application half-way through day one of the hearing and explained that her application was to adjourn until the morning of day two of the hearing.

Ms Myttas-Perris explained that in order to proceed with this hearing, she would need to seek instructions from you. She further explained that she has been unable to make any contact with you on day one of the hearing, but that you had been in contact with the instructing solicitors at the Royal College of Nursing (RCN) the day before the hearing. She further explained that earlier this year you had shown a willingness to engage with the process.

Ms Myttas-Perris acknowledged that there is public interest in the expeditious disposal of this case and that this must be outweighed against the interest of the registrant. She submitted that this is the first time a substantive hearing has been convened and an adjournment of a matter of hours in relation to matters dating back to 2020 can be considered appropriate in the circumstances.

Ms Myttas-Perris submitted that any inconvenience caused to parties or witnesses could be considered minimal. She submitted that if you do re-engage with the process, there may well be admissions made which may release witnesses from having to attend to give evidence. Further, she submitted that the delay in proceedings may not be so significant. She stated that if you re-engage, she may well make admissions to a number of charges which will reduce the amount of time the hearing takes. On the other hand, she submitted that if by the morning of day two of the hearing you do not re-engage, the documentary evidence in support of many of the charges is clear and succinct and so, although there are a large number of charges it may not take so long to prove or come to a decision in relation to those charges. She submitted that losing half a day of the hearing will not have an impact on this.

Ms Myttas-Perris submitted that this is not an adjournment of the whole hearing, just an adjournment of the remainder of the few hours left on day one. She submitted it would be a hasty conclusion if the panel were to decide to proceed at this stage.

Ms Myttas-Perris informed the panel that you have been the victim of domestic abuse and had been dealing with mental health issues and is considered to some extent vulnerable. Further, she told the panel that this hearing is of paramount importance to her as it affects her livelihood. She therefore invited the panel to adjourn until day two. She invited the panel to exercise leniency when considering your engagement on day one of the hearing.

Mr Kabasinskas referred the panel to the case GMC v Adeogba [2016] EWCA Civ 162, R v Hayward [2001] EWCA Crim. 168 and R v Jones [2002] UKHL 5.

Mr Kabasinskas drew the panels attention to the matter of service. He submitted that the hearing notice was sent within the required time frames and in accordance with Rules 8 and 34 of the Rules.

Mr Kabasinskas submitted that the panel does not have information before it which confirms why you have not attended the hearing on day one. He stated that the registrant has a positive obligation to attend any hearing and not to frustrate the proceedings. He submitted that there is no medical evidence which confirms your inability to attend this hearing.

Mr Kabasinskas told the panel that the NMC have made some attempts to resolve these matters, but that you were not forthcoming in responding to these. He submitted that these matters were put to you well in advance of this hearing and that you are aware of the charges you face.

Mr Kabasinskas submitted that there are 37 charges which at this stage are not formally admitted and if you do not attend, the NMC will have to go through the facts of the case

and prove each charge. He submitted that this would take some time and that it would not be appropriate to adjourn at this stage and invited the panel to proceed with the hearing.

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

The panel noted that there is a public interest in the expeditious disposal of this case. However, it noted that these matters date back to 2020 and that an adjournment of a few hours to try and secure your attendance and engagement may be in favour of the expeditious disposal of this case. The panel noted that Ms Myttas-Perris indicated that if you re-engaged with the process, you may well make some admissions to the charges which would speed the process up and potentially ensure a more efficient hearing process.

The panel considered the potential inconvenience to the parties or witnesses. It noted that the NMC's witnesses were available from day two of the hearing and therefore it could not make significant progress in the hearing if it were to begin at this stage.

The panel determined that, given the circumstances, it would be appropriate to adjourn at this stage to try and secure your attendance.

Decisions and reasons on application for further period of adjournment on day two of the hearing

On day two of the hearing, in your absence, the panel heard a further application for adjournment from Ms Myttas-Perris.

Ms Myttas-Perris explained the reason for your non-attendance on day one of the hearing. She told the panel that the area you reside in often encounters issues with internet outages, she told the panel that you would have been connecting to the hearing using your mobile data and due to the outage, which affected both calls and internet usage, you were unable to communicate with anyone.

Ms Myttas-Perris informed the panel that she has been in contact with you throughout the morning of day two but requires a further short adjournment to allow her to finalise her instructions from you in relation to the charges. She explained that this is a much different position than the previous day and that the short adjournment is in the interest of efficiency of the remainder of the hearing.

Ms Myttas-Perris requested for the panel not to proceed with the reading of the charges at this stage. She submitted that this is the most important part of the hearing, as it involves any formal admissions or denials by you. She submitted that following any admissions being made, she would be asking for the NMC to reconsider charges 4a – 4j as there was a previous indication from the NMC that following formal admissions of an extensive amount of charges, charges 4a – 4j could be withdrawn.

Mr Kabasinkas submitted that this is unsatisfactory. He submitted that this is day two of the hearing and any instructions should have been sought in preparation of this hearing, before the hearing had begun.

Mr Kabasinskas acknowledged that technical difficulties may be beyond your control. However, he submitted that it is your duty to ensure a stable connection if you wish to participate in the hearing.

Mr Kabasinskas submitted that this appears to be the same position as the representative and registrant were in yesterday and invited the panel to proceed with the hearing.

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

The panel considered the submissions of Ms Myttas-Perris and Mr Kabasinskas. It was of the view that it is in the public interest to proceed with this case expeditiously. However, it noted that Ms Myttas-Perris required a further period of adjournment to complete taking instructions from you. It noted that progress has been made since the first adjournment on day one and decided to allow a further short period of time before proceeding with the reading of the charges.

Details of charge (as amended)

That you, a Registered Nurse

1. Accessed Patient B's records without authority and / or clinical reason on 1 August 2020.
2. Accessed Patient C's records without authority and / or clinical reason on one or more of the following dates:
 - a) 22 October 2019
 - b) 24 July 2020
 - c) 1 August 2020
3. Accessed Patient D's records without authority and / or clinical reason on one or more of the following dates:
 - a) 1 August 2020
 - b) 2 August 2020
4. Between 24 November 2020 to 25 November 2020 attended work and you subsequently became disorientated whilst on shift as a registered nurse as you:
 - a) Laid on the lounge floor;
 - b) Had your trousers around your waist;
 - c) Exposed your breasts;
 - d) Rolled and / or thrashed around on the floor;
 - e) Flaiped your arms and / or legs;
 - f) Made moaning and / or groaning noises;

- g) When asked to assist Resident A and/or Resident B, who required pain relief, you walked out of the lounge;
- h) You did not provide pain relief to Resident A and/or Resident B;
- i) Said words to the effect of “I’m fucking off. I’m fucking going home”;
- j) Said words to the effect of “I’m fucking going, I’ve had enough”;
- k) Left the care home without completing your scheduled shift;
- l) Left the care home without adequate nursing cover.

5. Between 22 November 2020 and 23 November 2020 failed to complete evaluation sheets for one or more of the following residents:

- a) Resident A
- b) Resident C
- c) Resident D
- d) Resident E
- e) Resident F
- f) Resident G
- g) Resident H
- h) Resident I
- i) Resident J
- j) Resident K
- k) Resident L
- l) Resident M

6. Between 23 November 2020 and 24 November 2020 failed to complete evaluation sheets for one or more of the following residents:

- a) Resident A
- b) Resident C
- c) Resident D
- d) Resident E
- e) Resident F
- f) Resident G
- g) Resident H
- h) Resident I
- i) Resident J
- j) Resident K
- k) Resident L
- l) Resident M

7. Between 24 November 2020 and 25 November 2020 failed to complete evaluation sheets for one or more of the following residents:

- a) Resident A
- b) Resident C
- c) Resident D
- d) Resident E
- e) Resident F
- f) Resident G
- g) Resident H
- h) Resident I
- i) Resident J

- j) Resident K
 - k) Resident L
 - l) Resident M
8. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident P:
- a) Actagain
 - b) Laxido
9. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident N:
- a) Ventolin
 - b) Paracetamol
 - c) Promazine
 - d) Trimethoprim
 - e) Loperamide
10. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident B:
- a) Laxido
 - b) Senna
 - c) Duloxetine
 - d) Lorazepam
11. On 24 November 2020 failed to administer 10mg of controlled drug Zomorph at bedtime to Resident B.
12. On 24 November 2020 failed to ensure that doublebase Gel was administered at bedtime to Resident B.

13. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident Q:
- a) Latanoprost
 - b) Amitriptyline
 - c) Apixaban
14. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident R:
- a) Zapain
 - b) Peptac
 - c) Senna
15. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident O:
- a) Peptac;
 - b) Salbutamol;
 - c) Paracetamol;
 - d) Lorazepam.
16. On 24 November 2020 failed to ensure that Conotrane cream was administered at bedtime to Resident O.
17. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident T:
- a) Senna
 - b) Travoprost
18. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident U:
- a) Tegretol;
 - b) Paracetamol.

19. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident D:
 - a) Mirtazapine;
 - b) Promethazine.
20. On 24 November 2020 failed to ensure that Corsodyl mouthwash was administered to Resident D at bedtime.
21. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident C:
 - a) Senna;
 - b) Paracetamol.
22. On 24 November 2020 failed to ensure that Nutilis was administered to Resident C at bedtime.
23. On 24 November 2020 failed to use performa testing strips on Resident C at bedtime.
24. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident E:
 - a) Paracetamol;
 - b) Senna;
 - c) Atorvastatin.
25. On 24 November 2020 failed to administer paracetamol bedtime medication to Resident F.
26. On 24 November 2020 failed to ensure that Nutilis was administered at bedtime to Resident F.
27. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident V:

- a) Paracetamol;
 - b) Laxido;
 - c) Reletrans.
28. On 24 November 2020 failed to ensure that Actagain was administered at bedtime to Resident V.
29. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident G:
- a) Senna;
 - b) Paracetamol
30. On 23 and/or on 24 November 2020 failed to administer one or more of the following bedtime medication to Resident A:
- a) Atorvastatin;
 - b) Carbocisteine;
 - c) Amoxicillin
31. On 24 November 2020 failed to administer 5mg and/or 20mg controlled drug Longtec at bedtime to Resident A.
32. On 24 November 2020 failed to administer paracetamol bedtime medication to Resident H.
33. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident I:
- a) Laxido;
 - b) Paracetamol.
34. On 24 November 2020 failed to ensure that Medi Derma-S barrier cream was administered to Resident I.

35. On 24 November 2020 failed to administer simvastatin bedtime medication to Resident W.
36. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident L:
 - a) Paracetamol;
 - b) Senna.
37. On 24 November 2020 failed to administer one or more of the following controlled drug at bedtime to Resident L:
 - a) 30mg of Zomorph;
 - b) 10mg of Oramorph.

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

Decision and reasons on application to amend charge 33

The panel heard an application made by Mr Kabasinkas on behalf of the NMC, to amend the date detailed in charge 33. It was submitted by Mr Kabasinkas that the proposed amendment would provide clarity and more accurately reflect the evidence.

“33. On 24 November ~~2022~~ **2020** failed to administer one or more of the following bedtime medication to Resident I:

a) Laxido;

b) Paracetamol.”

Ms Myttas-Perris did not oppose this application.

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

The panel was of the view that such an amendment, as applied for, was in the interest of justice. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to clarity and accuracy.

Decision and reasons on application to amend charge 4

The panel heard an application made by Mr Kabasinskas on behalf of the NMC, to amend the stem of charge 4. The proposed amendment was to amend the wording of the stem as it resolves any dispute in relation to charges 4k and 4l. He submitted that this change does not cause any prejudice or injustice to you.

The proposed amendment is as follows:

“4. Between 24 November 2020 to 25 November 2020 attended work ~~when you were not fit to carry out your duties as a Registered Nurse safely~~ **and you subsequently became disorientated whilst on shift as a registered nurse** as you.”

Ms Myttas-Perris did not oppose this application. She clarified the change to you during the hearing and you also confirmed that you would be content with this change.

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

The panel was of the view that such an amendment, as applied for, was in the interest of justice. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed.

Decisions and reasons on application to offer no evidence for charges 4a, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4j, 5d, 5i, 6d, and 23.

On Day three of the hearing, the panel heard an application made by Mr Kabasinskas to offer no evidence in respect of charges 4a, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4j, 5d, 5i, 6d, and 23.

In respect of charges 4a, 4b, 4c, 4d, 4e, 4f, 4i and 4j, Mr Kabasinskas submitted that the NMC's position is that these charges do not add to the seriousness of the case given the extensive admissions made in respect of other charges. He submitted that they do not add to the gravity of the case in these circumstances.

Mr Kabasinskas submitted that the NMC are offering no evidence in respect of charges 4g, 4h and 23 as there are other charges of a similar nature which have already been admitted by you. He therefore submitted that these charges do not add to the gravity of the case.

In relation to charges 5d, 5i and 6d, Mr Kabasinskas submitted that the NMC are offering no evidence on the basis that the documentary evidence in support of these charges does not reflect the date as set out in the stem of the charge. Further, he submitted that these charges do not add to the severity of the case given that admissions have been made in respect of other charges of the same nature.

Mr Kabasinskas reminded the panel that it has the power to call evidence if it decides not to accept this application.

Ms Myttas-Perris indicated that she did not oppose the NMC's application. She informed the panel that your admissions to charge 30c related only to 23 November 2020 and not to 24 November 2020. She accepted that the charge sets out 'and/or' in relation to the dates and therefore, on this basis, she explained that you admit charge 30c.

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

The panel considered the submissions from Mr Kabasinskas, as well as all the documentary evidence before it. It considered Mr Kabasinskas' submission that these charges do not add to the seriousness of this case and that other charges of a similar nature have been admitted. The panel accepted the basis of your admission to charge 30c.

The panel noted that the most serious allegations in charge 4 were charge 4k and 4l both of which were admitted by you.

As the panel has decided to accept the application to offer no evidence in relation to charges 4a, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4j, 5d, 5i, 6d, and 23, accordingly it determined that these charges are found not proved, having had regard to the admissions made in relation to the rest of the charges.

Background

The charges arise whilst you were employed as a registered nurse by Cherish Care Homes (“the Home”) and in the community while working for Swansea Bay University Health Board (“the Health Board”).

It is alleged that on the following dates, 22 October 2019, 24 July 2020, 1 August 2020, 2 August 2020 you breached patient confidentiality in that you in that you accessed clinical records without the necessary authority or clinical justification to do so. It is alleged that upon discovery of this breach, this was communicated to you and an investigation into the information governance breach concerns was launched. An investigatory meeting was held with you on 23 September 2020 during which you allegedly made admissions to these concerns.

It is alleged that on a nightshift between 24 November 2020 and 25 November 2020 you attended work whilst disorientated and subsequently left the Home unauthorised without completing your scheduled shift and without any adequate nursing cover leaving only two carers at the Home who were not qualified to carry out nursing duties.

It is also alleged that on night shifts between 22 November 2020 to 23 November 2020, 23 November 2020 to 24 November 2020 and 24 November 2020 to 25 November 2020 you failed to complete evaluation sheets for one or more of the Home’s residents.

It is alleged that on 24 November 2020 you failed to administer bedtime medications and/or controlled drugs to a number of the Home’s residents.

Decision and reasons on facts

At the outset of the hearing, the panel heard from Ms Myttas-Perris, who informed the panel that that you made admissions to charges 1, 2a, 2b, 2c, 3a, 3b, 4k, 4l, 5a, 5b, 5c, 5e, 5f, 5g, 5h, 5j, 5k, 5l, 6a, 6b, 6c, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 7a, 7b, 7c, 7e, 7d, 7e, 7f, 7g, 7h, 7i, 7j, 7k, 7l, 8a, 8b, 9a, 9b, 9c, 9d, 9e, 10a, 10b, 10c, 10d, 11, 12, 13a, 13b, 13c, 14a, 14b, 14c, 15a, 15b, 15c, 15d, 16, 17a, 17b, 18a, 18b, 19a, 19b, 20, 21a, 21b, 22, 24a, 24b, 24c, 25, 26, 27a, 27b, 27c, 28, 29a, 29b, 30a, 30b, 31, 32, 33a, 33b, 34, 35, 36a, 36b, 37a and 37b. At a later stage, Ms Myttas-Perris informed the panel that you also admit to charge 30c.

The panel therefore finds these charges proved, by way of your admissions.

The NMC offered no evidence in relation to charges 4a, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4j, 5d, 5i, 6d, and 23, accordingly these charges were found not proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether your fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, your fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council (No. 2)* [2000] 1 AC 311 which defines misconduct as a '*word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.*'

Mr Kabasinkas invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015' (the Code) in making its decision.

Mr Kabasinkas identified the specific, relevant standards where your actions amounted to misconduct.

Mr Kabasinskas submitted that the charges found proved demonstrate a breach of confidentiality, failure to administer medications, failure to make accurate and contemporaneous records, leaving the Home unauthorised and without any adequate nursing cover. He submitted that these acts and/or omissions fall short of the standards expected of a registered nurse. He therefore invited the panel to take the view that the charges found proved are so serious to amount to misconduct.

Ms Myttas-Perris submitted that the test for misconduct is do your actions fall far below the standards expected of a registered nurse. She submitted that it was accepted by you that the charges found proved do amount to misconduct. She reminded the panel that any charges not found proved or withdrawn remain untested and any evidence the panel has seen in relation to these charges should be disregarded.

Submissions on impairment

Mr Kabasinskas moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) and *Cohen v GMC* 2008 EWHC 581.

Mr Kabasinskas submitted that deciding on impairment is a forward-thinking exercise. He referred the panel to the case of *Grant* and *Cohen* and invited the panel to give regard to these cases whilst deciding on current impairment.

Mr Kabasinskas submitted that administering medications and keeping adequate records of those administered medications are basic and fundamental aspects of safe and effective nursing practice. He submitted that although these medication administration failures occurred on the same date, they should not be considered as one isolated

incident. Further, he submitted that record keeping is a vital component of patient care, failure to properly fulfil this affects the continuity of patient care.

Mr Kabasinkas referred to the data breach and told the panel that this relates to a completely different period of your employment. He submitted that confidentiality is a patients right and that there is a clear importance in maintaining the confidentiality of patients. He submitted that your actions in breaching patient confidentiality raises fundamental concerns around your integrity and trustworthiness. He submitted that in nursing practice it is not possible to avoid accessing patient information or records.

Mr Kabasinkas referred to the charge which relates to you leaving the workplace unauthorised. [PRIVATE]. Further, he told the panel that when you left the Home without adequate nursing cover, you left patients without a nurse on site to provide care and urgent care if they should have required it. He submitted that these actions call into question your behaviour and attitude.

Mr Kabasinkas acknowledged your early acceptance of some of the regulatory concerns and that you have also accepted that you have let down your profession and regulator. However, he told the panel that you provided mitigation in that there were contextual factors present which led to your failures. He submitted that these factors do not absolve you of your professional duty and does not reduce the seriousness of the case. Further, he told the panel that in your reflective piece, you do not address the charges relating to breaches of confidentiality. He submitted that your insight at this stage can be described as developing.

Mr Kabasinkas referred to the difficult circumstances that you were experiencing during the time of these incidents. He told the panel that you have indicated that some of the issues that were present at the time of the incidents have fallen away. However, he reminded the panel that it does not have evidence of your full and current circumstances. He told the panel that there is not a current medical report or letter which informs the panel

that these contextual factors which you suggest led to some of the failures are not present at this time.

Mr Kabasinskas submitted that based on all of the above, it could be determined that currently, you cannot practice safely, kindly and professionally.

Mr Kabasinskas informed the panel that you resigned with immediate effect on 5 March 2021 following these concerns. He submitted that the Health Board tried to investigate these matters but that you did not engage. He submitted that had the investigation taken place it is likely that you would have been facing dismissal.

Ms Myttas-Perris submitted that you were honest and upfront in relation to the breach of confidentiality. You provided an explanation for your failures and that this explanation is by no means a justification, but you did explain and that you did not seek to place blame. She submitted that you were hugely remorseful.

Ms Myttas-Perris referred to your reflective piece. She submitted that this is a full reflection and that you demonstrate significant insight. You demonstrate understanding of what you have done wrong, why this happened, what you should have done differently and why this conduct would not recur.

Ms Myttas-Perris submitted that although this is a serious case, the panel may conclude that there is no impairment. She referred to the NMC guidance which sets out:

“Will a finding that some or all the charges are proven always result in a finding of impairment? No. [...]”.

Ms Myttas-Perris referred to the NMC guidance which sets out that the nature of the concern and the public interest should be part of the assessment of current impairment. She submitted that this involves considering personal factors relating to the professional and the working environment and culture at the time of the incidents.

[PRIVATE].

In relation to the working environment and culture at the time of the incidents, Ms Myttas-Perris told the panel that the charges relate to November 2020. She submitted that this was during the relatively early stages of the Covid-19 pandemic. She stated that this was a very intense time for healthcare staff who placed themselves on the front line and reminded the panel that during this period there were particularly concerns around care homes. She explained that during this period, you were working six out of seven days of the week and working long days starting at 07:00am to 01:40am due to staff shortages. She further explained that you had to self-isolate for 10 days prior to transferring from one care home to another and that you had to stay in a hotel for this. She told the panel that these contributory factors are no longer present.

Ms Myttas-Perris referred the panel to the witness statement of [Person 1] which states:

“[Mrs James] was originally a student nurse in one of the teams. She was a very good student nurse and when she qualified, she applied for a band five position for which she was successful. Her mentor at the time gave her a reference and the team leader spoke very highly of her ability and competency.”

Ms Myttas-Perris also referred the panel to the character references dated 1 August 2023 and 20 August 2023. She told the panel that you have never had an NMC referral against you previous to this. She submitted that this isn't a case which relates to any attitudinal concerns and that the regulatory concerns can be remedied.

Ms Myttas-Perris submitted that a fully informed member of the public aware of the circumstances of this case, who had the knowledge that you have been on the register since 2018 and have had no previous regulatory findings against you would not be concerned to learn that a finding of impairment was not made.

Ms Myttas-Perris submitted that it is right that you resigned from your position on 5 March 2021, and that you were not dismissed. She submitted that the Health Board investigation had not taken place so the outcome of any such investigation could not be assumed as it did not happen.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin).

Decision and reasons on misconduct

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

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

“Prioritise people

You put the interests of people using or needing nursing or midwifery services first. You make their care and safety your main concern and make sure that their dignity is preserved and their needs are recognised, assessed and responded to.

1 Treat people as individuals and uphold their dignity

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

5 Respect people’s right to privacy and confidentiality

As a nurse, midwife or nursing associate, you owe a duty of confidentiality to all those who are receiving care. This includes making sure that they are informed about their care and that information about them is shared appropriately.

5.1 respect a person's right to privacy in all aspects of their care

8 Work cooperatively

8.2 maintain effective communication with colleagues

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

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

8.6 share information to identify and reduce risk

10 Keep clear and accurate records relevant to your practice

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

10.2 identify any risks or problems that have arisen and the steps taken to deal with them, so that colleagues who use the records have all the information they need

16 Act without delay if you believe that there is a risk to patient safety or public protection

16.3 tell someone in authority at the first reasonable opportunity if you experience problems that may prevent you working within the Code or other national standards, taking prompt action to tackle the causes of concern if you can

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

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

19.4 take all reasonable personal precautions necessary to avoid any potential health risks to colleagues, people receiving care and the public

20 Uphold the reputation of your profession at all times

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

20.2 act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment

20.9 maintain the level of health you need to carry out your professional role”

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

The panel considered the charges relating to a failure to administer medications to residents and completion of patient records. The panel found that whilst individually some of these charges are not sufficiently serious to amount to misconduct, the panel determined that taken cumulatively, the charges are so serious and do amount to misconduct. The panel found that the potential risks associated with these charges could have had a detrimental impact on the safety and continuity of patient care, creating a risk of harm to those under your care.

The panel next considered the charges relating to leaving the Home unauthorised and without adequate nursing cover. It determined that leaving the Home without adequate nursing cover created potential for a real risk of harm to the residents of the Home as this left the residents without a nurse on site to provide care and urgent care should they have required it. The panel concluded that this on its own this was particularly serious and amounts to very serious misconduct.

In relation to the charges relating to the breaches of patient confidentiality, the panel noted that these breaches occurred over a period of months, and it noted your explanation that your actions were motivated by a ‘curiosity’. Although you accepted what you did was wrong, the panel found that your actions demonstrated a lack of appreciation of the discipline that a registered nurse should have. The panel concluded that this demonstrates a serious departure from the standards expected of a registered nurse and the panel determined that this is sufficiently serious to amount to misconduct.

The panel determined that your actions as set out in the charges found proved demonstrated a serious departure from the Code and the fundamental tenets of nursing profession. Your actions as set out in the charges fell seriously short of the conduct and standards expected of a nurse. Based on all the reasons above, the panel concluded that your actions amounted to misconduct.

Decision and reasons on impairment

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

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

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/ fitness to practise is impaired in the sense that S/He:

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) [...].'*

The panel determined that limbs a – c of the “test” are engaged in this case.

The panel finds that patients were put at risk of harm as a result of your misconduct. It found by leaving the Home without adequate nursing cover you placed residents at the Home at a real risk of harm. Further, the numerous medication administration and record keeping failures directly impact on patient care and therefore placed them at a risk of harm.

The panel found that your actions in breaching the confidentiality of patient records have breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel was mindful of the circumstances of the Covid-19 pandemic. However, no evidence was put before the panel in relation to the professional impact on you.

Specifically, it did not have evidence of your working hours, shift patterns and isolation policies within the Home.

[PRIVATE].

Regarding insight, the panel took into account that you have made admissions to the charges. The panel also heard from you during the hearing, and you described your actions as “stupid”.

However, the panel found that there were limitations to the level of insight shown by you within your reflective piece. It was not satisfied that you sufficiently demonstrated that you understand the seriousness of breaching the confidentiality of patient records and the negative impact this may have on public confidence and trust in the profession. It has not heard from you that you understand the importance of patient confidentiality and why it is important to at all times maintain and respect this fundamental tenet of the nursing profession. Further, in relation to the absence of the previous contextual factors and how you propose to handle such matters going forwards, the panel did not hear information from you about specific mechanisms you have in place or will implement to ensure a repeat of your failures would not occur.

The panel was satisfied that the misconduct in this case is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not you have taken steps to remediate and strengthen your practice. The panel has not seen evidence of any training undertaken by you which addresses the concerns in this case. It noted that you explained that you have applied for some job roles within a healthcare setting, but it noted that there was not any evidence before it in support of any applications you have made. It found that there was a lack of specificity from you in relation to any applications you have made. The panel had regard to the character references dated 1 August 2023 and 20 August 2023, but it found that these were of limited value.

Based on the limitations in your reflective piece and the panel's finding that there is a lack of assurance that your actions would not be repeated, the panel determined that you are liable to put patients at a risk of harm in the future. It was not satisfied based on the information it has heard that you are able to ensure that you will prevent a reoccurrence of your failures. The panel therefore determined that there is a risk of repetition and decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on public interest grounds is required because it concluded that a fully informed member of the public would be concerned to learn that you were allowed to practise unrestricted. In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that you are not able to practise safely, kindly and professionally without restriction and therefore concluded that your fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a conditions of practice order for a period of two years. The effect of this order is that your name on the NMC register will show that you are subject to a conditions of practice order and anyone who enquires about your registration will be informed of this order.

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

Submissions on sanction

Mr Kabasinkas informed the panel that the NMC is seeking the imposition of a suspension order for a period of 12 months given the panel has found that your fitness to practise currently is impaired.

Mr Kabasinkas identified the aggravating features in this case. He submitted that at the time of the incidents, you were responsible for the care of vulnerable patients who were put at a risk of harm as a result of your actions in not administering medications and in leaving the home without adequate nursing cover. He submitted that the breach of confidentiality occurred over a significant period of time and involved accessing the data of multiple patients. He submitted that your failures do not relate to a momentary lapse of judgement.

Mr Kabasinkas submitted that the mitigating features in this case are that you made early admissions to the confidentiality concerns during the local investigation, admissions to the regulatory concerns before the charges were drafted and also admissions to the charges during the hearing.

Mr Kabasinkas reminded the panel that personal mitigation carries less weight in regulatory proceedings than it would in criminal proceedings. He also reminded the panel that the objective of regulatory proceedings is to protect the public and uphold the reputation of the profession and not to have a punitive effect on the registrant.

Mr Kabasinkas submitted that, despite your early admissions and your honesty in relation to the breaches of data confidentiality, there was a personal gain to you by accessing those records.

Mr Kabasinkas submitted that, when deciding on the length of any order, it would be wholly wrong to deduct or discount the length of time for which you have been subject to an interim suspension order.

Mr Kabasinkas submitted that any order which does not restrict your nursing practice is not the appropriate order in this case. He submitted that a caution order is only appropriate in cases where the misconduct is at the lower end of the spectrum, and this is not such a case. He told the panel that given the nature of this case, a conditions of practice order is not the appropriate order as there are no practicable or workable conditions which would manage the risks in this case as well as meet the wider public interest.

Mr Kabasinkas submitted that the NMC is not seeking a striking-off order as it is not the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards.

Mr Kabasinkas submitted that the panel should give you credit to you for your admissions. He submitted that you have shown remorse and accepted that your actions were wrong and unprofessional.

Mr Kabasinkas submitted that a suspension order is the appropriate order in this case. He acknowledged that this case does not relate to a single incident of misconduct and stated that although there has been reference to attitudinal concerns, there has been no formal finding of any harmful deep-seated attitudinal problems. He submitted that a period of suspension would be sufficient to protect patients, public confidence in nurses, midwives or nursing associates, and professional standards. He therefore invited the panel to impose a suspension order for a period of 12 months.

Ms Myttas-Perris submitted that it is your wish to return to nursing practice in a ward-based role. She informed the panel that you have an interest specifically in elderly care and dementia patients.

Ms Myttas-Perris referred the panel to a testimonial provided by you as evidence that those who have worked with you say that you are a good nurse and describe you as attentive to patients, happy to help and speak very highly about your abilities and competencies. She asked the panel to impose a sanction which allows you to return to nursing practice and develop your nursing career.

Ms Myttas-Perris acknowledged the seriousness of this case and told the panel she does not seek to shy away from this. However, she submitted that this is not a case which can be regarded as the most serious of cases envisaged by the NMC guidance. She reminded the panel that this case is not one which relates to dishonesty, bullying, victimisation, a conviction, or sexual harassment. She submitted that more serious sanctions are reserved for cases of a much more serious nature.

Ms Myttas Perris referred to the guidance which sets out:

“We don't seek to blame individuals or the system they work in. But where there's evidence of a serious concern about a nurse, midwife or nursing associate's fitness to practise, we need to take action to protect the public. This decision will always involve trying to understand the particular circumstances they were working in at the time.

We'll also need to think about if we need to take any other steps to reduce the risk of something happening again, such as sharing information with other agencies.”

Ms Myttas-Perris submitted that you do not seek to place blame on others for your action, but she reminded the panel that the domestic situation you were in at the time cannot be ignored.

Ms Myttas-Perris submitted that the proportionality principle is crucial in the panel's determination. She submitted that the panel shouldn't go further than it needs to and should impose the least restrictive sanction.

Ms Myttas-Perris submitted that there have been no previous disciplinary or regulatory concerns against you. She submitted that this is not a case where there has been no insight, and whilst she acknowledged misconduct relating to the data breaches spanned some time period, she submitted that you recognize how wrong your actions were. She also reminded the panel of the strain your domestic circumstances were having on you at the time of the incidents.

Ms Myttas-Perris conceded that there was some harm caused to patients as a result of your actions as set out in the charges relating to failing to administer medication. She submitted that thankfully, the harm was only suffered by a small number of patients out of all those involved. Further, she stated that these failures do not relate to a significant period of time.

Ms Myttas-Perris referred to the SG and reminded the panel that mitigation could be considered in three categories which is set out as follows:

- *“Evidence of the nurse, midwife or nursing associate’s insight and understanding of the problem, and their attempts to address it. This may include early admission of the facts, apologies to anyone affected, any efforts to prevent similar things happening again, or any efforts to put problems right.*
- *Evidence that the nurse, midwife or nursing associate has followed the principles of good practice. This may include them showing they have kept up to date with their area of practice.*
- *Personal mitigation, such as periods of stress or illness, personal and financial hardship, level of experience at the time in question, and the level of support in the workplace.”*

Ms Myttas-Perris submitted that you have made admissions to the charges. [PRIVATE].

Ms Myttas-Perris accepted that a caution order is not appropriate given the public protection concerns in this case.

Ms Myttas-Perris submitted that a conditions of practice order is appropriate in this case. She submitted that you have been subject to an interim suspension order and, whilst this should not be deducted or discounted from any order the panel may impose, a further period of suspension would not serve any useful purpose. She submitted that the public interest demands have been satisfied by the rigorous investigation process, disciplinary process and this panel's findings on misconduct and impairment.

Ms Myttas-Perris submitted that there is an interest in you returning to the workplace, to develop your nursing skills and work on remediating the concerns identified in this case. She invited the panel to consider the practicalities of any order that it might impose. She invited the panel to be mindful of avoiding a negative cycle where you are unable to practice due to a suspension and therefore cannot work and develop your nursing skills.

Ms Myttas-Perris submitted that a conditions of practice order is appropriate in this case given that there is no evidence of harmful deep-seated personality or attitudinal problems. She submitted that there are identifiable areas, specifically failure to complete evaluation sheets and medication administration areas in need of assessment and/or retraining. She stated that there is no evidence of general incompetence and there is a potential and willingness to respond positively to retraining. She submitted that patients can be protected by a supervision requirement and therefore will not be put in danger either directly or indirectly as a result of the conditions.

Ms Myttas-Perris referred to the guidance which sets out:

“When conditions can be imposed without prior support by an employer

The panel might decide that the conditions needed to protect the public would need some form of support to be given to the nurse, midwife or nursing associate, like for

example direct supervision by a colleague equivalent to a band 6 nurse. The panel might anticipate who will provide this support, but perhaps not have specific confirmation that they will do so. It would be appropriate to go ahead and make the order if the conditions were general in nature, and didn't need the particular input of a specific identified person, like in the supervision example. The supervision could be by any colleague who fit the requirements.

The practical effect of conditions might be that the nurse, midwife or nursing associate is unable to practise until they find a setting or employer prepared to employ them on the conditions. If the nurse, midwife or nursing associate finds an employer or setting who will employ them under the conditions, the public have the benefit of a nurse, midwife and nursing associate in practice, but with the limits to make sure they do not present a risk. The public will be protected either way."

Ms Myttas-Perris submitted that the panel is at liberty to impose any conditions that it sees fit but she suggested some conditions that she deemed appropriate in this case which included the requirement for supervision and retraining.

In closing, she submitted that these matters arose during a period of difficult times in your personal life. She submitted that this period should not define the rest of your life.

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:

- Limited insight into the failures

- Breach of confidentiality occurred over a period of time resulting in a pattern of misconduct
- Conduct which put vulnerable patients at risk of suffering serious harm
- Some harm was caused as a result of the delay in medication administration

The panel also took into account the following mitigating features:

- Admissions at a local level regarding the breach of confidentiality
- Early admissions to regulatory concerns and admissions to charges
- Some written evidence of remorse
- [PRIVATE]
- Reflective piece demonstrates some understanding of the potential consequences of your actions in relation to medication administration
- Record keeping and medication administration errors occurred over a short period of time
- A change in personal circumstances and contextual factors which potentially reduces the likelihood of repetition.

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

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *‘the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.’* The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the 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, in particular:

- *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;*
- *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.*

It considered whether it was satisfied that, based on the information it has heard, the public would be protected, and the wider public interest would be met by the imposition of a conditions of practice order. The panel was of the view that your actions were wholly unacceptable and placed patients at a risk of harm. It found that as a registered nurse who qualified in 2018, you would be expected to be familiar and have a clear understanding of the ethics and responsibilities of a registered nurse. Further, it was of the view that you, as a recently qualified registered nurse, should have been able to demonstrate the required capabilities.

[PRIVATE]. It considered that these personal matters arose and were in effect not long after you qualified as a nurse and therefore potentially interfered with you being able to obtain a long history of consolidating your nursing practice. [PRIVATE].

The panel would have been assisted by some evidence of your attempts to strengthen your practice and demonstrate training or independent learning undertaken by you since

the time of these incidents. However, the panel noted your comments in your reflective piece where you state:

“I have had a new baby in the last six months, which has taken up much of my time. I do however appreciate I could have spent time to keep up to date with training. I apologise for not having used my time more efficiently and completed courses around my failings”.

The panel found that you acknowledge that there are areas of concern in your nursing practice but that there is a preparedness and a willingness to address these going forward. Further, the panel determined that, whilst there is no evidence of harmful deep-seated personality or attitudinal problems or general incompetence, there are however identifiable areas of your practice in need of assessment and/or retraining.

Based on all of the above, the panel determined that it would be possible to formulate appropriate, measurable, workable and realistic conditions which would address the failings highlighted in this case and suitably protect the public. Further, the panel was satisfied that the public interest is served by allowing you to return to nursing practice. It determined that this provides you with an opportunity to demonstrate that you have the right attitude, discipline and capabilities to provide safe, kind and professional nursing practice.

The panel also noted that a conditions of practice order would support your return to nursing practice and support the development of your nursing career. The panel accepted that the submissions made on your behalf that you would be willing to comply with conditions of practice.

Balancing all of these factors, the panel determined that the appropriate and proportionate sanction is that of a conditions of practice order.

The panel was of the view that to impose a suspension order or a striking-off order would be disproportionate and would not be a reasonable response in the circumstances of your case.

Having regard to the matters identified in this case, the panel has concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession, and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.

In making this decision, the panel carefully considered the submissions of Mr Kabasinkas in relation to the sanction that the NMC was seeking in this case. However, the panel carefully considered a suspension order, and it determined that a further period of suspension would not serve any useful purpose given the circumstances of this case.

Further, the panel recognized that all of the lapses in some way relate to your circumstances during the time of the incidents and that these contextual factors are no longer present. The panel found that a conditions of practice order would allow you to move forward and work on professional development in your nursing career.

The panel determined that the following conditions are appropriate and proportionate in this case:

‘For the purposes of these conditions, ‘employment’ and ‘work’ mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, ‘course of study’ and ‘course’ mean any course of educational study connected to nursing, midwifery or nursing associates.

1. You must ensure that you are supervised by a registered nurse any time you are working. Your supervision must consist of:
 - Working at all times on the same shift as, but not always directly observed by a registered nurse of band 6 or above.

2. You must work with your line manager to create a personal development plan (PDP). Your PDP must address the concerns about relating to the following areas:
 - Record keeping
 - Medication administration
 - Your understanding on the importance of data protection
 - Nursing ethics and responsibilities of professional practice and the standards required of a nurse as identified in the Code

You must send your case officer a copy of your PDP before the next review of this case. This report must show your progress towards achieving the aims set out in your PDP.

3. You must engage with your line manager to ensure that you are making progress towards aims set out in your personal development plan (PDP), this includes:
 - Meeting with your line manager on a monthly basis to discuss your progress towards achieving the aims set out in your PDP.
4. You must attend a course which covers patient confidentiality and data protection. You must provide evidence of completion of this course before the next review of this case.
5. You must produce a reflective piece before the next review of this case which addresses personal research you have undertaken and your understanding of nursing ethics and responsibilities of professional practice and the standards required of a nurse as identified in the Code

6. You must keep the NMC informed about anywhere you are working by:
 - a) Telling your case officer within seven days of accepting or leaving any employment.
 - b) Giving your case officer your employer's contact details.

7. You must keep the NMC informed about anywhere you are studying by:
 - a) Telling your case officer within seven days of accepting any course of study.
 - b) Giving your case officer the name and contact details of the organisation offering that course of study.

8. You must immediately give a copy of these conditions to:
 - a) Any organisation or person you work for.
 - b) Any agency you apply to or are registered with for work.
 - c) Any employers you apply to for work (at the time of application).
 - d) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.

9. You must tell your case officer, within seven days of your becoming aware of:
 - a) Any clinical incident you are involved in.
 - b) Any investigation started against you.
 - c) Any disciplinary proceedings taken against you.

10. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:
- a) Any current or future employer.
 - b) Any educational establishment.
 - c) Any other person(s) involved in your retraining and/or supervision required by these conditions

The period of this order is for two years.

Before the order expires, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any of its conditions, it may confirm the order or vary any condition of it, or it may replace the order with another order which may include a suspension order or a striking off order.

Any future panel reviewing this case would be assisted by:

- Evidence of testimonials from any recent employment paid or otherwise.
- In the event that you have not secured employment by the time of the next review, evidence of your efforts to secure employment and progress made in your professional development including evidence of completion of any courses.

This will be confirmed to you in writing.

Interim order

As the conditions of practice order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in your own

interests until the conditions of practice sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Submissions on interim order

The panel took account of the submissions made by Mr Kabasinskas. He stated that the interim suspension order that was in place has now lapsed. He therefore invited the panel to impose an 18-month interim conditions of practice order as it is necessary for the protection of the public and is otherwise in the public interest. He submitted that this was required to cover the 28-day appeal period and any period that an appeal may be lodged and heard. He submitted that the interim conditions of practice order should be the same as the substantive conditions of practice order.

The panel also took into account the submissions of Ms Myttas-Perris. She submitted that she did not oppose the application.

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that the only suitable interim order would be that of a conditions of practice order, as to do otherwise would be incompatible with its earlier findings. The conditions for the interim order will be the same as those detailed in the substantive order for a period of 18 months to cover the period of any appeal being lodged and heard.

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

That concludes this determination.