Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Monday, 31 March 2025 – Friday, 4 April 2025

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

Name of Registrant:	**Jason Desmond Annor Agyemfrah**
NMC PIN:	23E0177O
Part(s) of the register:	Nurses part of the register Sub part 1 RNMH, Registered Nurse - Mental Health – (3 May 2023)
Relevant Location:	London
Type of case:	Misconduct
Panel members:	Geraldine O'Hare (Chair, lay member) Charlotte Cooley (Registrant member) Christopher Reeves (Lay member)
Legal Assessor:	Martin Goudie KC
Hearings Coordinator:	Rodney Dennis (Monday, 31 March 2025– Thursday, 3 April 2025) Elizabeth Fagbo (Friday, 4 April 2025)
Nursing and Midwifery Council:	Represented by Ms Aziz, Case Presenter
Mr Agyemfrah:	Present and represented by Gerard McGettigan, instructed by The Royal College of Nursing (RCN)
Facts proved by way of admission:	Charges 1a, 1b, 1c, 1d, 1e, 1f, 2, and 3
Fitness to practise:	Impaired
Sanction:	**Striking-off order**

Interim order: **Interim suspension order (18 months)**

Details of charge

That you, a registered nurse:

1) On 29 October 2023 in respect of Resident A:

    a) Pushed and shoved them***. (proved by admission)***
    b) Poked your finger at them. **(*proved by admission)***
    c) Spat at them. ***(proved by admission)***
    d) Slapped them. ***(proved by admission)***
    e) Punched them. ***(proved by admission)***
    f) Acted in an intimidating manner. ***(proved by admission)***

2) Failed to make an accurate entry in Resident A's care record following the incident referenced at charge 1a)-f). ***(proved by admission)***

3) Your conduct at charge 2 was dishonest in that you intended to create a misleading impression in Resident A's care notes regarding the incident on 29 October 2023. ***(proved by admission)***

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

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

At the outset of the hearing, Mr McGettigan, on your behalf, made a request that this case be held in private on the basis that proper exploration of your case involves [PRIVATE].

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

Ms Aziz on behalf of the Nursing and Midwifery Council (NMC) indicated that they did not oppose the application [PRIVATE].

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

The panel decided to go into private session as and when [PRIVATE].

Background

The following facts were agreed:

1. *'A whistleblowing complaint was made to Cygnet Hospital on 30 October 2023, alleging that on the night shift of 28 October 2023 into the early morning of 29 October 2023, Mr Agyemfrah had been physically abusive towards resident A. A referral was made to the NMC on 8 December 2023.*

…

2. All charges are accepted on the following factual basis.

<u>Facts:</u>

3. Resident A resided at Cygnet as a mental health inpatient under the Mental Health Act. He had limited capacity and had been an inpatient for several years.

4. Following the allegations raised the CCTV was viewed for the night shift of 28 October 2023. The footage shows the Registrant and other care staff being aggressive towards Resident A.

5. Within the footage the Registrant can be seen in the medication room with Resident A standing outside it. No audio is on the footage,

but the body language suggests that they are having a heated conversation. The Registrant can be seen leaving the medication room and confronting Resident A. Pushing and shoving can be seen from both the Registrant and Resident A. The Registrant can be seen pushing Resident A away from him and pointing aggressively at him. Resident A spits in the Registrant's face and the Registrant spits back in Resident A's face. The Registrant slaps Resident A in the face. Resident A then walks away and is followed by the Registrant. The Resident can be seen standing in the corner near the nursing station being confronted by the Registrant. The Registrant can be seen pointing aggressively at Resident A, he can then be seen shoving and pointing at Resident A. Resident A attempts to kick the Registrant. The Registrant can be seen poking the Resident in the back of the head three times and pushing him in the chest area. Resident A 3 and the Registrant can be seen pushing and shoving each other, then other staff intervene.

6. Resident A is observed walking towards the bedroom followed by staff and the Registrant. The Registrant can be seen walking behind Resident A and shoves in the back. Resident A returns to his room.

7. Due to the lack of sound on the CCTV the words used are not able to be heard but only the actions and conduct.

8. The Registrant was interviewed as part of the internal investigation, and he confirmed that prior to what is captured on the CCTV footage he was punched and spat on by Resident A and therefore his actions towards Resident A was his 'defence mechanism kicking in'.

9. During the investigation interview with the Registrant, he was asked if had documented the incident in Resident A's notes. He confirmed that he had. When reviewing Resident A's notes on 29 October 2023 the documentation did not reflect the incident which

was viewed on the CCCTV footage and was therefore factually untrue.

10.The Registrant was also asked if he had completed a Datix/Cygnet Incident Form following the incident. He confirmed that he had, however, when viewing the form for the incident it did not reflect the incident which occurred on the CCTV and was also a factually untrue document.'

Decision and reasons on facts

The panel adopted the agreed facts.

At the outset of the hearing, the panel heard from Mr McGettigan, who informed the panel that you have made full admissions to charges 1a, 1b, 1c, 1d, 1e, 1f, 2, and 3.

The panel therefore finds charges 1a, 1b, 1c, 1d, 1e, 1f, 2, and 3 proved in their entirety, by way of your admissions.

For charge 2, the panel understood "Resident A's care record" to mean Resident A's personal medical notes, and did not take it to include the incident report.

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 ability to practise kindly, safely and professionally.

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

Ms Aziz invited the panel to take the view that the facts found proved amount to misconduct.

Ms Aziz submitted that the facts found proved were of a serious nature and breached professional standards.

Ms Aziz submitted that Resident A, a mental health inpatient under the Mental Health Act, was a vulnerable adult under your care. The evidence submitted in the exhibit bundle, witness statement and CCTV footage shows you slapping, punching and spitting at Resident A.

Ms Aziz submitted that after the incident, you made an inaccurate entry into Resident A's patient records which you did to downplay and minimise the seriousness of the incident. You have admitted that your actions were dishonest.

Ms Aziz made specific reference to the following professional standards of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code) where your actions amounted to misconduct: 1.1, 1.2, 1.5, 2.6, 4.1, 4.3, 20, 20.1, 22.3, and 20.5.

Ms Aziz submitted that your actions call into question your ability to practise safely and act in the best interests of the patient.

Ms Aziz submitted that you, in admitting these charges, accepted that these professional standards have not been met. Ms Aziz further submitted that you did not

treat Resident A with respect and that your actions amounted to serious misconduct as defined by *Nandi v GMC [2004] EWHC 2317 (Admin).*

Mr McGettigan submitted that you accept misconduct, but you do not accept that your fitness to practise is currently impaired.

Submissions on impairment

Ms Aziz 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. She made reference to various case law which included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Ms Aziz submitted that a finding of no impairment would undermine public confidence. She submitted that you have shown a lack of professional boundaries and have not provided sufficient insight into your actions. You continue to minimise the incident which has caused harm to, Resident A.

Ms Aziz submitted that your failure to maintain professional boundaries has brought the profession into disrepute. She submitted that you have demonstrated limited insight into the impact of your actions and the risk of repetition remains high. Ms Aziz further submitted that you still [PRIVATE].

In reference to your inaccurate records of the incident, Ms Aziz submitted that this was an attempt to conceal what had happened, that this dishonesty was serious and that other members of staff did not have accurate information about the Resident A as a result.

Ms Aziz made reference to your oral evidence where you explained that your inaccurate record keeping of the incident was a result of you experiencing a headache. Ms Aziz submitted that your lack of insight is a critical factor in regard to

impairment. Despite you providing evidence of training courses completed and certificates received, Ms Aziz submitted that this does not address dishonesty.

Mr McGettigan invited the panel to consider whether you can practise kindly, safely and effectively and to consider whether your fitness to practise is currently impaired. Mr McGettingan added that not every incident of misconduct will result in impairment when that misconduct has only taken place on one occasion.

Mr McGettigan submitted that despite misconduct being found proved, there is not impairment.

Mr McGettingan submitted that you were working in a busy and stressful environment and had experienced provocation from Resident A, and you reacted in the *"heat of the moment."* Mr McGettingan submitted that you accept that you acted in an unacceptable manner and had issued an apology.

Mr McGettigan submitted that you have no prior regulatory or disciplinary issues and that your behaviour should be viewed as an aberration that is unlikely to be repeated.

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, *Cheatle v General Medical Council* [2009] EWHC 645 (Admin), *Cohen v General Medical Council* [2008] EWHC 581 (Admin), and *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (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. It also 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.'*

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, you failed to:

*'**1.1** treat people with kindness, respect and compassion*

***1.2** make sure you deliver the fundamentals of care effectively*

***1.5** respect and uphold people's human rights*

***4.1** balance the need to act in the best interests of people at all times with the requirement to respect a person's right to accept or refuse treatment*

***4.3** keep to all relevant laws about mental capacity that apply in the country in which you are practising, and make sure that the rights and best interests of those who lack capacity are still at the centre of the decision-making process*

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

***10.4** attribute any entries you make in any paper or electronic records to yourself, making sure they are clearly written, dated and timed, and do not include unnecessary abbreviations, jargon or speculation*

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

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

***20.3** be aware at all times of how your behaviour can affect and influence the behaviour of other people*

20.5 *treat people in a way that does not take advantage of their vulnerability or cause them upset or distress*

20.8 *act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to'*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, you have accepted the facts set out in Charges 1a, 1b, 1c, 1d, 1e, 1f, 2, and 3 and that your actions amount to misconduct.

The panel has carefully reviewed the CCTV footage of the incident on 29 October 2023. Although it was not caught on camera, the panel accepts your evidence that Resident A spat at and hit you moments before the incident. And it appreciates that the footage shows that Resident A spat at you first, pushed you more than once, and, at one point, attempted to kick you.

However, the panel considered your conduct to be wholly inappropriate. It found the footage harrowing. You accept that you pushed, shoved, poked, spat at, slapped, and punched Resident A, and acted throughout in an intimidating manner. As serious as this sounds, it does not, in the panel's view, adequately convey the seriousness of your misconduct.

The panel was particularly disturbed by the footage of you, surrounded by other staff, pursuing Resident A in an intimidating manner. You can be seen pushing and shoving Resident A as he backed away until he was, quite literally, '*cornered*.' At one point, when Resident A is pinned to the wall by a member of staff, you can be seen reaching around that person to strike Resident A three times in the face. While the panel acknowledges some provocation, it considered your actions towards a vulnerable adult in your care to be completely unacceptable.

In reference to charges 2 and 3, you have accepted that your records did not accurately reflect the nature of the incident that occurred and that your failure to record the incident accurately amounts to misconduct.

In admitting that you omitted information from Resident A's patient records, your actions were misleading and dishonest.

The panel found that your actions fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

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

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

> *'The question that will help decide whether a professional's fitness to practise is impaired is:*
> *"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"*
> *If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.'*

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct 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) *has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel determined that limbs a, b, c and d are all engaged.

Your conduct towards Resident A clearly put him at unwarranted risk of harm. The CCTV footage shows a sustained attack on Resident A and seems to show an inability to control your anger. The panel has carefully considered your reflective statements, the additional training you have done and the testimonials you have

supplied. However, the panel is of the view that you have demonstrated limited insight into your actions, and your ability to regulate your emotions. You acknowledged that working in a mental health environment is invariably stressful and that you are likely to encounter similar behaviour from patients in the future. You did not provide the panel with sufficient evidence of how you would apply whatever skills and techniques you have learned since the incident to effectively manage your anger and emotions. Whilst the panel recognised the positive comments contained within the testimonials, they largely relate to your practice before the incident and therefore do not show that you can currently work in a similar environment safely and kindly.

Consequently, the panel was not persuaded you would not repeat your actions and, as such, you have the potential to put patients and/or residents at risk of harm in the future.

Moreover, the panel noted that you have not taken any additional training or otherwise addressed your dishonesty in this matter. The panel was not therefore satisfied that you would not repeat this conduct.

The panel was of the view that you had breached the fundamental tenets of the nursing professional and that your actions clearly brought its reputation into disrepute.

On the basis of all the information before it, the panel decided that there is a risk to the public if you were permitted to practise without restriction. The panel therefore decided that a finding of impairment is necessary on the ground 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 is necessary on the grounds of public interest as public confidence in the profession would be undermined if a

finding of impairment were not made in this case, as this case involves acts and omissions which put Resident A at risk and there has been a finding of dishonesty. The panel finds your fitness to practise impaired on the grounds of public interest.

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

Sanction

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

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

Submissions on sanction

Ms Aziz informed the panel that in the Notice of Hearing, dated 17 February 2025, the NMC had advised you that it would seek the imposition of a striking-off order if the panel found your fitness to practise currently impaired.

Ms Aziz referred the panel to the NMC Guidance and highlighted the aggravating features in this case:

- You abused a position of trust
- You have shown a lack of insight
- Your conduct put a patient at risk of suffering harm
- You were the nurse in charge

Ms Aziz submitted that although you have shown some insight, there is an ongoing risk to patients. On the night of the incident, you were the nurse in charge and your conduct raises serious concerns regarding your professionalism. Resident A was a

vulnerable patient who would have regarded you as a person of trust and responsible for his care.

Ms Aziz referred the panel to SAN-1, *'Factors to consider before deciding on sanctions' a*nd, SAN-2 '*Considering sanctions for serious cases'*.

Ms Aziz submitted that taking no further action or imposing a caution order would be inappropriate given the seriousness of this case. It would also not be proportionate or in the public interest. She submitted that a conditions of practice order would not be appropriate due to the seriousness of the concerns. The case involves dishonesty and attitudinal concerns which have not been remedied.

Ms Aziz moved on to consider a suspension order which she submitted would not adequately address the seriousness of the case. Ms Aziz further submitted that your misconduct was a breach of professional boundaries and is incompatible with remaining on the register and that, in this case, a striking-off order is the only appropriate sanction. She added that some concerns are more difficult to remediate and this case is one such example. All reasonable steps must be taken to protect people who are vulnerable, and a striking-off order is the most appropriate way to do so.

On your behalf, Mr McGettigan submitted that there is a high degree of mitigation and a low degree of aggravation in this case.

Mr McGettigan referred to SAN-1 *'Factors to consider before deciding on sanctions',* and submitted that only two of the five aggravating features mentioned in SAN-1 applied in this case. Mr McGettigan acknowledged that there was an abuse of a position of trust and that your conduct put someone at risk of harm. However, he submitted that you have no previous regulatory or disciplinary matters against you. He further submitted that you have shown some insight into your conduct, and there has been no pattern of misconduct.

Mr McGettigan submitted that you have demonstrated insight in your oral evidence and written statement. He further submitted that you have made concerted efforts to

address the underlying issues that resulted in the incident, and you accepted the charges at an early opportunity. Furthermore, you have kept up to date with your practice and provided testimonials demonstrating that you are a dedicated and compassionate nurse.

Mr McGettigan referred the panel to SAN-2 and submitted that of the different levels of dishonesty, your actions in relation to your record keeping for Resident A was brief and aberrational. He submitted that your dishonest conduct is less serious because it was a one-off incident and there was no personal gain in your act of dishonesty.

Mr McGettigan submitted that there is much mitigation in this case, and you have shown some insight and understanding.

Mr McGettigan accepted that taking no further action or imposing a caution order would be inappropriate given the seriousness of this case.

Mr McGettigan submitted that you had a positive and unblemished record prior to this incident, and that the panel should consider a conditions of practice order that would be proportionate and adequately address the public interest and public protection concerns. A conditions of practice order would allow you to be monitored and assessed in any future work placement.

In the alternative, Mr McGettigan submitted that where there is a single issue of misconduct or where a conditions of practice order is not proportionate, a suspension order would be appropriate in order to protect the public. Mr McGettigan added that there are insufficient grounds to impose a striking-off order. Mr McGettigan submitted that a suspension order would provide you with an opportunity for further reflection and remediation, something that is not possible with a striking-off order. Mr McGettigan submitted that public confidence will still be maintained with a suspension order and he reminded the panel that you have already been subject to an interim suspension order for 14 months.

Mr McGettigan submitted that a striking off order should be a ‘last resort’ and that the high threshold for this sanction has not been met. Mr McGettigan further submitted that the panel should be mindful of proportionality [PRIVATE].

Mr McGettigan submitted that should a conditions of practice order be imposed; you would engage fully with the order, and it would allow you to continue with further training and remediation. Mr McGettigan submitted that should the panel choose to impose a suspension order, that would allow you the opportunity to resume your nursing career at a point in the future.

Decision and reasons on sanction

The panel accepted the advice of the legal assessor.

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 determined that there were the following aggravating features in this case:

- You abused a position of trust
- You have shown a lack of insight into your failings
- You put a patient at risk of suffering harm
- You were the nurse in charge at the time of the incident

The panel considered there to be some mitigation in this case. It recognised that you were relatively inexperienced at the time and that you were working in a challenging environment.

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.

The panel then considered the imposition of a caution order. However, it determined that, due to the seriousness of this case and the public protection and public interest issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated given the nature of the concerns in this case. The findings involve violence and dishonesty, which cannot be adequately addressed by conditions of practice, nor would it protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that a suspension order may be appropriate where some of the following factors are present:

- *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 accepted that this was single incident. However, the panel noted that it went on for some time, and having reviewed the CCTV footage, the panel considered that there were several instances where you could have stepped away from Resident A to de-escalate the situation, but did not.

The panel also noted that you completed Resident A's record a short time after the event which allowed you time to reflect on this incident.

The panel acknowledged that you have no previous regulatory concerns. However, you had only been a nurse in the UK for five months. It also noted that you had made early admissions in this case. However, the evidence against you was compelling.

The panel was of the view that your conduct was a significant departure from the standards expected of a registered nurse and a serious breach of the fundamental tenants of the profession. In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or a proportionate sanction.

Finally, in looking at a striking-off order, the panel noted the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards*

The panel considered the guidance at SAN-2, '*Considering sanctions for serious cases'* and in particular the guidance regarding dishonesty and the abuse of vulnerable people.

The panel did not accept Mr McGettigan's submissions that your dishonesty was at the lower end of the spectrum. Your dishonesty was a breach of your duty of

candour, it involved a vulnerable victim, and there was a direct risk to someone receiving care. The panel was of the view that you demonstrated a lack of insight into your dishonesty and have not taken sufficient steps to remediate it.

Although the panel accepts that the NMC has not adduced any evidence to show that Resident A suffered harm as a result of your actions, having watched the CCTV footage carefully, there was, in the panel's view, a real risk of Resident A suffering from physical and/or psychological harm as a result of your actions. The panel determined that there is a significant risk of repetition due to your lack of insight and that allowing you to continue to practise would not be appropriate having regard to the need to protect the public.

The panel determined that your actions were a significant departure from the standards expected of a registered nurse, and are fundamentally incompatible with you remaining on the register. The panel was of the view that the findings in this case demonstrate that your actions were serious and to allow you to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and having taken into account all of the available evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of your actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves, the panel has concluded that nothing short of this would be sufficient in this case.

The panel considered that a striking-off order was necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession, a clear message about the standard of behaviour required of a registered nurse.

This will be confirmed to you in writing.

Interim order

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

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

Submissions on interim order

The panel took account of the submissions made by Ms Aziz. She submitted that the NMC is seeking the imposition of an interim suspension order for a period of 18 months to cover any appeal period until the substantive suspension order takes effect.

Ms Aziz submitted that given the seriousness of the charges found proved, an interim suspension order is necessary on the grounds of public protection and is also otherwise in the wider public interest.

Decision and reasons on interim order

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

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months in order to protect the public and the wider public interest to cover the 28-day appeal period and the duration of any appeal should you decide to appeal against the panel's decision.

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

That concludes this determination.