

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

Substantive Hearing

Tuesday, 6 May 2025 – Wednesday, 14 May 2025

Name of Registrant:	Steven John Brown-Gibson
NMC PIN:	11A0253E
Part(s) of the register:	Nurses part of the register Sub part 1 RNLD: Learning disabilities nurse, level 1 (24 January 2011)
Relevant Location:	Stoke-on-Trent
Type of case:	Misconduct
Panel members:	Louise Fox (Chair, Lay member) Lisa Holcroft (Registrant member) James Carr (Lay member)
Legal Assessor:	Robin Hay
Hearings Coordinator:	Petra Bernard
Nursing and Midwifery Council:	Represented by Katie Mustard (of Counsel), Case Presenter
Mr Brown-Gibson:	Not present and not represented
Facts proved:	All
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim order:	Interim suspension order (18 months)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Brown-Gibson was not in attendance and that the Notice of Hearing letter had been sent to Mr Brown-Gibson's registered email address by secure email on 4 April 2025.

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

The panel accepted the advice of the legal assessor.

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

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

Decision and reasons on proceeding in the absence of Mr Brown-Gibson

The panel next considered whether it should proceed in the absence of Mr Brown-Gibson. It had regard to Rule 21 and heard the submissions of Ms Mustard that the panel should continue in the absence of Mr Brown-Gibson.

Ms Mustard said that there had been no engagement at all by Mr Brown-Gibson with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure his attendance on some future occasion.

The panel accepted the advice of the legal assessor.

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

The panel has decided to proceed in the absence of Mr Brown-Gibson. In reaching this decision, the panel has considered the submissions of Ms Mustard, and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mr Brown-Gibson;
- Mr Brown-Gibson has not engaged with the NMC since October 2023 and has not recently responded to any of the communication sent to him about this hearing;
- Mr Brown-Gibson had told the NMC that he did not wish to engage until his civil claim against his previous employer had been dealt with. The panel had not been provided with any update with regard to whether this process has been concluded;
- There is therefore no reason to suppose that adjourning would secure his attendance at some future date;
- There are seven witnesses warned to attend and give evidence;
- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred in 2022 and 2023;
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mr Brown-Gibson in proceeding in his absence. Although the evidence upon which the NMC relies will have been sent to him at his

registered email address, he has made no response to the allegations. He will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on his own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Although Mr Brown-Gibson has not responded to the NMC allegations, the panel does have his local statements and responses to his employer's local investigation. Furthermore, any disadvantage is as a consequence of his decisions to absent himself from the hearing, waive his rights to attend, and/or be represented, and to provide evidence or make submissions on his own behalf.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mr Brown-Gibson. The panel will draw no adverse inference from his absence in its findings of fact.

Details of charge (as read)

That you, a registered nurse:

- 1) On 5 August 2022:
 - a) Grabbed Patient A by their wrists
 - b) Threw Patient A on the sofa.
 - c) Placed your hand on Patient A's neck
 - d) Said to Patient A "I don't know what you want me to do at this time on a Friday" or words to that effect.
- 2) On 11 February 2023 said to Patient B "no, you fuck off" or words to that effect.
- 3) On 20 February 2023, knowing Patient C's arm was stuck between a door and the doorframe:
 - a) applied force against the door
 - b) prevented Patient C from removing his arm from the door

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

Consideration under Rule 19 (Day one)

During Witness 1's evidence, the panel considered that as her evidence involves reference [PRIVATE] whether it should be heard in private. Ms Mustard agreed with the panel that any reference to Patient A's [PRIVATE], and by extension [PRIVATE], should be heard under Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules) as and when such issues are raised.

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

The panel determined to hold this hearing partly in private as and when reference to the [PRIVATE] Patient A and that of others are raised, in order to protect their respective privacy. The panel was satisfied that this course was justified and that the need to respect each parties' respective right to privacy outweighed any prejudice to the general principle of public hearings.

Background

The charges arose whilst Mr Brown-Gibson was employed as a Staff Nurse (Band 6), at the Crisis care centre (the Centre) [PRIVATE]. Mr Brown-Gibson started working at the Trust on 8 August 2016 as a Band 5 mental health practitioner and was later promoted to a Band 6 senior mental health practitioner.

The NMC opened this case following receipt of information from the Trust about Mr Brown-Gibson's alleged conduct at work. The NMC opened a referral for Mr Brown-Gibson on 21 August 2023 in relation to the following allegations.

On 5 August 2022 Patient A, [PRIVATE], arrived at the Centre with [PRIVATE] (Witness 1). It is alleged that Mr Brown-Gibson used a method of restrictive physical intervention

not approved by the Trust to transport Patient A to a chair opposite to where she was standing. It is alleged that this restraint caused harm and distress to Patient A.

On 11 February 2023, it is alleged that Mr Brown-Gibson told Patient B to *“fuck off.”* Patient B was allegedly shouting at Mr Brown-Gibson, and he allegedly responded saying *“no, you fuck off.”*

It is alleged that on 20 February 2023, Mr Brown-Gibson applied force against a door when Patient C had his arm stuck between the door and the doorframe to prevent him removing his arm from where it was stuck.

Mr Brown-Gibson was suspended from work on 15 March 2023. On 31 March 2023 Witness 6 began an investigation into the alleged incidents that occurred in February 2023. The local investigation report was completed on 13 June 2023 and the conclusion was that there was a case to answer in relation to the allegations.

A local disciplinary hearing took place on 8 September 2023 and Mr Brown-Gibson was dismissed on the grounds of gross misconduct, effective from 15 September 2023. He had initially engaged with the NMC investigation, the most current response was on 20 September 2023 when he informed the NMC that he had been dismissed from the Trust and was appealing that decision. Mr Brown-Gibson’s current employment status is unknown.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the oral and documentary evidence together with the submissions made by Ms Mustard on behalf of the NMC.

The panel has drawn no adverse inference from the non-attendance of Mr Brown-Gibson.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

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

- Witness 1: Family member Patient A
- Patient A Patient A
- Witness 2: Senior mental health practitioner at the Centre in the Hospital at the Trust, material time.
- Witness 3: Senior Nurse in the safeguarding team at the Trust, at the material time
- Witness 4 Mr Brown-Gibson's Line manager / Nurse at the Centre in the Hospital at the Trust, at the material time
- Witness 5 Employment agency mental health nurse at the Centre in the Hospital at the Trust, at the material time
- Witness 6 Investigating Officer / Ward Manager (PICU), in the Hospital at the Trust, at the material time

- Witness 7 Associate Director of Acute and Urgent Care Manager at the Centre in the Hospital at the Trust, at the material time

Before making any findings on the facts, the panel accepted the advice of the legal assessor. It considered all the oral and documentary evidence before it together with Mr Brown-Gibson's statements and responses to his employer's investigation.

The panel then considered each of the disputed charges and made the following findings.

Charge 1

That you, a registered nurse:

On 5 August 2022:

a) Grabbed Patient A by their wrists

This charge is found proved.

In reaching this decision, the panel took into account all the relevant evidence before it.

The panel had regard to Witness 2's local statement *[undated but said by Witness 2 to have been taken within the first 7 to 14 days of the alleged incident.]* in which he states that he saw Mr Brown-Gibson holding Patient A by the wrists. Mr Brown-Gibson in his local statement dated 11 August 2022 admits to holding on to Patient A's wrists and walking her backwards towards a seat, however states that these actions were in line with MAPA (Management of Aggression and Potential Aggression) training.

Patient A in her oral evidence said this part of incident was 'a blur'. The panel accepted that Patient A was [PRIVATE] and unwell at this point. It heard from Witness 1 that Patient A was "[PRIVATE]" prior to her arrival at the Hospital. In her oral evidence

Patient A said she remembers that she was being restrained and could still move but was powerless. Witness 1 said in her oral evidence that she could not remember if Mr Brown-Gibson was holding Patient A's wrists as she was more focused on what happened next. She said it was a "*sort of scuffle*" that happened very quickly.

The panel was aware that there had been CCTV footage of this incident but it was not provided to the panel. Witness 7 in her oral evidence said she had viewed the CCTV of the incident a couple of times a short while after the event occurred, however she had not taken notes and since a significant amount of time has passed she could only say what she now remembers. The panel noted that there is a description of the CCTV in the Safeguarding referral dated 8 August 2022 from Ms 1, however she has not provided a witness statement and has not been called to give evidence at this hearing.

The panel noted that neither Witness 7 nor Ms 1 mention seeing Mr Brown-Gibson grabbing Patient A by the wrists. Both refer to him reaching across or around her body holding her under one of her arms. The evidence was that the CCTV camera angle was in a fixed position. The panel determined therefore that it would not have provided a view of events from all angles. The panel therefore attributed less weight to the CCTV footage.

The panel preferred the evidence of Witness 2 and Mr Brown-Gibson who were both actually present during the alleged incident. The panel determined that Witness 2's oral evidence was consistent with both his NMC statement and local statement.

The allegation in the charge refers to '*grabbed*' rather than 'held' Patient A's wrists. The panel considered the definition of the word '*grabbed*' and construed it by its ordinary meaning. The evidence from all relevant witnesses was that events developed very quickly and spontaneously and the incident was invariably described as a '*melee*'.

The panel was therefore satisfied that Mr Brown-Gibson took hold of Patient A's wrists very quickly and therefore finds he did grab her wrists.

The panel therefore found this charge proved.

Charge 1b

b) Threw Patient A on the sofa.

This charge is found proved.

In reaching this decision, the panel took into account all the relevant evidence.

The panel heard that in Witness 2's oral evidence, he said that Mr Brown-Gibson pushed Patient A backwards and her legs hit the back of the chair and she fell backwards onto it. Patient A and Witness 1 both described the action as Patient A being '*chucked*' onto the sofa. Witness 7 said in her oral evidence that from her recollection of the CCTV footage, she saw Patient A land in a heap half on the floor and half on the chair.

Mr Brown-Gibson in his local statement says he '*walked her briskly backwards as per MAPA and her legs came into contact with the soft settee like chair, she sat herself down as per MAPA*'.

The panel concluded that all the witnesses described Patient A being pushed backwards by Mr Brown-Gibson until her legs made contact with the soft chair/sofa which caused her to unbalance and fall partly on the floor and partly on the chair.

The panel considered the word '*threw*' in the charge and noted that the relevant witnesses described the action using different terms, however it determined that the terminology of whether Patient A was thrown or pushed was not material in this context. It was satisfied that the relevant witnesses were all describing the same action and it therefore determined that Mr Brown-Gibson threw Patient A on the sofa.

The panel therefore finds this charged proved.

Charge 1c

c) Placed your hand on Patient A's neck

This charge is found proved.

The panel found Patient A's oral evidence was consistent with her written statement and found her description of events credible. She said that Mr Brown-Gibson put his hand on her neck but not with force and he did not squeeze. Patient A also noted that events took place very quickly and his hand was only on her neck for a matter of seconds. The panel had sight of photographs displaying bruising provided by Patient A which she said were taken on the day after the incident.

Witness 1's evidence was that she saw Mr Brown-Gibson's hand on Patient A's neck. Witness 2 said he did not see Mr Brown-Gibson's hand on Patient A's neck, that at times he could only see Mr Brown-Gibson's back and maintained that he was holding her wrists the whole time so it would not be possible.

The panel noted that Mr Brown-Gibson did not respond to the NMC allegations and this allegation was not put to him in the local investigations conducted by the Trust. Notwithstanding this, the panel noted it was possible witness 2 did not have a clear view of Mr Brown-Gibson's hands at all times due to the way he was standing and therefore preferred the evidence of Patient A and Witness 1.

The panel concluded that the incident was spontaneous and described by one witness as a 'melee'. The panel concluded that it was likely that Mr Brown-Gibson's hand did come into contact with Patient A's neck. It therefore finds that this charge is found proved on the balance of probabilities.

Charge 1d

d) Said to Patient A "I don't know what you want me to do at this time on a Friday" or words to that effect.

This charge is found proved.

In reaching this decision, the panel took into account all of the relevant evidence.

The panel heard in evidence that Patient A had attended the Centre on a Friday afternoon. Witness 1 told the panel that Patient A had wanted to be admitted to the Hospital but there were no beds available. In Patient A's witness statement and oral evidence, she said that Mr Brown-Gibson said this phrase to her a number of times in different ways. She said this upset her so much it resulted in her smashing a window in the Centre. Witness 1 said in oral evidence that Patient A had told her that Mr Brown-Gibson had said these alleged words to her, which is why she smashed the window. In his local statement, Mr Brown-Gibson said he asked Patient A what outcome she was seeking, but he has not responded to the NMC allegations.

Witness 2 in his oral evidence said that he did not hear Mr Brown-Gibson say this phrase to Patient A as he had not been present at the time it was alleged to have been said. He said that Mr Brown-Gibson was asked by the duty lead to assess Patient A and expressed that he was not qualified to assess patients [PRIVATE] and had asked for someone else to step in but no one was available. Mr Brown-Gibson's local statement supports this, stating that he was not qualified to assess people [PRIVATE]. Witness 2 said Mr Brown-Gibson appeared anxious about completing the assessment and he was moving quickly and speaking loudly indicating he was in a heightened state.

The panel accepted the evidence of Patient A and Witness 1 and was satisfied that it was more likely than not to have occurred, in the context that Mr Brown-Gibson was feeling stressed and anxious about being asked to complete an assessment he felt unqualified to carry out.

The panel therefore determined that this charge is found proved.

Charge 2

- 2) On 11 February 2023 said to Patient B "no, you fuck off" or words to that effect.

This charge is found proved.

In reaching this decision, the panel took into account all of the relevant evidence.

The panel considered Witness 5's witness statement and local statement and found them both to be consistent with her oral evidence. Witness 5 confirmed that she heard shouting so got up to see what was wrong. She said she saw Mr Brown-Gibson on one side of glass door with Patient B standing on the other side of the door shouting at him. She said she heard Patient B tell Mr Brown-Gibson to *'fuck off'* and to which he replied *'no you fuck off'*. In her oral evidence she said they were *'squaring up'* to each other *'aggressive and both shouting'*. The panel had sight of the disciplinary hearing minutes of 8 September 2023 which states that Ms 2, a colleague, was asked about the incident at the time and said that she witnessed Mr Brown-Gibson swearing at Patient B but could not recall what words were said.

The panel noted that Mr Brown-Gibson gave two versions of this incident in his local statement. In the first version he states that he was speaking to Patient B on his level and said as a joke that he could not *'fuck off'* because he had to stay on shift until 8.00pm but the Patient B could *'fuck off'*. In the second version, Mr Brown-Gibson states that he swore quietly and Patient B had turned around and walked away, so he did not think he heard him. He states that he returned to the duty room and reported the incident to someone but could not recall who he reported it to.

The panel concluded that on the balance of probabilities, Mr Brown-Gibson did tell Patient B to *'fuck off'* on the basis of witness 5's evidence and Mr Brown-Gibson's own admission that he had sworn at Patient B. Therefore this charge is found proved.

Charge 3a

3) On 20 February 2023, knowing Patient C's arm was stuck between a door and the doorframe:

a) applied force against the door

This charge is found proved.

In reaching this decision, the panel took into account all the relevant evidence.

The panel considered Witness 4's witness statement and local statement and found them both to be consistent with her oral evidence. She stated that she was alerted by Personal Infrared Transmitter (PIT) alarms going off and went to see what was going on. She said she saw Patient C with the top of his arm stuck in door, with four colleagues pushing against the door and shouting to someone to open the door. She said that she also pushed the door with her full body weight and it only released when the door was opened. Witness 4's evidence was that she did not know who was behind the door until the pressure was released and Mr Brown-Gibson appeared from behind the door.

Witness 4's evidence is supported by contemporaneous emails / correspondence from the four other staff members present at the incident who all saw Patient C's arm trapped and felt force against the door: The emails included the following:

'It quickly became apparent that [Patient C] was unable to remove his arm from the door. To enable removal of Patient C's arm from the door I shouted to [Mr Brown-Gibson] to open the door as he had not responded to other requests to do so, as this did not happen I and other members of staff attending had to apply force to open the door and free Patient C's arm.'

And another:

'...we tried to move him from the doorway whilst asking Steve to open the door. Patient C's arm was through the door, Steve continued to try to shut the door, more that 1 member of staff shouted "open the door", when he did not it was shouted louder "open the door, his arm in in it", staff pushed the door open from the outside to remove his arm...'

Mr Brown-Gibson in his local statement said that he braced the door to stop Patient C from trying to get into the office; he denies putting any pressure on the door.

The panel was satisfied that by bracing the door, Mr Brown-Gibson had prevented it from being pushed open and was therefore applying force. The panel therefore find this charge is proved.

Charge 3b

b) prevented Patient C from removing his arm from the door

This charge is found proved

In reaching this decision, the panel took into account all the relevant evidence.

In addition to the evidence cited above for charge 3a, the panel had sight of an email dated 2 March 2023 from Ms 3 *'...I'm not sure how his arm [Patient C] ended up in the door. But Steve was on the other side of the door trying to push Patient C's arm out of the door'*. However, Ms 3 was not interviewed as part of the internal investigation and did not provide a statement either to that investigation or the NMC and her account therefore could not be tested before the panel.

In his internal statement, Mr Brown-Gibson said:

'I wasn't pushing the door. I was face to face with him. He was pushing one way and I was holding the door. I don't recall the staff that arrived was. I don't recall them speaking to me, I think I might have said can you get his arm out of this door.'

On the basis that the panel has found Charge 3a proved, due to the evidence that Patient C was unable to remove his arm because Mr Brown-Gibson was applying force against the door, the panel preferred the evidence of Witness 4 and the untested written

local accounts of the other staff present to the untested accounts of Ms 3 and Mr Brown-Gibson. It was satisfied that Mr Brown-Gibson's actions did prevent Patient C from removing his arm from the door. The panel therefore finds this charge proved.

Fitness to practise

Having reached its determination on the facts, the panel next considered whether the facts found proved amount to misconduct and, if so, whether Mr Brown-Gibson's 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, Mr Brown-Gibson's 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.*'

Ms Mustard's submission was that Mr Brown-Gibson's actions amount to a breach of 'The Code: Professional standards of practice and behaviour for nurses, midwives and nursing associates 2015' (the Code). She referred the panel to the following specific

sections of the Code and identified where, in the NMC's view, Mr Brown-Gibson's actions amounted to a breach of those standards: 1.1; 2.1; 2.6; 3.1; 7.3; 10.1; 10.2; 20.1; 20.2; and 20.3.

Ms Mustard outlined the two key decisions the panel must make at this stage of the proceedings and referred it to the relevant case law.

Bearing in mind the vulnerabilities of all three patients, Ms Mustard submitted that each patient experienced distress due to Mr Brown-Gibson's actions at the Centre, She outlined the impact on each patient as follows:

- Patient A: Mr. Brown Gibson had already been asked to leave (the assessment/waiting area) and had done so initially, however had chosen to return to what was clearly an escalating and difficult situation. Patient A suffered bruising on her neck and emotional distress which also affected her [PRIVATE].
- Patient B: There were a number of other people on shift who could have allowed Mr Brown Gibson to offer the patient [PRIVATE] earlier than he did. This seemed to be the crux of the issue / concern for Patient B as he did not agree with the [PRIVATE] given to him. Patient B's [PRIVATE] thoughts worsened after interacting with Mr Brown-Gibson.
- Patient C showed distress, although physical injuries were unconfirmed. Ms Mustard submitted that it would have been expected and anticipated that Mr Brown-Gibson should have completed an incident report at the time and secondly to that, the notes that he did make were insufficiently referenced. Ms Mustard accepted that although this particular point in and of itself has not been charged, it is something that could be indirectly considered in the round when considering the cumulative effects of any misconduct in this case.

She submitted that all of the above, including Mr Brown-Gibson returning to a difficult situation and using an untrained restraint technique, caused harm and represents serious professional misconduct.

Submissions on impairment

In regard to impairment, Ms Mustard's submission was that the panel should have regard to protection of the public and to the wider public interest. This included the need to declare and maintain proper standards and of conduct and behaviour and to maintain public confidence in the profession and in the NMC as regulator. This 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 Mustard submitted that the first three limbs of the test in the case of *Grant* are satisfied by Mr Brown-Gibson's past conduct. Mr Brown-Gibson's conduct put patients at risk of harm, and there was in fact some form of harm to each of these patients. Further, by not delivering the fundamentals of care effectively, Mr Brown-Gibson has brought the reputation of the nursing profession into disrepute.

Ms Mustard further submitted that Mr Brown-Gibson has displayed limited insight or remorse during his internal investigation and has continued to either deny or seek to justify certain actions or put them in in a different context. Further, as a consequence of this lack of insight and remediation, there remains a risk of repetition.

Regarding strengthened practice, Ms Mustard submitted that the panel has not received any evidence in relation to remediation. She submitted that the panel may well be concerned that some of these matters are attitudinal in nature, therefore it is difficult to see how those concerns could successfully be remedied in any event.

Ms Mustard submitted that, Mr Brown-Gibson's actions were so serious, members of the public would expect the conduct to be marked with a decision about current impairment on public interest grounds.

The panel accepted the advice of the legal assessor.

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 determined that Mr Brown-Gibson's actions did fall significantly short of the standards expected of a registered nurse, and that they amounted to breaches of the Code:

1.1 treat people with kindness, respect and compassion

1.2 make sure you deliver the fundamentals of care effectively

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

2.6 recognise when people are anxious or in distress and respond compassionately and politely

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

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

15.3 take account of your own safety, the safety of others and the availability of other options for providing care

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

20.3 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 ... cause them upset or distress

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, it determined that by Mr Brown-Gibson's actions he failed to treat Patients A, B or C with kindness, respect or compassion. They were all experiencing [PRIVATE] and were anxious and in distress. His responses in each situation did not appear to take this into account and failed to meet their care needs.

Patient A

Mr Brown-Gibson was asked to leave the assessment/waiting area in order to de-escalate the situation but then chose to return which led to further escalation. His actions led to Witness 1 stating in evidence that she was afraid to attend the Hospital for fear of coming into contact with him again. The panel also heard in evidence that other patients / members of the public were present during the incident and they fled the Centre.

Patient B

Patient B was reluctant to re-engage with the team following his [PRIVATE] and interactions with Mr Brown-Gibson. He left the Centre after this interaction and had to be followed up the next day for a [PRIVATE]. During this [PRIVATE], Patient B reported *'[PRIVATE] made worse by his experience yesterday'* and was *'feeling disillusioned with services'*.

Patient C

Mr Brown-Gibson failed to respond appropriately to Patient C or to colleagues shouting at him to release the door. He therefore failed to work in partnership effectively with colleagues to preserve the safety of patients.

It appeared to the panel that there were safer alternative ways to de-escalate in all three situations which Mr Brown-Gibson failed to use.

Charges 1a), 1b and 1c) – not misconduct

The panel took into account the context of this situation. The Centre by its nature is a place where patients in [PRIVATE] attend and it was not unusual for staff to experience verbal and physical aggression from such patients, however there were procedures in place to manage this.

The panel noted that Mr Brown-Gibson was an experienced mental health practitioner. The panel determined that Mr Brown-Gibson had contributed to the escalation of the situation by his comments to Patient A prior to this incident and then by returning to the area when he had been asked to leave. However, it accepts that it was a fast-moving situation which required split-second decision-making.

The panel heard in evidence that Patient A had threatened to [PRIVATE] if not admitted to hospital, was aggressive, shouting at Mr Brown-Gibson and described as '*lunging*' at him with fists raised. It also heard that immediately prior to this incident Patient A had broken a window. Witness 2 said in evidence that he considered the situation to be high risk of harm. The panel accepted that Mr Brown-Gibson had a right to defend himself and he had not touched Patient A's neck deliberately but as part of the '*melee*'.

Therefore the panel determined that although Mr Brown-Gibson did not use recognised MAPA techniques, it did not find that his actions were disproportionate in the circumstances, even though they were not in line with the Trust's best practice principles. The panel therefore did not find 1a) - c) to amount to misconduct.

Charge 1d) - misconduct

The panel considered the context of the overall situation. Patient A was desperate for help and was clearly very distressed and in need of support. The panel determined that this comment was dismissive, inappropriate and unprofessional. Moreover, Mr Brown-Gibson said it a number of times. Even if he was not able to provide the support she requested, the panel determined that he should have responded in a more reassuring and supportive manner. Patient A said she felt tormented by what he had said, which

increased her anger and frustration and led to her smashing the window. The panel decided that the comment escalated the situation unnecessarily which contributed to the events described in 1a), 1b and 1c). The panel concluded that this was so serious that it amounted to misconduct.

Charge 2) - misconduct

The panel determined that the comment was shouted at Patient B in an angry and aggressive manner. Mr Brown-Gibson gave two versions of this event: firstly, he said that his comment was a joke and secondly, he said it quietly so the patient could not hear. Both versions were refuted by Witness 5 who said she heard him shouting it at Patient B and '*squaring up to him.*'

The panel determined that there are never any circumstances where it is acceptable to swear at a patient. Further, Patient B was posing no threat to Mr Brown-Gibson and he could have walked away or de-escalated the situation verbally or asked a colleague to step in and takeover. The panel decided that by swearing, particularly in an angry manner, at a patient, Mr Brown-Gibson was not in control of his emotions and could have made Patient B feel unsafe. The panel concluded that this amounted to misconduct.

Charges 3a) and 3b) - Misconduct

The panel concluded that it could have been appropriate for Mr Brown-Gibson to shut the office door to stop Patient C gaining access to the room, if this posed no risk to Patient C. However, Mr Brown-Gibson was aware that Patient C's arm was trapped in the door and yet continued to apply force to the door for some minutes. He was aware that Patient C was in pain as he heard him shouting. He became aware that a number of colleagues were on the other side of the door as they were shouting to him to open it, so he knew they could have moved Patient C away from the door/prevented him entering the office once he opened the door. He did put Patient C at risk of harm.

The panel found that Mr Brown-Gibson's actions at 3a and 3b did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next considered whether, as a result of Mr Brown-Gibson's misconduct, his fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the NMC's Fitness to Practise Library 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. 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) ...'*

The panel finds that patients were put at risk and were caused physical / emotional harm as a result of Mr Brown-Gibson's misconduct. Mr Brown-Gibson's misconduct had breached all four tenets of the nursing profession:

- Prioritise people,
- Practise effectively
- Preserve safety
- Promote professionalism and trust.

and therefore brought its reputation into disrepute.

The panel determined that Mr Brown-Gibson's actions are not easily remediable as could be the case of clinical issues that can be improved through training. The panel determined there was a pattern of behaviour relating to a failure to respond appropriately to patients in crisis and appears to be attitudinal in nature by not prioritising the safety of patients.

The panel considered whether or not Mr Brown-Gibson had taken steps to strengthen his practice. However, there is no evidence before the panel of any insight, reflection, strengthened practice or remorse.

The panel noted that there were three incidents of misconduct spanning a seven-month period and there was no reflection, insight or remorse demonstrated by Mr Brown-Gibson in relation to them. Neither has he demonstrated what he would do differently or shown any recognition of the impact on the patients concerned, trust in the profession or on his colleagues. The panel concluded that all three incidents displayed underlying attitudinal issues of not prioritising patient safety and not treating patients with respect and kindness. These attitudinal issues are more difficult to address. Therefore there remains a high risk of repetition.

The panel therefore determined 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 are 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 concluded that public confidence in the profession would be undermined if a finding of impairment were not made and therefore finds Mr Brown-Gibson's fitness to practise is also impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mr Brown-Gibson's fitness to practise is currently impaired.

Sanction

The panel has decided to make a striking-off order. It directs the registrar to strike Mr Brown-Gibson off the register. The effect of this order is that the NMC register will show that Mr Brown-Gibson has been struck-off the register.

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

Submissions on sanction

The panel was aware that in the Notice of Hearing dated 4 April 2025, the NMC had advised Mr Brown-Gibson that it would seek the imposition of a striking off order, if it found his fitness to practise currently impaired.

Ms Mustard in her submissions, outlined the aggravating features as follows:

- Lack of insight or remorse
- Conduct repeated over a period of time;
- Failures related to basic nursing practises in dealing with service users in a kind and compassionate way

In relation to mitigating features, she said that panel heard evidence about matters relating to Mr Brown-Gibson's illnesses and stress. However, she cited the case of *Bolton v Law Society* [1993] EWCA Civ 32 where it was found that in regulatory proceedings where the purpose of sanctions is to protect the public and not to punish. A nurse's personal mitigation is usually less relevant than it would be when sentencing offenders in the criminal justice system.

Ms Mustard submitted that to take no further action would not be appropriate or proportionate. She submitted that a caution order would have no practical impact or restriction on Mr Brown-Gibson's ability to practise and would be incompatible with the panel's finding of current impairment and the risk of repetition of his misconduct.

Ms Mustard submitted conditions of practice would be inappropriate given the nature and seriousness of the charges, that largely related to attitudinal concerns and a failure on

Mr Brown-Gibson's part to respond appropriately to patients in crisis and not prioritising the safety of patients correctly. She submitted that there are no workable, measurable or appropriate conditions of practice capable of protecting the public.

Ms Mustard referred to SG guidance SAN-3d. She submitted that none of the points in the checklist are satisfied and she highlighted where a suspension order would be appropriate.

Ms Mustard referred the panel to the SG guidance SAN-3e on striking-off orders, which sets out the key considerations the panel should take into account in relation to imposing a striking off order:

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

She submitted that Mr Brown-Gibson's actions are so serious and offend the basic principles of nursing so significantly, that only permanent removal from the register is justified.

The panel accepted the advice of the legal assessor.

Decision and reasons on sanction

Having found Mr Brown-Gibson's fitness to practise currently impaired, the panel next considered what sanction, if any, it should impose. 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 regard to the SG however the decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Mr Brown-Gibson has not demonstrated any insight, reflection, remorse or remediation in particular, into the impact of his actions on patients, colleagues and the reputation of the profession
- This was a pattern of behaviour over seven months and Mr Brown-Gibson did not take the opportunity to learn from the first incident and modify his behaviour
- Mr Brown-Gibson put patients and colleagues at real risk of both physical and emotional harm
- Mr Brown-Gibson's responses contributed to the escalation of all three incidents and he failed to use appropriate de-escalation techniques

The panel also took into account the following mitigating feature:

- Mr Brown-Gibson was not trained to assess children and asked for someone qualified to assist but no one was available.

Although in his local statements Mr Brown-Gibson stated that he had had periods of sick leave and stress and felt unsupported on his return to work, the panel heard evidence from Witness 4 who was his line manager, that this was taken into account and Mr Brown-Gibson was given additional supervision and rest breaks, he was required to work only one set of night shifts on his return to work and was signposted to counselling and support services.

The panel first considered whether to take no action but concluded that this would be insufficient and inappropriate in view of the serious nature of the misconduct found proved. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

In regard to a caution order 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 the imposition of a caution order but again determined that, due to the serious nature of the misconduct, and the public protection issues identified, an order that does not restrict Mr Brown-Gibson's practice would neither be sufficient nor appropriate. The panel found that Mr Brown-Gibson's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the serious nature of the misconduct.

The panel considered whether placing conditions of practice on Mr Brown-Gibson's registration would be a sufficient and appropriate response. The panel decided that there are no practical or workable conditions that could be formulated, given the nature of the misconduct. The panel has determined that the misconduct identified is attitudinal in nature and was not something that can be addressed through retraining. Furthermore, the panel concluded that placing conditions on Mr Brown-Gibson's registration would not adequately address the seriousness of the misconduct nor protect the public.

The panel next considered whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*

- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*
- ...
- ...

The panel determined that none of these factors applied.

The panel determined that the misconduct found proved was a significant departure from the standards expected of a registered nurse. The panel concluded that a suspension order would protect the public only temporarily. However, as Mr Brown-Gibson has not provided any evidence of insight or remediation, it determined that a suspension order would be insufficient to uphold standards of conduct and behaviour and maintain trust in the profession. The panel therefore determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

Finally, when considering a striking-off order, the panel had in mind the following questions from 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?*

Mr Brown-Gibson's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with him remaining on the register. The panel determined that the findings demonstrate that Mr Brown-Gibson's misconduct was so serious that to allow him to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all these factors and having regard to the effect of Mr Brown-Gibson's actions in bringing the profession into disrepute, the panel has concluded that the only sanction

which would be appropriate, proportionate and sufficient to protect the public and to address public interest concerns is a striking-off order.

The panel determined that this order is 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 Mr Brown-Gibson 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. 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 accepted the advice of the legal assessor.

Submissions on interim order

Ms Mustard said that an interim suspension order is sought to cover the appeal period for the same reasons that the panel has imposed a striking-off order. She submitted that the NMC seeks an interim suspension order for a period of 18 months to cover the 28-day period of appeal and the time that can be taken for an appeal to be heard.

Decision and reasons on interim order

The panel had regard to the seriousness of the misconduct found proved and the reasons set out in its decision for the substantive order. The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. There is nothing to indicate that such an order would be in Mr Brown-Gibson's own interests.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate due to the reasons already identified in its determination for imposing the substantive order. The panel therefore decided to impose an interim suspension order for a period of 18 months to allow for any time required for an appeal process.

If no appeal is made, then the interim suspension order will be replaced by the substantive striking-off order 28 days after Mr Brown-Gibson is sent the panel's decision in writing.

That concludes this determination.