Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Monday, 3 November – Friday, 14 November 2025

Virtual Hearing

Name of Registrant:	Kelly Anne Thurston
NMC PIN	04J1118E
Part(s) of the register:	Registered Midwife RM – (13 October 2004)
Relevant Location:	Westminster
Type of case:	Misconduct
Panel members:	Oluwasola Falola (Chair, Registrant member) Chloe Mccandlish-Boyd (Registrant member) Alison James (Lay member)
Legal Assessor:	Lizzy Acker
Hearings Coordinator:	Nicola Nicolaou
Nursing and Midwifery Council:	Represented by Alex Granville, Case Presenter
Miss Thurston:	Present and represented by Christopher Bealey, instructed by Thompsons Law
Facts proved:	Charges 1a(ii), 1a(v), and 1a(vi)
Facts not proved:	Charges 1a(i), 1a(iii), 1a(iv), 1a(vii), 1b(i), 1b(ii), 1c(i), 1c(ii), 1c(iii), and 1c(iv)
Fitness to practise:	Impaired
Sanction:	**Conditions of practice order (12 months)**
Interim order:	**Interim conditions of practice order (18 months)**

Details of charge

That you, a registered midwife:

1. Failed to demonstrate appropriate management and/or leadership by engaging in bullying and/or intimidating behaviour towards colleagues in that you:

    a) In relation to Colleague A:

        i. In 2019, shouted at Colleague A saying “can’t you fucking see we’re talking?” and slammed the door
        ii. In January 2020, upon Colleague A’s phone ringing during a handover, shouted “who is that, whose phone is ringing?”
        iii. Failed to react appropriately when Colleague A told you that [PRIVATE] was unwell
        iv. Behaved aggressively towards Colleague A in Spring 2020 because she had taken a break during her working day
        v. Shouted at Colleague A on 30 August 2020 for not giving antibiotics to a patient
        vi. Shouted at Colleague A on 30 August 2020 following a medication error
        vii. In or around August 2020 you were aggressive towards Colleague A over the telephone because Colleague A was not on the ward

    b) In relation to Colleague B between August 2020 and December 2020:

        i. Called Colleague B a liar after they reported that you prevented them from transferring a deteriorating patient
        ii. Shouted “Who do you think you are? Who made the rules? I’m not going to have you over here doing nothing” at Colleague B.

    c) In or around 2019 and 2020, in relation to Colleague C:

i. Undermined Colleague C's authority by refusing to admit Patient A without first speaking with Colleague C
ii. On more than one occasion spoke aggressively to Colleague C when working in the office with Colleague C
iii. Interrupted a conversation between Colleague C and another colleague and screamed at Colleague C
iv. Swore at Colleague C on more than one occasion including an incident where you shouted 'fucking hell' and screamed at Colleague C.

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

Background

The Nursing and Midwifery Council (NMC) received a referral on 10 November 2021 from Witness 1, Divisional Director of Operations at Imperial College Healthcare NHS Trust ('the Trust'). The charges arose whilst you were working as a Band 7 Labour Ward Co-ordinator at [PRIVATE] ('the Hospital') from 2014 to September 2021.

It is alleged that in 2019 and 2020, you bullied colleagues, including junior doctors, consultants, and fellow midwives, using aggressive and abusive language, and demeaning conduct, either directly or indirectly to the complainant.

A local investigation was conducted by Witness 3, the Head of Employee Relations at the Trust. During the local investigation, it is alleged that a number of witnesses complained, and provided examples of the behaviour which included shouting and swearing at colleagues, looking at colleagues in an intimidating way, overt unkindness, ignoring colleagues, and passive aggressive behaviour.

Regulatory concerns

The NMC has identified the following regulatory concern:

1. Poor leadership / management, namely - a failure in line management – bullying and / or intimidating behaviour.

Decision and reasons on application to apply support measures for Colleague A

Mr Granville, on behalf of the NMC, informed the panel that Colleague A is classed as a vulnerable witness, and was due to be supported by a Public Support Officer employed by the NMC while she gives her evidence. Mr Granville informed the panel that the Public Support Officer is no longer available to attend the hearing to support Colleague A, and that no other Public Support Officers are available to attend the hearing instead, given the short notice. Mr Granville submitted that Colleague A would benefit from some form of support when giving her evidence. He submitted that Colleague A's partner is available to support her.

Mr Bealey, on your behalf, submitted that special measures are appropriate for vulnerable witnesses, however, a Public Support Officer employed by the NMC usually provides independent support to these witnesses so that their evidence remains impartial. Mr Bealey submitted that it is not known what exactly Colleague A may need from a Public Support Officer, or any other support person.

Mr Bealey submitted that if the panel decide to grant special measures in relation to Colleague A, her partner should be clearly visible on the screen to ensure that the support does not impact Colleague A's evidence. Mr Bealey submitted that it is ultimately a matter for the panel.

The panel accepted the advice of the legal assessor.

The panel considered that it is reasonable for Colleague A to have a support person when she gives her evidence. It noted that support was previously arranged, and should have been available to Colleague A. It also considered that there is no other Public Support Officer to step in to support Colleague A at this time. The panel therefore decided to allow Colleague A's partner to provide emotional support in the

Public Support Officer's absence. In making its decision, the panel considered that Colleague A's partner could provide support by his mere presence on the proviso he understood he could not communicate verbally, physically, or by any other means with Colleague A while she was giving evidence, or talk to her about her evidence in any way during breaks. The panel also considered it appropriate to require him to be visible on the camera at all times during Colleague A's evidence so it could ensure this was being observed. Nothing Colleague A or her partner did raised concerns before or during her evidence, the panel took these measures to ensure his support was as close to the independent supporter that the NMC had intended.

Decision and reasons for hearing to be held partly in private

The panel considered, of its own volition, that parts of this hearing may be heard in private as reference will be made to [PRIVATE], and the private matters of Colleague A. This is in accordance with Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules). The panel invited submissions in relation to the hearing being held partly in private.

Mr Granville and Mr Bealey indicated that they supported this.

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

The panel determined to go into private session as and when matters regarding [PRIVATE], or the private matters of Colleague A are raised in order to protect your privacy, and the privacy of Colleague A.

Decision and reasons on facts

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Granville on behalf of the NMC and by Mr Bealey on your behalf.

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 live evidence from the following witnesses called on behalf of the NMC:

- Witness 1: Divisional Director of Operations at the Trust at the time of the alleged incidents.
- Colleague A: Registered Midwife at the Trust at the time of the alleged incidents.
- Witness 3: Head of Employee Relations at the Trust at the time of the alleged incidents.
- Colleague B: Labour Ward Co-ordinator at the Trust at the time of the alleged incidents.
- Colleague C: Labour Ward Matron at the Trust at the time of the alleged incidents.

The panel also heard evidence from you under affirmation.

The panel also heard live evidence from the following witness called on your behalf:

- Witness 6: Registered Midwife at the Trust at the time of the alleged incidents.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by both the NMC and you.

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

Charge 1a(i)

That you, a registered midwife:

1. Failed to demonstrate appropriate management and/or leadership by engaging in bullying and/or intimidating behaviour towards colleagues in that you:

    a) In relation to Colleague A:

        i. In 2019, shouted at Colleague A saying “can’t you fucking see we’re talking?” and slammed the door

This charge is found NOT proved.

In reaching this decision, the panel took into account your written statement dated 31 October 2025 which stated:

> *‘20. I deny this allegation claimed in I, (a) (i) as the event claimed in 2019 did not happen.’*

The panel determined that there was insufficient evidence before it provided by the NMC to find this charge proved on the balance of probabilities. As such, the panel found charge 1a(i) not proved.

Charge 1a(ii)

1. Failed to demonstrate appropriate management and/or leadership by engaging in bullying and/or intimidating behaviour towards colleagues in that you:

    a) In relation to Colleague A:

        ii. In January 2020, upon Colleague A's phone ringing during a handover, shouted "who is that, whose phone is ringing?"

This charge is found proved.

In reaching this decision, the panel took into account Colleague A's witness statement which stated:

> *'*[…] *As soon as I answered the call I realised that it was not relating to* [PRIVATE], *and I cut the call straight away and turned my phone off. The Midwife angrily shouted out "who is that, whose phone is ringing".'*

This is supported by Colleague A's oral evidence when she said that her phone *"rung once or twice.* […] *The midwife shouted whose phone is ringing."*

During cross-examination, Colleague A was challenged about whether you did in fact shout, and responded:

> *"she wasn't shouting when she said that because there was a room full of people.* […] *She raised her voice and she wasn't very happy"*

This is further supported by Witness 3's witness statement which stated:

'In January 2020, when [Colleague A's] [PRIVATE]*,* [Colleague A] *took a call on her mobile phone during handover which caused the Midwife to become "very angry" and later "sneer" at* [Colleague A] […]*'*

The panel also took into account your written statement which stated:

'I accept that these words were said by me, however I deny that I shouted this.'

The panel also took into account your oral evidence when you explained that you would say something like this, and that you have a *"loud voice".* The panel also acknowledged from the evidence it heard that the room in which the handover was taking place was a small room. Therefore, the panel considered that although you may not have intended to shout, there is a potential that you were perceived to be shouting at Colleague A.

The panel therefore found this charge proved on the balance of probabilities.

Charge 1a(iii)

1. Failed to demonstrate appropriate management and/or leadership by engaging in bullying and/or intimidating behaviour towards colleagues in that you:

    a) In relation to Colleague A:

        iii. Failed to react appropriately when Colleague A told you that [PRIVATE] was unwell

This charge is found NOT proved.

In reaching this decision, the panel considered that there was no evidence before it to suggest what an appropriate reaction would have been in this situation. The panel considered that it was difficult to identify what the expectations of you were.

The panel considered that you were working in a high-pressure environment, and therefore people can interpret reactions in different ways. The panel noted that no other witness speaks to this charge.

The panel determined that there was insufficient evidence before it provided by the NMC to find this charge proved on the balance of probabilities. As such, the panel found charge 1a(iii) not proved.

Charge 1a(iv)

1. Failed to demonstrate appropriate management and/or leadership by engaging in bullying and/or intimidating behaviour towards colleagues in that you:

    a) In relation to Colleague A:

        iv. Behaved aggressively towards Colleague A in Spring 2020 because she had taken a break during her working day

This charge is found NOT proved.

In reaching this decision, the panel took into account Colleague A's witness statement which stated:

> *'*[…] *The Midwife saw me and abruptly asked "what are you doing now", and I just stood there petrified, as if I had been caught doing something wrong. The Midwife told me I needed to go to the staff room to eat my sandwich however, if the Midwife had seen me in the staff room taking a short break, the Midwife would not have been happy with me for leaving the Ward.'*

This is supported by Colleague A's oral evidence when she explained that she *"felt like a schoolgirl being told off by the headmistress".*

The panel also took into account the Investigation report dated 17 June 2021 which concluded that there was no case to answer in relation to this allegation.

The panel noted from the evidence before it that Colleague A was taking her break in an empty room reserved for patients. It heard from you in oral evidence that there were designated rooms for staff to take breaks in, and that patient rooms were not to be used by staff for their breaks. The panel determined that your actions may have been assertive, rather than aggressive, as you were informing Colleague A that they should be taking breaks in the staff rooms provided.

The panel therefore found this charge not proved on the balance of probabilities.

Charge 1a(v)

1. Failed to demonstrate appropriate management and/or leadership by engaging in bullying and/or intimidating behaviour towards colleagues in that you:

    a) In relation to Colleague A:

        v. Shouted at Colleague A on 30 August 2020 for not giving antibiotics to a patient

This charge is found proved.

In reaching this decision, the panel took into account Colleague A's witness statement which stated:

> *"*[…] *the Midwife put their head around the door of the patient's room and said "she needs to have her antibiotics, they need to be done by now".* […] *As I left the patient's room, to prepare their antibiotics, the Midwife began shouting at*

me down the corridor that the patient "should have had her antibiotics already".'

The panel also took into account the minutes of the investigation interview dated 12 November 2020 in which Colleague A said:

'Kelly was extremely rude and aggressive and would be "She needs to have her antibiotics. They need to be done by now" [sic]*'*

This is supported by Colleague A's oral evidence when she said:

"The midwife was shouting had the patient had antibiotics. I said no, I'm trying to do two things at the same time."

The panel took into account your oral evidence, and the oral evidence of Witness 6, that nobody shouted and that this was a calm conversation. It considered that you were working in a high-pressure environment, and that this was an emergency situation. However, the panel also took into account that you had said in oral evidence that you have a loud voice and needed to be assertive as the Labour Ward Coordinator.

The panel determined that it was more likely than not, on the balance of probabilities, that you shouted at Colleague A on 30 August 2020 for not giving antibiotics to a patient. The panel therefore found this charge proved.

Charge 1a(vi)

1. Failed to demonstrate appropriate management and/or leadership by engaging in bullying and/or intimidating behaviour towards colleagues in that you:

   a) In relation to Colleague A:

vi. Shouted at Colleague A on 30 August 2020 following a medication error

This charge is found proved.

In reaching this decision, the panel took into account Colleague A's witness statement which stated:

> *'Both the Midwife and* [Witness 6] *were being very aggressive towards me, and I sat there crying and wanting to vomit.* […] *The midwife chose to pull me into room 12 to shout at me* […]'

The panel also took into account the minutes of the investigation interview dated 12 November 2020 in which Colleague A said:

> *'Her and* [Witness 6], *and she was screaming at me.* […] *she said to me, "Well now I've got to go and do a Datix!".'*

When Colleague A was asked in oral evidence if you spoke to her in an aggressive tone, she responded *"she raised her voice and snarling. She was shouting. I felt very intimidated that there was two band 7's in the room."*

The panel took into account that this was a stressful situation as the patient had been administered a drug which they then had a reaction to. The panel considered that you were being assertive in this situation, and likely raised your voice.

The panel therefore determined that it is more likely than not, on the balance of probabilities, that you shouted at Colleague A on 30 August 2020 following a medication error. The panel therefore found this charge proved.

Charge 1a(vii)

1. Failed to demonstrate appropriate management and/or leadership by engaging in bullying and/or intimidating behaviour towards colleagues in that you:

    a) In relation to Colleague A:

        vii. In or around August 2020 you were aggressive towards Colleague A over the telephone because Colleague A was not on the ward

This charge is found NOT proved.

In reaching this decision, the panel took into account Colleague A's witness statement which stated:

> *'*[…] *I received a phone call from the Midwife rudely asking me where I was. I informed the Midwife that I was getting my Cerner card reactivated, and I would return to the Ward as soon as possible. The Midwife aggressively responded that "well you're supposed to be here, you're supposed to be working".'*

The panel also took into account your written statement which stated:

> *'*[…] *At no point in my interactions with Colleague A have I been aggressive. I am duty bound as part of my role as coordinator to find out the reason why a midwife has not attended their shift.'*

The panel considered that a telephone call did take place, however, it considered that you were being assertive, rather than aggressive towards Colleague A. The panel considered that Colleague A was off the ward for a long time and it was therefore reasonable for you to call her a second time to find out where she was.

The panel determined that there was insufficient evidence before it provided by the NMC to find this charge proved on the balance of probabilities. As such, the panel found charge 1a(vii) not proved.

Charge 1b(i)

1. Failed to demonstrate appropriate management and/or leadership by engaging in bullying and/or intimidating behaviour towards colleagues in that you:

   b) In relation to Colleague B between August 2020 and December 2020:

      i. Called Colleague B a liar after they reported that you prevented them from transferring a deteriorating patient

This charge is found NOT proved.

In reaching this decision, the panel took into account Colleague B's oral evidence when she explained that she never directly had a conversation with you about this alleged incident.

The panel also took into account your written statement which stated:

> *'Given the seriousness of the nature of the allegation such actions if true, would have led to an investigation by the risk management team as it is in itself a reportable incident.'*

The panel determined that there was insufficient evidence before it provided by the NMC to suggest that this interaction ever took place. As such, the panel found charge 1b(i) not proved on the balance of probabilities.

Charge 1b(ii)

1. Failed to demonstrate appropriate management and/or leadership by engaging in bullying and/or intimidating behaviour towards colleagues in that you:

b) In relation to Colleague B between August 2020 and December 2020:

ii. Shouted “Who do you think you are? Who made the rules? I’m not going to have you over here doing nothing” at Colleague B.

This charge is found NOT proved.

In reaching its decision, the panel took into account the meeting notes dated 26 April 2021 in which Colleague C asked you to share more details regarding the alleged incident. He said:

‘[…] *If you do feel able to share anything else with me… it’s a catch 22 situation. I need evidence of specifics in order to do something more robust.’*

The panel also took into account your written statement which stated:

‘I deny that I shouted and I deny that I said the words claimed in the above allegation.’

The panel noted that you also denied saying this when you were giving oral evidence.

The panel considered that a conversation did take place between you and Colleague B, but determined that there was insufficient evidence before it provided by the NMC to prove that you said what has been alleged. The panel therefore found this charge not proved on the balance of probabilities.

Charge 1c(i)

1. Failed to demonstrate appropriate management and/or leadership by engaging in bullying and/or intimidating behaviour towards colleagues in that you:

c) In or around 2019 and 2020, in relation to Colleague C:

i. Undermined Colleague C's authority by refusing to admit Patient A without first speaking with Colleague C

This charge is found NOT proved.

In reaching this decision, the panel took into account your witness statement which stated:

> *'I received a call about Patient A from an ITU nurse and I asked the ITU nurse if Patient A had been reviewed by the obstetric team , she told me that Patient A had not, so in accordance with the protocol I advised the ITU nurse that we could not accept Patient A onto the labour ward until that step been completed* […]*'*

The panel considered that you were ensuring that the obstetric team had reviewed the patient in ITU to make sure that she was suitable to be transferred to the labour ward. The panel considered that you were working within the scope of your practice as the Labour Ward Coordinator.

The panel acknowledged evidence from Colleague C and yourself about various other members of staff making calls about this specific patient. However, it had no evidence before it to show that you undermined Colleague C's authority.

The panel therefore found this charge not proved on the balance of probabilities.

Charge 1c(ii)

1. Failed to demonstrate appropriate management and/or leadership by engaging in bullying and/or intimidating behaviour towards colleagues in that you:

c) In or around 2019 and 2020, in relation to Colleague C:

ii. On more than one occasion spoke aggressively to Colleague C when working in the office with Colleague C

This charge is found NOT proved.

In reaching this decision, the panel took into account Colleague C's witness statement which stated:

> '[…] *I would ask Miss Thurston if they realised that I was trying to work, and would often be on the phone myself. They would reply aggressively that they were on the phone themselves.'*

The panel also took into account the Midwife interview notes dated 28 May 2021 in which Witness 3 said:

> *'I understand that* [Colleague C], *the previous matron, had a tough time in the role. What's your take on this?'*

You replied:

> *'I had a tough time with him, to be honest'*

The panel also took into account your written statement which stated:

> '[…] *whilst I accept that Colleague C and I did not have a good and productive working relationship, I did not at any point in our conversations speak aggressively towards Colleague C.'*

The panel noted that you and Colleague C had a difficult working relationship. It considered that Colleague C perceived you to be aggressive towards them and said that this had occurred on multiple occasions. However, the panel determined that there was insufficient evidence before it provided by the NMC to suggest that you spoke aggressively towards Colleague C. The panel therefore found this charge not proved on the balance of probabilities.

Charge 1c(iii)

1. Failed to demonstrate appropriate management and/or leadership by engaging in bullying and/or intimidating behaviour towards colleagues in that you:

    c) In or around 2019 and 2020, in relation to Colleague C:

        iii. Interrupted a conversation between Colleague C and another colleague and screamed at Colleague C

This charge is found NOT proved.

In reaching this decision, the panel took into account Colleague C's witness statement which stated:

> *'*[…] *While I was discussing this with* [Ms 7], *Miss Thurston interrupted and screamed at us. I cannot recall exactly what they said but it was unpleasant, causing* [Ms 7] *to leave in tears.'*

This is supported by Colleague C's oral evidence in which he said:

> *"she shouted at the ODP* (Operating Department Practitioner) [Ms 7], *who walked out in tears."*

The panel also took into account your written statement which stated:

> *'*[…] *In relation to allegation (iii) to the best of my recollection the event referred relates to when Colleague C was in discussion with another colleague, when I entered the office to continue my management duties, then the other colleague made a comment to Colleague C about the lack of infusion sets. Colleague C spoke to me then, (but in a manner that implied I had not done my management duties correctly in this regard) about that issue*

so drew me into that conversation. […] *At no point did I interrupt the original conversation or scream at Colleague C.'*

The panel noted from your evidence that you were invited into the conversation. It determined that there was insufficient evidence before it provided by the NMC to suggest that you interrupted a conversation between Colleague C and another colleague and screamed at Colleague C. The panel therefore found this charge not proved on the balance of probabilities.

Charge 1c(iv)

1. Failed to demonstrate appropriate management and/or leadership by engaging in bullying and/or intimidating behaviour towards colleagues in that you:

   c) In or around 2019 and 2020, in relation to Colleague C:

      iv. Swore at Colleague C on more than one occasion including an incident where you shouted 'fucking hell' and screamed at Colleague C.

This charge is found NOT proved.

In reaching this decision, the panel took into account Colleague C's witness statement which stated:

'Miss Thurston has sworn at me so many times, I cannot recall the exact dates. At one point, I recall I was in the office, talking about something to do with work (the exact dates I cannot recall) but it was regarding the roster. The way Miss Thurston spoke to me and the way they shouted 'fucking hell' and screamed at me was horrible.'

This is supported by Colleague C's oral evidence when he explained that *"this happened on multiple times."*

The panel also took into account your written statement which stated:

> '[…] *I deny the allegation entirely I have never shouted at nor swore at Colleague C on any occasion during any of my interactions with Colleague C.'*

The panel determined that there was insufficient evidence before it provided by the NMC to suggest that you swore at Colleague C on more than one occasion. The panel therefore found this charge not proved on the balance of probabilities.

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.

It was applied for, and agreed, that misconduct would be addressed first and only after hearing the panel's decision on misconduct, would counsel move on to address the panel regarding impairment.

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 Granville 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 Granville identified the specific, relevant standards where your actions amounted to misconduct. He submitted that your actions within the three charges found proved fell short of the standards expected of a registered midwife, and therefore amount to misconduct.

Mr Granville submitted that whilst there is no criticism of your clinical practice, you are a professional midwife who was in a managerial position and should have conducted yourself appropriately. He submitted that bullying could suggest deep-seated attitudinal concerns that can be more difficult to put right. Mr Granville submitted that bullying could cause harm to colleagues and subsequently affect patient care, with those being bullied not wanting to come forward and approach those who may be bullying them.

Mr Bealey submitted that at no point did you engage in conduct which fell far below the standard expected of a registered midwife, nor could it be considered as deplorable. He submitted that the labour ward was stressful, loud, and busy, and that this environment demands an authority figure to ensure proper and effective management on a day-to-day basis. He submitted that it is entirely proper that you would speak loudly, clearly, and assertively, and that the perception of your loud voice does not indicate that your behaviour amounts to misconduct.

Mr Bealey submitted that the facts found proved in this case do not amount to misconduct.

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 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:

> *'**1 Treat people as individuals and uphold their dignity***
> *To achieve this, you must:*
> ***1.1** treat people with kindness, respect and compassion*
>
> ***2 Listen to people and respond to their preferences and concerns***
> *To achieve this, you must:*
> ***2.6** recognise when people are anxious or in distress and respond compassionately and politely*
>
> ***8 Work cooperatively***
> *To achieve this, you must:*
> ***8.2** maintain effective communication with colleagues*
> ***8.7** be supportive of colleagues who are encountering health or performance problems. However, this support must never compromise or be at the expense of patient or public safety*
>
> ***9 Share your skills, knowledge and experience for the benefit of people receiving care and your colleagues***
> *To achieve this, you must:*
> ***9.1** provide honest, accurate and constructive feedback to colleagues*

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

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

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

20.8 *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, the panel was of the view that any act of bullying falls far short of the standards expected of a registered midwife. It considered that you were in a position of authority and should have behaved appropriately, treating colleagues with respect, kindness, and compassion. The panel considered that although you were working in a stressful environment, this does not excuse any behaviour of bullying.

The panel found that your actions represented a serious departure of the conduct and standards expected of a registered midwife and amounted to misconduct.

Submissions on impairment

Mr Granville 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 case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Mr Granville submitted that your actions have breached fundamental tenets of the midwifery profession. He submitted that whilst you have produced a reflective piece

detailing your extensive reading and reflection, this was produced only a couple of days before this hearing was due to commence. He submitted that before this, you had not provided any evidence of reflection, remorse, or insight. Mr Granville further submitted that your learning has not been tested in a pressurised environment similar to that in which the proven charges occurred and therefore there is a risk of repetition and subsequent risk of harm to the public. Mr Granville submitted that a finding of impairment is necessary on the ground of public protection

Mr Granville submitted that a finding of current impairment is also necessary on the ground of public interest to mark the unacceptability of your behaviour, to uphold proper professional standards of conduct and behaviour, and to maintain public confidence in the midwifery profession. He submitted that a member of the public would be shocked to learn that a registered midwife, in a position of authority, was bullying colleagues.

Mr Bealey submitted that you have addressed the concerns in this case, and that it is highly unlikely that the conduct will be repeated. He submitted that there have been no further incidents raised since these allegations came to light.

Mr Bealey submitted that you accept that different management styles may be more appropriate in different situations, and you acknowledge that your louder style could have been perceived negatively. Mr Bealey further submitted that you understand how your actions impacted your colleagues, and have made efforts to change your approach in the way you work with others.

Mr Bealey submitted that your efforts with insight and reflection surpass what could reasonably have been expected of you. He referred the panel to reflective pieces that you produced in 2020 and 2021, demonstrating that your journey in strengthening your practice and developing insight has been extensive. Mr Bealey submitted that a finding of current impairment is not necessary on the ground of public protection.

Mr Bealey submitted that the public interest and maintenance of public confidence in the midwifery profession has been upheld. He therefore submitted that a finding of current impairment is not necessary on the ground of public interest.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Cheatle v General Medical Council* [2009] EWHC 645 (Admin), *Ronald Jack 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 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 February 2024, 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.'*

Midwives 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 midwives with their lives and the lives of their loved ones. To justify that trust, midwives 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 considered that although there is no evidence before it that patients came to harm, colleagues were put at risk and Colleague A in particular was caused emotional harm as a result of your misconduct. Your misconduct had breached fundamental tenets of the midwifery profession and therefore brought its reputation into disrepute.

The panel considered the factors set out in the case of *Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin) and considered that the misconduct in this case is capable of remediation. Therefore, the panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice.

The panel took into account your extensive genuine reflection, in which you demonstrated an understanding of how your actions may have impacted your colleagues, and have demonstrated how you would handle the situation differently in the future. However, the panel considered that your learning and reflection has not been tested in a high-pressure environment, or in a managerial capacity. It considered that your current role as a carer is very different to working as a Labour Ward Coordinator. The panel also considered that there is no evidence before it of any training undertaken on communication or leadership and management styles.

The panel was therefore of the view that there is a risk of repetition and subsequent risk of harm to colleagues if the misconduct was repeated. The panel therefore decided that a finding of impairment is necessary on the ground of public protection.

The panel bore in mind 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 concluded that public confidence in the profession would be undermined if a finding of impairment were not made in a case where allegations of bullying have been found proved, and the learning undertaken had not been tested. The panel therefore also finds your fitness to practise impaired on the ground 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 conditions of practice order for a period of 12 months. 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 had careful regard to the Sanctions Guidance (SG) published by the NMC.

Submissions on sanction

Mr Granville submitted that taking no action or imposing a caution order would not be appropriate given the public protection and public interest issues identified.

Mr Granville submitted that a conditions of practice order is an appropriate and proportionate sanction in this case. He submitted that you have indicated that you wish to return to practice as a registered midwife and therefore a conditions of practice order would be sufficient to manage the risk identified, protect the public, and meet the public interest. He submitted that any conditions should focus on managerial aspects given that there is no evidence of any concerns regarding your clinical practice.

Mr Bealey submitted that you are no longer working in a managerial role, or in a high-pressure environment, and therefore, it is difficult to see any risk of repetition. He submitted that taking no action would be appropriate in this case.

Mr Bealey submitted that a caution order would also be an appropriate and proportionate sanction. He submitted that you have undertaken appropriate remediation, and there is no evidence of repetition since the incidents in 2020/2021. He invited the panel to impose a caution order for a period of 12 months.

Mr Bealey submitted that if the panel determine that a more restrictive sanction is necessary, it may consider a conditions of practice order. He submitted that you are not currently working as a registered midwife, and have no current intentions to return, and therefore, a conditions of practice order would be disproportionate unless you decided to return to practice as a registered midwife.

The panel accepted the advice of the legal assessor.

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:

- Abuse of a position of trust
- Bullying behaviour
- Conduct which put people receiving care at risk of suffering harm

The panel also took into account the following mitigating features:

- Evidence of insight and steps taken to address the concerns
- Difficult culture on the ward as evidenced by the culture review that was launched at the time of the incidents
- Personal mitigation including level of support in the workplace

The panel first considered whether to take no action but concluded that this would be inappropriate given the current public protection and public issues identified. 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 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 a caution order may be appropriate to mark the seriousness of the case, however, it would not be sufficient to manage the risk 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:

- *…*
- *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.*

The panel determined that it would be possible to formulate appropriate and practical conditions which would manage the risk identified, protect the public, and meet the public interest. The panel noted in your reflective piece that you would like to return to practice as a registered midwife. The panel was of the view that it was in the

public interest that, with appropriate safeguards, you should be able to return to practise as a midwife.

Balancing all of these factors, the panel determined that 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 wholly disproportionate and would not be a reasonable response in the circumstances of your case given that there are no concerns regarding your clinical practice, and taking into consideration the steps you have taken to reflect and remediate. The panel considered that there is evidence before it that you remain willing to engage and further remediate on your behaviour in the workplace and how people perceive you as a leader. The panel considered that a suspension order would temporarily remove you from the register which may impact your ability to further remediate. It considered that a suspension order was not necessary given that a conditions of practice order can achieve the same level of public protection. Therefore, whilst a suspension order was a viable option, the panel determined that a conditions of practice order was proportionate in this case.

Having regard to the matters it has identified, 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 midwife. It further considered that a conditions of practice order with robust and enforceable requirements will adequately protect the public, while supporting remediation, which aligns with the principle of proportionality, and the NMC's overarching objective of public protection.

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 undertake additional learning, with a particular focus on leadership, management, and appropriate communication with colleagues.

2. You must meet monthly with your line manager or supervisor to hold documented discussions regarding the following:
   a) Leadership skills
   b) Communication with colleagues
   c) Behaviour when working in high-pressure environments

3. You must send your case officer a report from your line manager or supervisor within seven days of any review hearing or meeting. This report must address your:
   a) Leadership skills
   b) Communication with colleagues
   c) Behaviour when working in high-pressure environments

4. You must keep a personal reflective practice profile. Your reflections should focus on:
   a) Leadership skills
   b) Communication with colleagues
   c) Behaviour when working in high-pressure environments

5. You must provide your case officer with a copy of your personal reflective practice profile within seven days of any review hearing or meeting.

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 immediately give a copy of these conditions to:
   a) Any organisation or person you work for.
   b) Any employers you apply to for work (at the time of application).
   c) Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity

8. 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.

9. 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 other person(s) involved in your retraining and/or supervision required by these conditions

The period of this order is for 12 months. The panel considered that 12 months would be sufficient time for you to complete any training, and also secure employment in a midwifery role, should you intend to return to practice.

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 condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- Evidence of completed training
- Any reflective work on your approach to people management in any employment
- Additional character references from colleagues

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.

Submissions on interim order

The panel took account of the submissions made by Mr Granville. He submitted that the NMC are neutral as to whether an interim order should be imposed. He submitted that it is ultimately a matter for the panel.

Mr Bealey submitted that an interim order is not necessary. He submitted that you have not been subject to any restrictions up until this point.

The panel accepted the advice of the legal assessor.

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 allow time for any possible appeal.

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.