Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Monday 1 September 2025 – Tuesday 16 September 2025

Virtual Hearing

Name of Registrant:	Margaret Constantine	
NMC PIN:	20A0738O	
Part(s) of the register:	Registered Nurse – Sub Part 1 Mental Health Nursing – (January 2020)	
Relevant Location:	Surrey	
Type of case:	Misconduct	
Panel members:	Rachel Onikosi Patience McNay Robin Barber	(Chair, Lay member) (Registrant member) (Lay member)
Legal Assessor:	Robin Hay	
Hearings Coordinator:	Charis Benefo	
Nursing and Midwifery Council:	Represented by Simran Ghotra, Case Presenter	
Ms Constantine:	Not present and not represented	
Facts proved:	Charges 1 and 2	
Fitness to practise:	Impaired	
Sanction:	**Suspension order (12 months)**	
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 Ms Constantine was not in attendance and that the Notice of Hearing letter had been sent to Ms Constantine's registered email address by secure email on 31 July 2025.

Ms Ghotra, on behalf of the Nursing and Midwifery Council (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 allegation, the time, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Ms Constantine's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all the information available, the panel was satisfied that Ms Constantine 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 Ms Constantine

The panel next considered whether it should proceed in the absence of Ms Constantine. It had regard to Rule 21 and heard the submissions of Ms Ghotra who invited the panel to continue in the absence of Ms Constantine. She submitted that Ms Constantine had voluntarily absented herself.

Ms Ghotra referred the panel to the email from Ms Constantine dated 17 May 2023 which stated:

'*I thank you for your email and would like to inform you that I am no longer employed as a RMN in the UK in any of your hospitals. I have not renewed my Nursing License. I have returned to my beloved country of birth and my focus is giving holistic care to my family and myself. Do have a lovely day.*'

Ms Ghotra informed the panel that the NMC had not heard from Ms Constantine since that email. There had been no response from her to the numerous messages sent to her by the NMC throughout February to August 2025. She submitted that the NMC case co-ordinator had contacted Ms Constantine on 15 August 2025 to query whether she would be attending this hearing, or whether she would like a postponement if she could not attend the scheduled hearing dates. However, no response was received. Ms Ghotra stated that the hearings co-ordinator had also sent Ms Constantine an email on 29 August 2025 to query whether she would be attending, and again no response was received.

Ms Ghotra's submission was that as there had been no engagement by Ms Constantine with the NMC in relation to these proceedings, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel was aware that the 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 Ms Constantine. In reaching this decision, the panel has considered the submissions of Ms Ghotra, the representations from Ms Constantine in May 2023, and the advice of the legal assessor. It has had in mind 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 Ms Constantine;
- Ms Constantine had engaged with the NMC to some extent until 17 May 2023, but has stopped engaging and has not responded to any of the correspondence sent to her about this hearing;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- This hearing is being heard together with the case against Registrant B, who has attended;
- Four witnesses are due to attend to 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 2020;
- 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 Ms Constantine in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her registered email address, she has made no response to the allegations. She will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on her 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. Furthermore, the disadvantage is the consequence of Ms Constantine's decisions to absent herself from the hearing, waive her rights to attend, and/or be represented, and being unable to give evidence or make submissions.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Ms Constantine. The panel will draw no adverse inference from her absence in its findings of fact.

Details of charge

That you, a registered nurse

1. On 1 August 2020 failed to respond to a medical emergency by commencing and/or assisting with cardiopulmonary resuscitation of Patient A

2. On the 1 August 2020 failed to obtain and/or use and/or assist others to use the defibrillator

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

Background

The NMC opened a referral under Article 22(6) of the 'Nursing and Midwifery Order 2001' (the Order) in respect of Ms Constantine on 5 September 2022, following concerns identified in the case of Registrant B. Ms Constantine first entered onto the NMC's register on 23 January 2020.

The allegations arose when Ms Constantine was employed by Whitepost Healthcare at [PRIVATE] (the Hospital) as a nurse.

It is alleged that, whilst working at the Hospital on the night shift between 31 July 2020 and 1 August 2020, Ms Constantine failed to adequately respond to an emergency situation involving Patient A. Patient A had been an in-patient at [PRIVATE] Ward (the Ward), detained under Section 3 of the Mental Health Act 1983.

After the nurse in charge of the Ward had discovered the medical emergency involving Patient A, she called the [PRIVATE] Ward where Ms Constantine was working and requested assistance. When Ms Constantine arrived on the Ward, it is alleged that she failed to commence and/or assist with cardiopulmonary resuscitation (CPR) alongside the nurse in charge of the Ward, Registrant B.

Ms Constantine also allegedly failed to obtain and/or use and/or assist others to use the defibrillator after she attended the Ward and despite going into Patient A's room.

Patient A died during the shift in question.

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 Ms Ghotra on behalf of the NMC.

The panel has drawn no adverse inference from the non-attendance of Ms Constantine.

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 called on behalf of the NMC:

- Witness 1: Paramedic who attended the Ward following Patient A's cardiac arrest;

- Witness 2: Support Worker who was working on the Ward during the night shift in question;
- Witness 3: Clinical Lead Nurse at the Hospital; and
- Witness 4: Consultant Cardiologist who produced an independent medical report for the Coroner's Inquest in respect of Patient A.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. The panel also took into account the NMC guidance relevant to the issues in this case.

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

Charge 1

That you, a registered nurse

1. *On 1 August 2020 failed to respond to a medical emergency by commencing and/or assisting with cardiopulmonary resuscitation of Patient A*

This charge is found proved.

In reaching this decision, the panel first determined that upon arriving on the Ward, Ms Constantine had a responsibility as a registered nurse to recognise that there was a medical emergency involving Patient A and that CPR was necessary. It found that she therefore had a duty to either commence CPR or assist if it was already being carried out by colleagues.

In the notes from the investigation interview with Ms Constantine, she set out how she became aware of the incident and what she did after she arrived on the Ward:

> '*I was working the night shift on [PRIVATE] when I received a telephone call from [Registrant B] with some concern in her voice. She stated "I think I've lost a patient and need your assistance" From this I assumed that a patient had absconded and as she did not give any other details I was not aware until later that this was a medical emergency...*
> *…*
> *When I arrived [Registrant B] was on the phone. She seemed very flustered. [Colleague A] was also there on the ward. I was not aware at the time what was happening. No one appeared to know what to do. She was on the phone and she appeared to be talking to the emergency services. I was waiting to get a handover of what assistance was required from me.*'

Further, the transcript of Ms Constantine's evidence at the Coroner's Inquest stated that:

> '*[Question]: And the question was can you show the Coroner or the jury a single thing that you did that helped Patient A [sic] condition?*
> *[Ms Constantine]: I don't know how to answer.*'

The CCTV footage of the corridor outside Patient A's room indicated that when Ms Constantine first attended the Ward, she stepped into his room for a brief period before leaving. She did not return to the room again. The panel considered that after Ms Constantine had attended the Ward and realised that Patient A had not absconded but was unresponsive, she did not appear to make any attempts to contribute to or assist in the emergency incident.

Witness 4's oral evidence was that Ms Constantine was "*unqualified*", "*disinterested*" and a "*spectator to the events*". He stated that Ms Constantine should not have needed

direction, but as a registered nurse, she should have known what to do and taken the lead after being made aware of the situation.

In addition, Witness 1's witness statement dated 28 September 2022 stated:

> '*The video evidence showed that when the staff discovered Patient A unconscious, they stood around in the corridor outside of Patient A [sic] room awaiting instruction, presumably from the nurse in charge. I cannot recall how long it was until CPR was started.*'

The panel therefore determined that on 1 August 2020, Ms Constantine failed to respond to a medical emergency by commencing and/or assisting with cardiopulmonary resuscitation of Patient A, and so it found charge 1 proved.

Charge 2

That you, a registered nurse

2. *On the 1 August 2020 failed to obtain and/or use and/or assist others to use the defibrillator*

This charge is found proved.

In reaching this decision, the panel first determined that upon arriving on the Ward, Ms Constantine had a responsibility as a registered nurse to recognise that there was a medical emergency involving Patient A and that the use of a defibrillator was immediately necessary. It found that she therefore had a duty to obtain and/or use and/or assist others to use the defibrillator on Patient A.

In the notes from the investigation interview with Ms Constantine, she stated that she had '*received BLS training from St John Ambulance but this did not include defib…*'. However, the panel had heard from Witness 4 that defibrillators are automated with instructions and

therefore suitable for use by anyone, including individuals who are not medical practitioners.

Ms Constantine's evidence in the investigation interview was that she was '*waiting for [Registrant B] to give [her] instructions as it was not immediately clear what the emergency was*'. She stated that she did not receive any instruction from Registrant B, '*apart from to go and let the emergency services in*', and when she returned to the Ward, she '*saw the emergency services working on him but [she] was not involved in the resus [herself].*' The panel found that by Ms Constantine's own account, she did not intervene in the treatment of Patient A, including the obtaining and/or using and/or assisting of others to use the defibrillator.

During the course of proceedings, the panel was made aware that the defibrillator was not used despite some efforts made by Registrant B and a support worker. The panel therefore determined that Ms Constantine failed to obtain the defibrillator in her capacity as a competent registered nurse on the night in question.

The panel therefore found charge 2 proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider whether the facts found proved amount to misconduct and, if so, whether Ms Constantine'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, Ms Constantine's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

Ms Ghotra referred the panel to the NMC guidance on '*misconduct*' (reference: FTP-2a) and submitted that Ms Constantine's conduct in all the charges found proved constituted serious misconduct. She highlighted that Patient A was in cardiac arrest and clearly needed assistance but as a registered nurse, Ms Constantine failed to implement basic measures to assist him in that emergency. Ms Ghotra referred the panel to Witness 4's evidence that Ms Constantine displayed no professional responsibility in helping her colleagues or the patient and simply washed her hands of the situation, "*acting as a qualified disinterested spectator to the events*". She referred to *'The Code: Professional standards of practice and behaviour for nurses and midwives 2015'* (the Code), and submitted that Ms Constantine had breached parts 1.2, 8.5, 15.3, 20.1 and 20.8.

Submissions on impairment

Ms Ghotra 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).

Ms Ghotra referred to the case of *CHRE v NMC and Grant*, which endorsed Dame Janet Smith's "*test*", and submitted that the first three limbs were engaged. She submitted that

Ms Constantine had in the past acted and is liable in the future to act so as to put a patient or patients at unwarranted risk of harm. Ms Ghotra submitted that Ms Constantine took no action to assist Patient A in the medical emergency as would be expected in the circumstances of his condition. She submitted that there is a risk of repetition in this case, given the lack of insight demonstrated by Ms Constantine.

Ms Ghotra submitted that Ms Constantine's actions fell significantly short and were a serious departure of what would be expected of a registered nurse. She submitted that Ms Constantine's actions and behaviour have brought the profession into disrepute and is likely to erode the trust and confidence the public places in the nursing profession.

Ms Ghotra submitted that nurses are required to promote professionalism and trust. She submitted that Ms Constantine's actions were egregious and breached the fundamental tenets of the nursing profession as set out in the Code.

Ms Ghotra referred the panel to the case of *Cohen v General Medical Council* [2008] EWHC 581 (Admin), and to the NMC guidance titled '*insight and strengthened practice*' (reference: FTP-15), '*can the concern be addressed?*' (reference: FTP-15a), '*has the concern been addressed?*' (reference: FTP-15b) and '*Is it highly unlikely that the conduct will be repeated?*' (reference: FTP-15c).

Ms Ghotra conceded that it was an isolated incident and that the concerns related to Ms Constantine's clinical practice can be easier to address than others. She referred to Ms Constantine's context form, where she stated that she had never worked on the Ward before and was unfamiliar with the history of Patient A. Further, in response to the question, '*how could you have dealt with the situation differently, looking back?*', she stated that:

> '*I Should NOT of [sic] left my two wards unattended that night and perhaps send the HCA to see what was happening because I was not made aware that there was an [sic] serious life threatening situation happening…*'

Ms Ghotra submitted that Ms Constantine appeared to be putting the blame elsewhere rather than on herself. She submitted that Ms Constantine had not acknowledged the responsibility she had to assist Patient A and Registrant B in her capacity as a registered nurse. Ms Ghotra submitted that Ms Constantine had not shown any real insight, recognised what went wrong, nor had she demonstrated an understanding of how to act differently in the future to avoid similar problems happening. In her submission, there did not appear to be any evidence of steps taken to address any of these concerns, and importantly, Ms Constantine had not demonstrated an understanding of the effect of her actions on Patient A and how her actions could affect future patients if her practice is not remediated. Ms Ghotra submitted that the concerns in this case cannot be said to have been addressed and managed, and therefore there remains a high risk of repetition.

Ms Ghotra submitted that a finding of impairment is also required to uphold proper professional standards, and if a finding of impairment were not made, this would undermine public confidence in the profession and the NMC as a regulator.

Ms Ghotra therefore asked the panel to find Ms Constantine currently impaired on both public protection and public interest grounds.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311 and *CHRE v NMC and Grant*. The panel also had regard to the NMC guidance on '*misconduct*' (reference: FTP-2a) and '*impairment*' (reference: DMA-1).

Decision and reasons on misconduct

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council* 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.'*

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 Ms Constantine's actions did fall significantly short of the standards expected of a registered nurse, and that Ms Constantine's actions amounted to a breach of the Code. Specifically:

*'**1 Treat people as individuals and uphold their dignity***

To achieve this, you must:

1.2 make sure you deliver the fundamentals of care effectively.

1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay.

8 Work co-operatively

To achieve this, you must:

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

15 Always offer help if an emergency arises in your practice setting or anywhere else

To achieve this, you must:

15.2 arrange, wherever possible, for emergency care to be accessed and provided promptly.

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.

20.8 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.

Charge 1

The panel considered that it is a basic and fundamental skill of a nurse to respond to a medical emergency, even if they have not been instructed to do so. In these circumstances, Patient A was in need of urgent treatment, and this would have been obvious to Ms Constantine when she arrived on the Ward, so she should have offered the best possible, immediate assistance. The panel considered that Ms Constantine appeared to be no more than an observer to the incident involving Patient A, and in failing to respond by commencing and/or assisting with CPR, she failed to uphold the proper standards expected of her as a registered nurse. It determined that her actions would be regarded as deplorable by fellow practitioners. The panel therefore found that Ms Constantine's actions fell seriously short of the conduct and standards expected of a registered nurse, and so amounted to misconduct.

Charge 2

The panel considered that as a responsible nurse, Ms Constantine should have obtained the defibrillator on Patient A, considering there was one available on the Ward. In particular, it took into account that even individuals who are not medical professionals may take steps to obtain a defibrillator under similar circumstances and so Ms Constantine's failure was a serious departure from the conduct expected of a registered nurse. The panel therefore found that Ms Constantine's actions at charge 2 amounted to misconduct.

Decision and reasons on impairment

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

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 3 March 2025, 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 make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

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

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

> *'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or*

determination show that his/her/ fitness to practise is impaired in the sense that S/He:

a) *has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*

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

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

d) *...'*

The panel determined that limbs a), b) and c) are engaged in this case. The panel found that patients were put at risk of harm as a result of Ms Constantine's misconduct.

The panel determined that Ms Constantine's misconduct had breached the fundamental tenets of the nursing profession, which included making sure that any treatment, assistance or care for which she was responsible was delivered without undue delay. It considered that by failing to act as expected in a medical emergency involving Patient A, Ms Constantine brought the reputation of the nursing profession into disrepute.

In its consideration of the future, the panel had regard to the factors set out in the case of *Cohen v General Medical Council*:

- whether the conduct is capable of being addressed;
- whether it has been addressed; and
- whether it is highly unlikely to be repeated.

The panel was satisfied that the misconduct in respect of Ms Constantine's clinical failings is capable of being addressed by way of training and meaningful insight.

In relation to insight, the panel had regard to Ms Constantine's undated context form and her email to the NMC dated 10 October 2022, where she did not acknowledge her failings during the incident but indicated her regret for leaving her own ward and not sending a healthcare assistant to the Ward instead. In light of her lack of engagement with these NMC proceedings, the panel had no other evidence of insight from Ms Constantine about the incident. It therefore had no recent evidence of reflection from her about her understanding of how her inaction put Patient A at risk of harm, why what she did was wrong, and how this impacted negatively on Patient A, his relatives, her colleagues and the reputation of the nursing profession. There was also no evidence of remorse from Ms Constantine for her misconduct, nor a sufficient indication of how she would handle the situation in the future.

The panel took into account Ms Constantine's last email to the NMC dated 17 May 2023, where she stated that she was no longer employed as a registered nurse in the UK, that she had not renewed her '*nursing license [sic]*' and that she had returned to her country of birth to focus on '*giving holistic care*' to her family and herself. The panel had no evidence to suggest that Ms Constantine has, since the incident, taken steps to strengthen her practice through relevant work or training.

As such, the panel could not be satisfied that it is highly unlikely that Ms Constantine's misconduct would be repeated in the future. It therefore found that there is a risk of repetition and that a finding of current impairment of fitness to practise is necessary on the grounds 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 determined that a finding of impairment on public interest grounds is required to mark the seriousness and unacceptability of Ms Constantine's misconduct and to uphold proper professional standards. The panel considered that an ordinary and informed member of the public and fellow practitioners would be concerned, and confidence in the profession would be undermined if a finding of impairment were not made in this case. It therefore also found Ms Constantine's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was not satisfied that Ms Constantine can practise kindly, safely and professionally. It therefore determined that her fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a suspension order for a period of 12 months. The effect of this order is that the NMC register will show that Ms Constantine's registration has been suspended.

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

Submissions on sanction

In the Notice of Hearing, dated 31 July 2025, the NMC had advised Ms Constantine that it would seek the imposition of a 12-month suspension order with review, if the panel found Ms Constantine's fitness to practise currently impaired.

Ms Ghotra submitted that such an order would be appropriate and proportionate.

Ms Ghotra submitted that the following aggravating factors were present in this case:

- Ms Constantine has demonstrated a lack of insight into her failings; and
- Ms Constantine's conduct put people receiving her care at risk of suffering harm.

Ms Ghotra accepted that, in terms of mitigating factors:

- Ms Constantine continued working for some time following the incident and no further concerns were raised about her practice; and
- There is no evidence of repetition of the misconduct.

Ms Ghotra referred the panel to the SG and addressed it on why the lesser sanctions would not be sufficient to protect the public and meet the public interest.

Ms Ghotra submitted that the concerns in this case are attitudinal in nature. She submitted that Ms Constantine had not demonstrated any real insight or provided any evidence of remediation or strengthened practice through relevant work or training. Ms Ghotra submitted that the seriousness of this case requires temporary removal from the register and that a period of suspension would be sufficient to protect patients and maintain public confidence in the profession.

In addressing the relevant factors set out in the guidance, Ms Ghotra submitted that this case involved a single instance of misconduct, but a lesser sanction was not sufficient. She submitted that there was evidence of attitudinal problems and whilst there was no evidence of repetition since the incident, there was also no evidence of strengthened practice, although Ms Constantine had indicated that she has returned to her home country.

Ms Ghotra submitted that a suspension order would be appropriate to protect the public from the risk of harm and give Ms Constantine the opportunity to strengthen her practice.

Ms Ghotra submitted that whilst Ms Constantine's failures are serious, they can be remediated through reflection, training and other steps available to her. On that basis, she submitted that a striking-off order would not be the only sanction that would be sufficient to protect the public and maintain professional standards.

The panel accepted the advice of the legal assessor.

Decision and reasons on sanction

Having found Ms Constantine's 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:

- Ms Constantine has demonstrated a lack of insight into her failings.
- Ms Constantine's conduct put people receiving care at a risk of harm.
- There remains a risk of repetition.
- The concerns are attitudinal in nature, in that Ms Constantine failed to assist colleagues during a serious medical emergency at the time of the incident, and then failed to take responsibility for her conduct in her subsequent reflections.

The panel also took into account the following mitigating features:

- There is no evidence of repetition of the misconduct, in that there appeared to have been no concerns raised about Ms Constantine's practice following the incident.

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

The panel then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Ms Constantine's 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 Ms Constantine's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Ms Constantine's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *No evidence of general incompetence;*
- *Potential and willingness to respond positively to retraining;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force; and*

- *Conditions can be created that can be monitored and assessed.*

The panel determined that there were attitudinal problems in this case in view of Ms Constantine's inability, in her last known response to the concerns, to recognise her responsibility and failings. It was satisfied that there was an identifiable area of Ms Constantine's practice which required retraining, namely in respect of responding appropriately to medical emergencies, and that conditions of practice could be put in place to manage that area of her practice. Further, there was no evidence of general incompetence in Ms Constantine's practice. The panel was of the view that in respect of Ms Constantine's clinical failings, conditions could protect patients and could be monitored and assessed.

However, in light of the attitudinal problems identified and Ms Constantine's lack of insight, lack of engagement, lack of evidence of strengthened practice, the panel determined that there were no workable conditions that could be formulated. The panel had no evidence that she would be willing to engage with conditions of practice in any meaningful way. It took into account the last email from Ms Constantine dated May 2023, where she indicated that she had returned to her country of birth. The panel had no additional information about Ms Constantine's current employment or her future intentions in nursing practice. The panel therefore concluded that, whilst a conditions of practice order could address the concerns identified, in the circumstances of this case, the placing of conditions on Ms Constantine's registration would not be practicable or appropriate.

Furthermore, the panel concluded that the placing of conditions on Ms Constantine's registration would not adequately address the seriousness of this case and would not protect the public.

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

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour.*

The panel considered that this was a single instance of misconduct where a lesser sanction would not be sufficient. There was evidence before the panel of attitudinal problems, but no evidence of repetition of the behaviour since the incident. The panel was of the view that Ms Constantine's misconduct is capable of being addressed and her practice is capable of being strengthened. It considered Ms Constantine's lack of engagement and insight into her actions. The panel concluded that this increased the risk of the behaviour being repeated and therefore there would be a continued risk to patient safety. The panel was satisfied that in this case, whilst the misconduct was not fundamentally incompatible with remaining on the register, this was a serious case that warranted Ms Constantine's temporary suspension from nursing practice.

The panel noted that a suspension order would temporarily prevent Ms Constantine from working as a registered nurse. It was satisfied that such an order would give Ms Constantine the opportunity to re-engage with the NMC, to reflect on her misconduct, strengthen her practice, and provide developed insight into where she went wrong and the impact of her misconduct on Patient A, his relatives, her colleagues and the reputation of the wider profession. The panel considered that Ms Constantine would also be able to inform a future panel about what she has done to address the issues, and to reassure it that it would be safe to allow her to return to nursing practice. The panel determined that in the circumstances, a suspension order would be the appropriate and proportionate sanction to suitably protect the public and meet the wider public interest.

The panel did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, the panel concluded that such an order

would be disproportionate because a suspension order will provide sufficient protection to the public and meet the public interest. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Ms Constantine's case to impose a striking-off order.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order may cause Ms Constantine. However, this is outweighed by the public interest in this case.

The panel considered 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.

The panel determined that a suspension order for a period of 12 months was appropriate to mark the seriousness of the misconduct and provide Ms Constantine the opportunity to reflect on the area of concern, engage with the NMC, and should she choose to do so, take steps to strengthen her practice and assure a future panel that she can return to nursing practice safely.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Ms Constantine's engagement and attendance at the substantive order review hearing.
- Clear evidence or information from Ms Constantine as to her future intentions regarding her nursing registration.

- A detailed written reflective account which demonstrates Ms Constantine's insight into her misconduct, the impact of her misconduct on Patient A, Patient A's relatives, the public, her colleagues and the reputation of the wider profession. This should also include an account of how she would act in the future in a similar situation.
- Evidence of training and/or strengthened practice, as well as Ms Constantine's continued professional development.
- References and testimonials from any paid or unpaid work.

This will be confirmed to Ms Constantine in writing.

Interim order

As the suspension 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 Ms Constantine's own interests until the substantive suspension order takes effect. The panel heard and accepted the advice of the legal assessor.

Submissions on interim order

The panel took account of the submissions made by Ms Ghotra. She submitted that an interim order was required on public protection and public interest grounds for the same reasons given for the substantive suspension order. Ms Ghotra invited the panel to make an interim suspension order for a period of 18 months to cover any appeal period until the substantive suspension order takes effect.

Decision and reasons on interim order

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

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to ensure that Ms Constantine cannot practise without restriction before the substantive suspension order takes effect. This will cover the 28 days during which an appeal can be lodged and, if an appeal is lodged, the time necessary for that appeal to be determined.

If no appeal is made, then the interim suspension order will be replaced by the substantive suspension order 28 days after Ms Constantine is sent the decision of this hearing in writing.

That concludes this determination.