

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

**Substantive Hearing
Monday, 22 September 2025 – Friday, 26 September 2025**

Virtual Hearing

Name of Registrant:	Kay Mitchell
NMC PIN:	10H1722E
Part(s) of the register:	Registered Nurse - Sub part 1 Mental Health - Level 1 – 20 September 2010
Relevant Location:	Lancashire
Type of case:	Misconduct
Panel members:	Nilla Varsani (Chair, Lay member) Patience McNay (Registrant member) Christopher Bithell (Lay member)
Legal Assessor:	Laura McGill
Hearings Coordinator:	Eyram Anka
Nursing and Midwifery Council:	Represented by Omar Soliman, Case Presenter
Mrs Mitchell:	Not present and unrepresented
Facts proved:	Charges 1 and 2
Fitness to practise:	Impaired
Sanction:	Suspension order (12 months) (with review)
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 Mrs Mitchell was not in attendance and that the Notice of Hearing letter had been sent to Mrs Mitchell's registered email address by secure email on 15 August 2025.

Mr Soliman, 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 allegations, the time, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Mitchell'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 of the information available, the panel was satisfied that Mrs Mitchell has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

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

Mr Soliman made an application for this case to be held partly in private on the basis that proper exploration of Mrs Mitchell's case involves some reference to [PRIVATE]. The application was made pursuant to Rule 19 of the Rules.

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.

Having heard that there will be some reference to Mrs Mitchell's [PRIVATE], the panel determined to go into private session as and when such matters are raised, in order to protect Mrs Mitchell's privacy.

Decision and reasons on proceeding in the absence of Mrs Mitchell

The panel next considered whether it should proceed in the absence of Mrs Mitchell. It had regard to Rule 21 and Rule 32(4)(a) and heard the submissions of Mr Soliman who invited the panel to proceed in the absence of Mrs Mitchell.

In considering fairness to Mrs Mitchell, it was submitted that good service was affected on 15 August 2025, which gave Mrs Mitchell every opportunity to fully participate in this hearing. Mr Soliman took the panel through the following emails from Mrs Mitchell to the NMC:

On 27 June 2025:

'I have read your letter it means nothing I have cancelled my pin all my direct debits I'm not interested in the outcome I will never work in care or nursing'

On 31 July 2025:

'...I will never work as a nurse again due to lack of support especially siding with care staff over professional nurses so you continue with your investigation but do not contact me again as I am no longer a nurse and have no intention of being a nurse again!'

On 5 August 2025:

'Please do not contact me I'm no longer working in that field I have cancelled my rcn and PIN number I'm not interested in anything you have to say I was treated unfairly and feel you believe care assistant over professional nurses stop contacting me'

Mr Soliman submitted that it is clear in Mrs Mitchell's emails that she does not wish to participate in or attend these proceedings. It was his submission that Mrs Mitchell has not made an application for an adjournment and has voluntarily absented herself. He put to the panel that adjourning these proceedings would not secure Mrs Mitchell's attendance at a future date. Mr Soliman therefore invited the panel to proceed in Mrs Mitchell's absence.

The panel accepted the advice of the legal assessor.

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

The panel decided to proceed in the absence of Mrs Mitchell. In reaching this decision, the panel has considered the submissions of Mr Soliman, the emails from Mrs Mitchell to the NMC, and the advice of the legal assessor. It had regard to the factors set out in the decision of *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 Mrs Mitchell.
- Mrs Mitchell voluntarily absented herself through the emails she sent to the NMC on 27 June 2025, 31 July 2025 and 5 August 2025.
- There is no reason to suppose that adjourning would secure her attendance at some future date.
- Number of witnesses have been scheduled to attend the hearing to give live evidence.
- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services.
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events.

- The charges relate to events that occurred in 2022.
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mrs Mitchell in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered email address, 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 limited disadvantage is the consequence of Mrs Mitchell's decisions to absent herself from the hearing, waive her right to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

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

Details of charge

'That you, a registered nurse:

1. On or around 6 April 2022 acted in a manner that was unprofessional and/or abusive towards Patient A.
2. On or around 28 March 2022, you encouraged a member of staff to contact an ex-employee in order to commit violence against Colleague A.

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

Decision and reasons on application to admit hearsay evidence

The panel heard an application made by Mr Soliman under Rule 31 to admit hearsay evidence, namely:

- Paragraph 14 of Witness 2's NMC statement in which she refers to a Healthcare Assistant (HCA) (Person 1)
- Statement from HCA (Person 2) dated 6 April 2022
- Statement from HCA (Person 3)
- Statement from Person 4 dated 7 April 2022
- Meeting notes of conversation with Resident A dated 7 April 2022
- Meeting notes of conversation with Resident C dated 7 April 2022.

Mr Soliman submitted that hearsay evidence can involve a witness reporting what they were told by another individual who is not themselves a witness. He submitted that this is the case in relation to the references to Person 1 in Witness 2's NMC statement; Person 1 is not being called as a witness, nor has she provided an official witness statement.

Mr Soliman submitted that hearsay evidence can also be a statement being placed before a panel without the author of the statement giving oral evidence, which is the case in relation to the statements of Person 2, Person 3 and Person 4 as well as the meeting notes of conversations with Residents A and C.

Mr Soliman submitted that hearsay evidence is not inadmissible just because it is hearsay. It was his submission that the hearsay evidence he is asking the panel to adduce is not the sole and decisive evidence for any of the charges against Mrs Mitchell. He put to the panel that the hearsay evidence is supported by the witness statements of Witnesses 1 and 2. Mr Soliman's submission was that there is nothing to suggest that the various hearsay statements are not demonstrably reliable.

Taking into consideration the principles set out in *Thorneycroft v The Nursing and Midwifery Council* [2014] EWHC 1565 (Admin), Mr Soliman submitted that there is

no suggestion that the various witnesses, the HCAs or the Residents had any reason to fabricate the allegations. This is because their statements are supported by other evidence before the panel. Regarding the meeting notes of conversations with Residents A and C, Mr Soliman submitted that this can be tested during Witness 2's live evidence as she was present at the meetings.

In considering whether the NMC has taken reasonable steps to secure the witnesses, Mr Soliman informed the panel that Resident A cannot appear as a witness because she passed away. In relation to Persons 1, 2, 3 and 4, Mr Soliman stated that the NMC did not obtain witness statements from these individuals as part of its investigation. He submitted that the local statements of Persons 2, 3 and 4 should not be excluded just because a good and cogent reason is not known as to why NMC witness statements were not obtained.

Mr Soliman submitted that the hearsay evidence should be admitted. However, he accepted that they may carry less weight because they cannot be tested to the same extent as other evidence before the panel. Nevertheless, it was his submission that, the statements cannot be regarded as carrying no weight because the evidence corroborates the information contained in Witnesses 1 and 2's evidence.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 provides that, so far as it is 'fair and relevant', a panel may accept evidence in a range of forms and circumstances, whether it is admissible in civil proceedings.

In reaching its decision in relation to Mr Soliman's hearsay application, the panel had regard to the principles laid out in *Thorneycroft*. The questions the panel considered are as follows:

1. Whether the statement is the sole and decisive evidence in support of the charges;
2. The nature and extent of the challenge to the contents of the statement;
3. Whether there was any suggestion that the witness had reason to fabricate their allegation;

4. The seriousness of the charge, taking into account the impact which adverse findings might have on the registrant's career;
5. Whether there was a good reason for the non-attendance of the witness;
6. Whether the regulator had taken reasonable steps to secure the witness's attendance; and
7. Whether the registrant did not have prior notice that the witness statement would be read.

Statement from HCA (Person 2) dated 6 April 2022, statement from HCA (Person 3), statement from Person 4 dated 7 April 2022 and Meeting notes of conversation with Resident C dated 7 April 2022

The panel considered that this evidence is relevant to charge 1. The panel determined that no information was provided as to efforts the NMC has made to obtain official witness statements from Persons 2, 3, 4 and Resident C. The panel determined that there was no evidence before it that the NMC had taken reasonable steps to secure the witnesses' attendance.

Further, in relation to Resident C's meeting notes, the panel found that is not specific or relevant to the charges. The panel determined that it would be unfair to admit this hearsay evidence as it cannot be tested.

Meeting notes of conversation with Resident A

The panel determined that the notes of the conversation with Resident A are contemporaneous. However, it noted that there was a question as to whether Resident A had capacity, given the conflicting accounts from Witness 1 and Witness 2. However, this could be tested as Witness 1 and Witness 2 are due to give evidence at this hearing. The panel also noted that Witness 2 was the Registered Home manager and was clear in her written evidence that Resident A had capacity. The panel did not consider this evidence to be sole and decisive in relation charge 1. Further, the panel accepted that Resident A would not be able to attend this hearing as she has now passed away.

In the circumstances, the panel decided that it would be fair and relevant to admit Resident A's meeting notes into evidence but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

Paragraph 14 of Witness 2's NMC statement in which she refers to a Healthcare Assistant (HCA) (Person 1)

The panel noted that this charge is relevant to charge 1 as it refers to Person 1 informing Witness 2 on 6 April 2022 of Mrs Mitchell's alleged behaviour towards Resident A. The panel took into account that Witness 2 was made aware of this directly by Person 1 soon after the alleged incident took place. The panel determined that this is not the sole and decisive evidence in relation to charge 1, as it would be supported by other evidence and can be tested during Witness 2's live evidence. In the circumstances, the panel decided that it would be fair and relevant to admit this section of Witness 2's NMC statement into evidence but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

Background

On 11 April 2022, Mrs Mitchell was referred to the NMC by Bondcare Group ("the Group"). Mrs Mitchell was working for the Group as a registered nurse in The [PRIVATE] Nursing Home ("the Home") from March 2022.

It is alleged that Mrs Mitchell verbally abused Resident A on 6 April 2022. This incident was allegedly witnessed by a Healthcare Assistant (Witness 1) and it is alleged that Mrs Mitchell said the following to Resident A:

"come on, I am not feeding you"

"you are not leaving the table until you eat all your food"

"oh my god look at [Resident A] the little baby, and cannot feed herself, and look at [Person 5], [Person 5] is [PRIVATE] and can feed herself. Not like this little baby [Resident A]"

Mrs Mitchell also allegedly pushed Resident A's wheelchair back under the dining table and said, "*I have already told you, you are not leaving until you have finished your meal*", when Resident A was trying to leave. It is further alleged that Mrs Mitchell pushed Resident A's wheelchair back under the table, thereby causing Resident A's leg to get caught between the wheelchair and the table.

The Home manager (Witness 2) spoke to Resident A the following day and Resident A allegedly expressed feeling scared of Mrs Mitchell.

Mrs Mitchell allegedly contacted an ex-employee who worked at the Home, encouraging them to physically harm Witness 2. Witness 1 alleges that Mrs Mitchell said, "*send them to [Person 6] and she will twat [Witness 2] for you*".

Mrs Mitchell's employment was terminated on 7 April 2022 as she was still in her probationary period. Mrs Mitchell's position was that the allegations are false. She stated that she had raised various concerns with management and staff about substandard clinical care being provided to residents and also allegedly reported these concerns to the Care Quality Commission (CQC). In emails sent by Mrs Mitchell to the NMC, she expressed that she believes that these allegations were fabricated to damage her career, in response to her raising concerns.

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 Soliman.

The panel has drawn no adverse inference from the non-attendance of Mrs Mitchell.

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: Healthcare Assistant at the Home (at the time of the incident)
- Witness 2: Registered Manager at the Home (at the time of the incident)

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.

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

Charge 1

“That you, a registered nurse, on or around 6 April 2022 acted in a manner that was unprofessional and/or abusive towards Patient A.”

This charge is found proved.

In reaching this decision, the panel took into account all the evidence before it, particularly Witness 1’s NMC statement dated 21 October 2023, Meeting notes of a conversation with Resident A dated 7 April 2022 and the oral evidence of Witnesses 1 and 2.

The panel considered that Witness 1 was a direct witness to Mrs Mitchell’s behaviour towards Resident A on 6 April 2022 and it had regard to Witness 1’s NMC statement in which she detailed the incidents. She stated,

‘...I found them [Mrs Mitchell] to be abrupt, and very dismissive towards the resident.

...

...I overheard Mrs Mitchell be very abrupt with Resident A and would say things like “come on, I am not feeding you” in a condescending and rude tone.

...Mrs Mitchell was telling Resident A off for not finishing their food...

...Resident A told Mrs Mitchell that they did not want to eat any more, and that they had eaten as much as they wanted to. However Mrs Mitchell told Resident A that “you are not leaving the table until you eat your food”.

...Mrs Mitchell would compare Resident A with another resident who was older and [PRIVATE]. Mrs Mitchell said “oh look at Resident A the little baby, and cannot feed herself, and look at [Person 5], [Person 5] is [PRIVATE] and can feed herself. Not like this little baby Resident A”.

...Mrs Mitchell stood up when Resident A pushed their wheelchair away from the dining table and rammed Resident A’s wheelchair back under the table. I think Mrs Mitchell did not see this at the time.

...As Mrs Mitchell pushed the wheelchair, Mrs Mitchell said to Resident A in an angry tone “I have already told you, you are not leaving until you have finished your meal”.

...After that Mrs Mitchell told me to take Resident A to their room. Whilst I, and HCA [Person 3] were in the lift with Resident A, they began apologising to me. Resident A was terrified and was visibly shaking.’

Witness 1 reaffirmed the incidents described above during her oral evidence, which the panel considered to be clear and consistent. The panel observed that Witness 1 became emotional whilst recounting the incidents. In assessing her evidence, the panel took account of the significant impact Mrs Mitchell’s behaviour towards Resident A had on Witness 1, as a direct witness.

The panel also considered the oral evidence of Witness 2, in which she described the telephone conversation she had with Person 1 regarding the incidents involving Resident A. She then outlined steps she took in speaking with Resident A the following day. The panel also had regard to the meeting notes of the conversation

Witness 2 had with Resident A on 7 April 2022 concerning Mrs Mitchell's behaviour towards her. In particular, the panel considered the following statements:

'Resident A said it then got a bit heated, and she [Mrs Mitchell] told me that I need to try harder. She [Mrs Mitchell] had her arms crossed and an intimidating attitude, Resident A said she feels scared and still does.'

'She [Mrs Mitchell] then thought that Resident A pushed herself away from the table which Resident A said she is unable to do, and she [Mrs Mitchell] tabled me back'

'Resident A felt scared and that she [Mrs Mitchell] was out of control.'

The panel placed weight on the fact that the oral and documentary evidence of Witness 2 was consistent with, and corroborated the evidence provided by Witness 1.

For these reasons, the panel found that Mrs Mitchell acted in a manner that was unprofessional and/or abusive towards Resident A. It therefore found charge 1 proved.

Charge 2

"That you, a registered nurse, on or around 28 March 2022, you encouraged a member of staff to contact an ex-employee in order to commit violence against Colleague A.

This charge is found proved.

In reaching this decision, the panel took into account the evidence before it, particularly Witness 1's NMC statement dated 21 October 2023 and Witnesses 1 and 2's oral evidence.

The panel noted that Witness 1 was a direct witness to this incident. It took into account her NMC statement, which reads as follows:

‘On 28 March 2022, I was working the day shift with HCA [Person 7] and Mrs Mitchell.

...Mrs Mitchell, [Person 7], and I were all outside in the smoking area, and [Person 7] was showing Mrs Mitchell messages that they said they had received from [Witness 2], the manager of the Home at the time. I also saw the messages...

Mrs Mitchell responded to [Person 7] by telling [Person 7] to send copies of [Witness 2]’s messages to [Person 6] and [Person 6] will ‘twat’ [Witness 2] for them. I believe that by ‘twat’ Mrs Mitchell meant that [Person 6] would physically beat [Witness 2], and Mrs Mitchell said this in a very matter of fact tone.’

Witness 1 confirmed this during her oral evidence, reiterating what she heard Mrs Mitchell say to Person 7. She further stated that she “*was shocked, fearful and concerned how someone in nursing who should be caring and nurturing could be so cold and calculating*” and explained that she felt she had to “*warn her manager*” (Witness 2).

The panel noted that, when questioned, both witnesses explained that they understood the word ‘*twat*’ to be a reference to physical violence. The panel accepted this explanation and recognised that the word ‘*twat*’ can be used to describe an act of physical violence in certain regional areas.

The panel carefully considered the meaning of the word ‘encouraged’, noting Witness 1’s evidence that Mrs Mitchell’s tone was ‘*matter of fact*’. The panel concluded that, in the circumstances, telling Person 7 to send the messages to a former employee who was known to have a negative attitude towards Witness 2 can be seen as a form of encouragement.

The panel noted that there is no witness statement or additional evidence from Person 7, who was also present at the time. Nevertheless, the panel placed weight

on the evidence of Witness 1, finding it to be clear and consistent. Having carefully considered the circumstances, the panel was satisfied that, on the balance of probabilities, Mrs Mitchell encouraged a member of staff to contact an ex-employee in order to commit violence against Colleague A (Witness 2). 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 Mrs Mitchell'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, Mrs Mitchell's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

Mr Soliman invited the panel to take the view that the facts found proved amount to misconduct. Mr Soliman identified the specific and relevant sections of the 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code) that were breached as a result of Mrs Mitchell's conduct: 1.1, 1.5, 4, 20, 20.1, 20.2

Mr Soliman's submission was that this case relates both to concerns around Mrs Mitchell's clinical practice and her attitudinal disposition. He reminded the panel of the background of each charge. He submitted that there is no information from Mrs Mitchell that takes responsibility or acknowledges her wrongdoing.

In relation to charge 1, Mr Soliman stated that the residents in the Home were vulnerable, and Mrs Mitchell failed to show compassion or empathy towards Resident A. Mr Soliman submitted that it would have been abundantly clear to Mrs Mitchell, not only from her years of experience as a registered nurse, but also from her training, that the conduct she displayed towards Resident A breached the Code and was not conduct expected of registered nurses.

In relation to charge 2, Mr Soliman submitted that Mrs Mitchell's actions did not uphold the reputation of the profession. He referred to Witness 2's oral evidence in which she stated that *"after work [she] was expecting to be physically assaulted. [She] was petrified leaving work"*. He submitted that the concerns in this charge relate to bullying, intimidating and harassing behaviour.

Mr Soliman submitted that Mrs Mitchell's actions in each charge, separately and cumulatively amounts to serious professional misconduct.

Submissions on impairment

Mr Soliman 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.

Given that the charges against Mrs Mitchell have been found proved, Mr Soliman submitted that it cannot be said that she is able to practise kindly, safely or professionally. He reminded the panel that Mrs Mitchell, as far as the NMC is aware, is no longer working as a registered nurse, as such, there is no way of knowing whether her practice would still raise concerns with regard to the risk of harm to patients receiving care.

Mr Soliman took the panel through the three relevant limbs set out by Dame Janet Smith in the Fifth Shipman Report and set out in the case of *Grant* [2011] EWHC 927 (Admin):

- 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) ...'*

Mr Soliman submitted that Mrs Mitchell's behaviour put Resident A at an unwarranted risk of harm. He submitted that, although Witness 2 was not harmed, the fact that Mrs Mitchell encouraged a staff member to contact an ex-employee to commit violence against Witness 2 suggests that there is a potential risk of harm to other colleagues or patients. It was his submission that there remains an ongoing risk to the public, both to patients and colleagues, in the future.

Mr Soliman submitted that emotionally and verbally abusing a vulnerable resident in addition to bullying, threatening and intimidating a colleague clearly brings the profession into disrepute. It was his submission that a member of the public would be shocked to learn that a registered nurse was treating residents in a care home in such a manner. He put to the panel that Mrs Mitchell continues to present a risk as there has been no evidence of remediation. In addition, Mr Soliman submitted that the charges found proved are breaches of the fundamental tenets of the nursing profession.

Mr Soliman's submission was that the concerns are serious. He reminded the panel that there is no indication that Mrs Mitchell intends to undertake any further training to remediate. He put to the panel that Mrs Mitchell would need to demonstrate

significant learning and insight to show that she understands that her conduct breached the Code and was not what was expected of her as a registered nurse. Mr Soliman quoted Mrs Mitchell's email to the NMC dated 31 July 2025:

'...I am no longer a nurse and have no intention of being a nurse again!'

In light of the above, Mr Soliman submitted that it is safe to assume that it is unlikely that Mrs Mitchell will complete further training.

Mr Soliman referred to the NMC guidance FTP-15 (Insight and strengthened practice) which sets out that the evidence of steps taken to demonstrate insight and address any concerns is usually central to the decision about current impairment. As such, the panel should consider firstly, can the concerns be addressed? secondly, have the concerns been addressed? and thirdly, is it highly unlikely that the concerns will be repeated?

Mr Soliman submitted that in cases where the behaviour of the registrant suggests underlying problems with the nurse's attitude, it is unlikely that the nurse is able to address their conduct by completing training courses or supervised practice. It was his submission that in this case, Mrs Mitchell used threatening and intimidating language and acted in a manner that was unprofessional and/or abusive towards Resident A.

Furthermore, Mr Soliman asked the panel to consider that Mrs Mitchell has not attempted to address the concerns and has not demonstrated any insight, remorse or remediation. On the contrary, in Mrs Mitchell's email dated 5 August 2025 she stated,

'...I'm no longer working in that field I have cancelled my rcn and PIN number I'm not interested in anything you have to say I was treated unfairly and feel you believe care assistant over professional nurses stop contacting me'

Mr Soliman put to the panel that given Mrs Mitchell's desire not to return to nursing, it is unsurprising that there is no evidence of further training or strengthened practice.

He submitted that the panel cannot be assured that Mrs Mitchell can care for patients in a kind, safe and effective manner and the risk to the health, safety and wellbeing of the public has therefore not reduced.

It was Mr Soliman's submission that a finding of impairment is required to mark the profound unacceptability of Mrs Mitchell's behaviour and uphold public standards. Mr Soliman invited the panel to find that Mrs Mitchell's fitness to practise is 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, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin), *Grant and Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin).

Decision and reasons on misconduct

When determining whether the facts found proved amount to misconduct, 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.*'

The panel also had regard to the terms of the Code. The panel was of the view that Mrs Mitchell's actions did fall significantly short of the standards expected of a registered nurse, and that Mrs Mitchell's actions amounted to a breach of the Code. Specifically:

'1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion

1.5 respect and uphold people's human rights'

‘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.’*

‘4 Act in the best interests of people at all times’

‘20 Uphold the reputation of the profession at all times

To achieve this, you must:

- 20.1 *keep to and uphold the standards and values set out in the Code*
20.3 *be aware at all times of how your behaviour can affect and influence the behaviour of other people*
20.5 *treat people in a way that does not take advantage of their vulnerability or cause them upset or distress.’*

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

In relation to charge 1, the panel determined that this relates to the fundamentals of nursing care, namely, to treat patients with kindness. The panel took account Mrs Mitchell’s unprofessional and/or abusive comments towards Resident A, particularly:

“come on, I am not feeding you”

“you are not leaving the table until you eat all your food”

“oh my god look at [Resident A] the little baby, and cannot feed herself, and look at [Person 5], [Person 5] is [PRIVATE] and can feed herself. Not like this little baby [Resident A]”

These are examples of Mrs Mitchell’s acting in an unprofessional and abusive manner which caused emotional and physical harm to Resident A. The panel also bore in mind the vulnerability of Resident A and the negative impact Mrs Mitchell’s behaviour had on her and Witness 1, who witnessed the incidents. Such actions amount to serious misconduct.

In relation to charge 2, the panel found that encouraging [Person 7] to contact [Person 6] in order to commit violence against Witness 2 is unprofessional and unacceptable as a person in a position of trust. The panel determined that Mrs Mitchell breached professional boundaries and that her conduct constituted a departure from acceptable standards, amounting to breaches of the Code. Such actions amount to serious misconduct.

The panel took the view that fellow practitioners would find Mrs Mitchell's conduct deplorable. Accordingly, the panel found that Mrs Mitchell's actions in the charges found proved fell seriously short of the conduct and standards expected of a nurse and amounted to serious misconduct.

Decision and reasons on impairment

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

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 30 June 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. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

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

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

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

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

The panel found that limbs 'a', 'b' and 'c' are engaged. It determined that limb 'd' is not relevant in this case.

In the panel's judgement, Mrs Mitchel's misconduct caused Resident A physical and emotional harm. The panel determined that Mrs Mitchell's conduct in both charges brought the profession into disrepute and breached the fundamental professional tenets of preserving safety, prioritising people and promoting professionalism and trust. There has been no response from Mrs Mitchell addressing the concerns, as such, the panel determined that she is liable in the future to breach the fundamental tenets and bring the nursing profession into disrepute.

The panel had no evidence of insight, remorse or remediation and noted that Mrs Mitchell had not provided a comprehensive response to the charges that would lead the panel to find that she no longer poses a risk. The panel noted Mrs Mitchell engaged at the outset of the NMC's investigation but did not provide any evidence to be put before the panel. It further noted that in emails sent by Mrs Mitchell to the NMC, she expressed that she believes that these allegations against her were fabricated to damage her career, in response to her raising concerns about the standard of clinical care in the Home.

The panel considered that Mrs Mitchell has not demonstrated an understanding of how her actions caused harm to Resident A and Witness 2. Further, Mrs Mitchell has not provided any evidence demonstrating an understanding of why what she did was wrong and how this impacted negatively on the reputation of the nursing profession.

The panel was satisfied that the misconduct in this case is capable of being remedied, however there is no evidence of remediation or intention to remediate in this case. Furthermore, in relation to the charges found proved, the panel determined that there are underlying attitudinal concerns that are more difficult to remediate. The panel considered what evidence it had before it and determined it had no evidence of strengthened practice or relevant training. It had regard to Mrs Mitchell's emails to the NMC, the most recent dated 5 August 2025, in which she stated that she is no longer practicing as a registered nurse and requested that the NMC to cease contacting her. The panel noted that it currently has no evidence as to what Mrs Mitchell is currently doing in terms of professional practice and is therefore unable to say how she might handle a similar situation differently in the future.

Given the lack of evidence, the panel was not satisfied that matters of the kind found proved would not be repeated in the future. The panel therefore decided that a finding of impairment is necessary on the ground of public protection.

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

In the panel's view public confidence in the nursing profession would be seriously undermined if a finding of impairment were not made in this case, given the seriousness of the charges found proved. The panel concluded Mrs Mitchell's misconduct combined with the risk of repetition, makes a finding of impairment on public interest grounds necessary in order to uphold proper professional standards of conduct and performance.

Having regard to all of the above, the panel was satisfied that Mrs Mitchell's 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 Mrs Mitchell'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. The panel accepted the advice of the legal assessor.

Submissions on sanction

Mr Soliman informed the panel that in the Notice of Hearing, dated 15 August 2025, the NMC had advised Mrs Mitchell that it would seek the imposition of a 3-month suspension order with a review if it found Mrs Mitchell's fitness to practise currently impaired.

Since the panel found that Mrs Mitchell fitness to practise is impaired, Mr Soliman submitted that a sanction is necessary on the grounds of public protection and also in the wider public interest. He asked the panel to bear in mind the principle of proportionality.

Mr Soliman submitted that the aggravating factors in this case are as follows:

- A vulnerable resident who appears to have suffered both emotional and physical harm
- Abuse may have caused Resident A to feel unsafe in the home
- Lack of professionalism
- Witness 2 felt unsafe at work
- No evidence of insight
- Concerns may be indicative of an attitudinal disposition

Mr Soliman stated that the concerns arising from charge 1 relate to the abuse of Resident A in terms of provision of care, and therefore in itself is capable of remediation. However, Mr Soliman submitted that the conduct in question, the aggressive tone and the manner taken towards Resident A may be indicative of an attitudinal disposition.

Given that Mrs Mitchell has apparently left nursing and does not plan on returning, Mr Soliman submitted that there is no evidence to suggest that Mrs Mitchell has undertaken any further training.

Furthermore, it was Mr Soliman's submission that Mr Mitchell has made no attempt to reflect on her behaviour or remediate the concerns raised.

Mr Soliman submitted that the mitigating factors in this case are as follows:

- Isolated incident in relation to charge 1
- No concerns about Mrs Mitchell's clinical practice or attitude in the care home she worked at following her employment at the Home where the incidents occurred.

When considering charge 2, Mr Soliman referred the panel to the NMC guidance San-2 (Sanctions for particularly serious cases) and submitted that the NMC takes concerns about bullying, harassment, discrimination and victimisation very seriously. To be satisfied that conduct of this nature has been addressed, it was his submission that there has to be comprehensive insight, remorse and strengthened practice from an early stage which addresses the specific concerns that have been raised. He submitted that Mrs Mitchell's behaviour in charge 2 was an isolated incident.

Mr Soliman submitted that taking no action and a caution order would evidently be inappropriate in this case given Mrs Mitchell's lack of insight and ongoing attitudinal disposition. He submitted that there is a risk of repetition of the issues identified and Mrs Mitchell has not provided any evidence addressing the concerns identified.

Mr Soliman argued that a conditions of practice order would not be appropriate as there are minimal clinical concerns. He therefore submitted that there are no workable, relevant and proportionate conditions that could address the misconduct in this case.

Mr Soliman submitted that a suspension order is the appropriate sanction in this case for the following reasons:

- This is not a single instance of misconduct as there are two incidents from two separate occasions.
- There is potentially evidence of harmful deep-seated personality or attitudinal problems, namely abuse of a vulnerable resident and intimidating behaviour towards colleagues.

Mr Soliman put it to the panel that as far as the NMC is aware, there is no evidence of repetition of the behaviour since the incidents occurred. He therefore invited the panel to impose a three-months suspension order with a review as it is the most appropriate sanction to mark the conduct as unacceptable. His submission was that the review will allow Mrs Mitchell further opportunity to demonstrate insight and address her behaviour in the charges found proved. Mr Soliman accepted that Mrs Mitchell may not use the period of suspension as an opportunity because she has expressed that she has no intention of returning to nursing practice. Nonetheless, it was his submission that a three-month suspension order is appropriate and proportionate in this case.

Decision and reasons on sanction

Having found Mrs Mitchell'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:

- Physical and emotional harm to a vulnerable resident
- Conduct which put Witness 2 at risk of suffering harm
- Lack of professionalism
- No evidence of insight or remorse
- Two separate instances of serious misconduct over a short period of time

The panel also took into account the following mitigating features:

- No evidence of previous concerns

In reaching its decision, the panel considered the guidance on San-2 (Considering sanctions for serious cases). The panel noted that Mrs Mitchell acted unprofessionally and in an abusive manner thereby causing direct emotional and physical harm to Resident A. The panel further noted that Mrs Mitchell encouraged a member of staff to contact an ex-employee in order to commit violence against Witness 2. Such actions are a serious dereliction from the standards expected of a registered nurse and brings the nursing profession into disrepute.

Furthermore, the panel considered Mr Soliman's submission regarding of the allegation of bullying and harassing behaviour by Mrs Mitchell towards Witness 2. However, the panel noted that this allegation does not form part of the charges that have been found proved.

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

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Mitchell'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 Mrs Mitchell'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 Mrs Mitchell'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 general incompetence;*

- *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;*

The panel determined that it would not be possible to formulate practical or workable conditions in this case. In reaching this conclusion, the panel considered the nature and seriousness of the charges, Mrs Mitchell's lack of insight, and the absence of evidence to suggest that she would be willing to comply with any conditions imposed. The panel also took into account Mrs Mitchell's disengagement from the regulatory process which undermines the prospect of effective and measurable conditions. Furthermore, the panel concluded that the placing of conditions on Mrs Mitchell'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 took into account that Mrs Mitchell has not recently engaged with the NMC or attended this hearing, therefore there is no evidence before the panel of insight into her misconduct or any evidence of remorse or remediation. The panel determined that there is a risk of repetition, given the lack of evidence from Mrs Mitchell and limited engagement with these proceedings. The panel considered that whilst the nature of the charges may suggest an underlying attitudinal concern, they relate to two separate instances of misconduct that are unrelated. The panel acknowledged that Mrs Mitchell has stated at this time, that she does not intend to

return to nursing practice and it has no information before it as to her current employment.

In the panel's view, although Mrs Mitchell's potential attitudinal concerns may be difficult to remediate, they are not incapable of being addressed. The panel considered that with relevant training, meaningful reflection and a willingness to engage with the regulatory process, there is potential for Mrs Mitchell to demonstrate developed insight and take steps towards remediation should she choose to do so.

The panel therefore determined that a suspension order for 12 months, with a review is appropriate in this case. Such an order would mark the importance of maintaining public confidence in the profession, send to the public and the profession a clear message about the standard of behaviour required of a registered nurse and at the same time provide Mrs Mitchell an opportunity to reflect and demonstrate insight into her misconduct. The panel noted the hardship such an order will inevitably cause Mrs Mitchell. However, this is outweighed by the public interest in this case.

It 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 it would be disproportionate. The panel was satisfied that in this case the misconduct was not fundamentally incompatible with remaining on the register. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Mrs Mitchell's case to impose a striking-off order.

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:

- Mrs Mitchell's attendance at a future review hearing
- Mrs Mitchell's engagement with the NMC

- A comprehensive reflective piece that demonstrates the impact of Mrs Mitchell's actions on patients, colleagues and the nursing profession as a whole
- Evidence of relevant training to strengthen Mrs Mitchell's nursing practice
- Information on any current employment or voluntary work that Mrs Mitchell may have undertaken

This will be confirmed to Mrs Mitchell 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 Mrs Mitchell's own interests until the suspension sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Submissions on interim order

Mr Soliman submitted that there is currently no interim order in place. However, he invited the panel to impose an 18-month interim suspension order to protect the public and maintain public interest. He stated that should Mrs Mitchell choose to return to nursing practice during the appeal period, there would be nothing to restrict her practice. Mr Soliman therefore submitted that an interim order is necessary and appropriate in light of the panel's decisions on facts and its finding of impairment.

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 allow for the time that may be taken before an appeal can be heard. Not to do so would be inconsistent with the sanction imposed.

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

That concludes this determination.