Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Friday, 10 January – Friday, 17 January 2025
Friday, 23 May 2025 (in camera)
Tuesday, 23 September – Friday, 26 September 2025

Virtual Hearing

Name of Registrant:	**Josephine Williams**
NMC PIN	17F3151E
Part(s) of the register:	Registered Nurse – Mental Health Nursing RNMH – (4 September 2017)
Relevant Location:	Stafford
Type of case:	Misconduct
Panel members:	Michelle Lee (Chair, Registrant member) Jane Jones (Registrant member) Alison McVitty (Lay member)
Legal Assessor:	Ruth Mann
Hearings Coordinator:	Nicola Nicolaou (10 January and 14 – 17 January 2025, 23 May 2025, 23 -26 September 2025) Sophie Cubillo-Barsi (13 January 2025)
Nursing and Midwifery Council:	Represented by Nawazish Choudhury, Case Presenter
Miss Williams:	Present and represented by Thomas Buxton, instructed by the Royal College of Nursing (RCN)
Facts proved by way of admission:	Charges 1a, 1b, 2a, 2b, 2c, 2d, 2e, 2g, and charge 3 (in relation to charges 2a, 2b, 2c, 2d, 2e, and 2g)
Facts proved:	Charge 3
Facts not proved:	Charge 2f
Fitness to practise:	Impaired

Sanction:	**Conditions of practice order (18 months)**
Interim order:	**Interim conditions of practice order (18 months)**

Decision and reasons on application to hear parts of Witness 2's evidence in private

At the outset of the hearing, Mr Choudhury, on behalf of the Nursing and Midwifery Council (NMC) made a request that Witness 2's evidence is heard partly in private on the basis that reference may be made to [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Buxton, on your behalf, did not oppose this application.

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

The panel determined to go into private session as and when matters regarding [PRIVATE] are raised in order to protect Witness 2's privacy.

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

Mr Buxton then made a request that this case be held partly in private on the basis that reference may be made to your personal matters and [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Choudhury did not oppose this application.

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

The panel determined to go into private session as and when issues regarding your personal matters and [PRIVATE] are raised in order to protect your privacy.

Decision and reasons on application to apply special measures for Witness 2

Mr Choudhury submitted that whilst the panel have documentary evidence before it, the panel has heard submissions that as a result of these proceedings, Witness 2's [PRIVATE]. He submitted that in order for her to give her best evidence, you should be asked to turn your camera off while she gives her evidence.

Mr Buxton submitted that neither him nor yourself oppose this application.

The panel accepted the advice of the legal assessor.

The panel accepted Mr Choudhury's application and determined that you should have your camera switched off when Witness 2 is giving her evidence.

Details of charge

That you, a registered nurse:

1) Whilst caring for Patient A as their named nurse:
    a) Went into their home with them alone **[PROVED BY ADMISSION]**
    b) Were reluctant to drug test them **[PROVED BY ADMISSION]**

2) Following Patient A's discharge from your care:
    a) Met with them **[PROVED BY ADMISSION]**
    b) Kissed them **[PROVED BY ADMISSION]**
    c) Stated that you loved them and / or were in love with them **[PROVED BY ADMISSION]**
    d) Spent the night at a hotel with them **[PROVED BY ADMISSION]**
    e) Gave them a present **[PROVED BY ADMISSION]**
    f) Drank alcohol with them **[CHARGE FOUND NOT PROVED]**

g) Arranged to meet with them on an occasion other than in 2a) above **[PROVED BY ADMISSION]**

3) That your conduct in charges 1 and / or 2 above breached professional boundaries as you developed an inappropriate relationship with Patient A when providing him with nursing care and / or after he was discharged from your care. **[CHARGE FOUND PROVED IN ITS ENTIRETY]**

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

Decision and reasons on amending the charges

Prior to the start of the case, the panel was reminded of its overarching duty to protect the public. To ensure the cases are properly presented and the charges adequately reflect the regulatory concerns, the panel was reminded of Rule 28 of the Rules.

The panel was concerned that reference in the material served by the NMC had the potential to suggest that you had had sexual contact with Patient A when you spent the night with him at the hotel on the day of his discharge. This was contained in the evidence of Witness 2 which the NMC had made no attempt to redact, however no charges were pleaded to reflect this alleged conduct.

The panel received advice from the legal assessor who referred to the case law of *PSA and Social Care v Jozi* [2015] EWHC 764 (Admin), *Council for Regulation of Health Care Professionals v Ruscillo* [2005] 1 W.L.R 717, *PSA v HCPC & Doree* [2017] EWCA Civ 319, *PSA v NMC and Silva* [2016] EWHC 754 (Admin), *R (on the application of Council for the Regulation of Health Care Professionals) v General Medical Council and Rajeshwar* [2005] EWHC 2973, and *R (on the application of Council for the Regulation of Health Care Professions) v NMC* [2007] EWHC 1806, and *Sait v GMC* [2018] EWHC 3160 (Admin). Reference was also made to the NMC Guidance PRE-2e ‘Particular features of misconduct charges’.

The panel invited Mr Choudhury and Mr Buxton to make representations on the timing of the matter being raised and whether it would be more appropriate to deal with this and the sexual motivation element at a later stage.

The panel heard provisional submissions from Mr Choudhury who outlined that he had taken instructions from the senior reviewing lawyer that the case was properly pleaded as an inappropriate relationship and breach of professional boundaries.

Mr Buxton submitted that the case is perfectly, properly and fully pleaded. Mr Buxton submitted that you have waited four years to have the case heard. He reminded the panel that consideration of amending the charge should only be done if such amendment would add to the seriousness of the overall case. Mr Buxton explained the NMC had been seized of this matter for a very long time and had given full consideration to the charges.

The panel considered the legal advice and submissions by both the NMC and Mr Buxton. The panel was of the view based on the information provided, including an adduced evidence bundle which was received late on day one that there may be an undercharging regarding charge 2d. The panel invited Mr Choudry to take instructions from the NMC regarding the consideration amending the charges.

Following this, Mr Choudhury read to the panel an email from the NMC senior lawyer which stated:

'[…] *I understand the panel have concerns regarding charge 2D in this matter and feel that further charges may be required.*

As I understand it, the only evidence of anything relating to sexual gratification is from the local investigation. When the registrant is alleged to have nodded with no other response to a question from [Witness 2].

Considering the matter as a whole, this does not elevate the seriousness of the regulatory concerns and so I would not seek to add further charges at this stage.

However, the panel are best placed having heard the evidence and considering the case of Jozi and can add or amend the charges if they would wish to.'

Mr Buxton confirmed that he had nothing further to add to Mr Choudhury's submissions, and adopted the same view as the NMC.

The panel was made aware that Witness 2 had only limited availability and determined it was prudent to allow this witness to give evidence and avoid delay. In any event, Witness 2's evidence covered the issues of concern for the panel and that it would be appropriate to proceed with the hearing to allow this witness to give her evidence before it continued to consider whether amendments were necessary at this stage.

Following panel questions regarding the issues of alleged sexual intercourse with Patient A, both Mr Choudhury and Mr Buxton asked further questions of Witness 2.

On day three, the panel considered that in order to ensure the case was properly particularised and to prevent the possibility of undercharging, it proposed the following amendments:

Charge 2

2) Following Patient A's discharge from your care:
h) Had sexual intercourse with them

Charge 4

4) That some or all of your conduct at charges 1 and 2 was sexual in nature and / or sexually motivated for sexual gratification and / or in the pursuit of a future relationship

The panel invited submissions from Mr Choudhury and Mr Buxton in relation to the proposed amendments.

Mr Choudhury, on instructions of the senior lawyer from the NMC, submitted the position had not changed and that it remained the view of the NMC that no amendments were required. Mr Choudhury submitted that any amendment to the charges is subject to the issue of fairness and reminded the panel to ask itself whether it was fair to amend the charges. However, Mr Choudhury accepted this was something the panel could consider in accordance with the case law.

Mr Buxton stated he would be making forceful submissions on your behalf that it would be inappropriate to unilaterally change the scope of the case. He submitted that the amendment by way of addition could not be done without severe injustice to you. Mr Buxton reminded the panel that you had been under investigation for four years and had not been asked any questions during the local investigation about sexual intercourse with Patient A. He also stated that the NMC had had an opportunity to investigate this properly, and had been fully investigated by the Case Examiners who progressed this through to drafted charges. The NMC also conducted risk assessments on two occasions and concluded that you were able to work clinically. Mr Buxton submitted that allegations of sexual motivation had not been put to you formally at any time and neither had you been subject to such charges by the NMC. The effect of this was that you have not been advised to reflect on any alleged sexual motivation and to do this now would be inherently unfair and lead to an injustice.

The panel heard and accepted the advice of the legal assessor who referred to earlier legal advice and reiterated Rule 28 of the NMC Rules and referred to the case of *Bittar v FCA* [2017] UKUT 82 (TC).

Having considered the submissions, the panel determined that the suggested amendments could not be made without an injustice being caused to you. The panel undertook a careful balancing exercise and looked at the merits of the case, the fairness of the proceedings, and the overarching objective. The panel had due regard to the fact that you had been under some form of investigation and had waited for your case to be heard by the Fitness to Practice Committee for four years and that sexual motivation had not been raised with you at any stage thus far. This

was a significant period of time and has the potential to cause injustice to you given the late proposed change to the specific nature of the case.

The panel noted that Mr Buxton had had the opportunity to cross examine Witness 2 regarding the conversation she had with you regarding sexual contact with Patient A. The panel acknowledged that the relevant evidence on this matter is from Witness 2, and is limited to her reporting that you nodded in response to her question about sexual contact with Patient A. The panel further acknowledged that at no point did it appear that the NMC further investigated this allegation. In balancing the factors of injustice and fairness, and the overarching objective, the panel concluded that to amend and alter the charges at this stage could cause an injustice to you.

Background

On 7 April 2021, the NMC received a referral from the Associate Chief Nurse for South Staffordshire and Shropshire Healthcare NHS Foundation Trust ('the Trust'), informing them that you had been dismissed from your role at the Trust for gross misconduct after becoming involved in an unprofessional relationship with a service user (Patient A) who was in your care.

This is alleged to have occurred between April and August 2020 at [PRIVATE] ('the Hospital'), while you were working there as a staff nurse. Patient A was admitted to a 12-bed inpatient acute mental health ward around April 2020. This was following an acute deterioration in his schizophrenia where he allegedly attacked a shopkeeper with a weapon. You were allocated to be Patient A's named nurse for his inpatient stay.

Decision and reasons on interim order

The panel noted that there was not enough time remaining in this listing block to conclude the case and therefore, this case would be going part-heard at the facts stage. The panel invited Mr Choudhury to present the NMC's case regarding an interim order.

Mr Choudhury submitted that the NMC do not seek to make an application to impose an interim order.

The panel accepted the advice of the legal assessor.

The panel determined that as the NMC, who are fully apprised of the case and the risks involved, are not requesting an interim order, it was not minded to impose an interim order at this stage part way through the finding of facts.

Decision and reasons on facts

The panel heard from Mr Buxton, who informed it that you made full admissions to charges 1a, 1b, 2a, 2b, 2c, 2d, 2e, and 2g. Mr Buxton submitted that you deny charge 2f. Mr Buxton further submitted that you admitted partly to charge 3, in that you accept that you breached professional boundaries after Patient A was discharged from your care (charge 2, except for 2f), but not whilst caring for him as his named nurse (charges 1a, and 1b).

The panel therefore finds charges 1a, 1b, 2a, 2b, 2c, 2d, 2e, 2g, and 3 (following Patient A's discharge from your care) proved, by way of your admissions.

In reaching its decisions on the disputed facts, namely charges 2f, and 3 (in relation to charges 1a, and 1b), the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Choudhury and by Mr Buxton.

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: Head of Quality for Mental Health Services Staffordshire
- Witness 2: Mental Health Nurse at the time of the alleged incident
- Witness 3: Mental Health Nurse on the Ward at the time of the alleged incident

The panel also heard evidence from you under affirmation.

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

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

Charge 2f

That you, a registered nurse:

2) Following Patient A's discharge from your care:
f) Drank alcohol with them

This charge is found NOT proved.

The panel determined that there was a lack of direct evidence provided by the NMC to suggest that you drank alcohol with patient A following his discharge from your care.

The panel therefore find this charge not proved.

Charge 3

3) That your conduct in charges 1 and / or 2 above breached professional boundaries as you developed an inappropriate relationship with Patient A when providing him with nursing care and / or after he was discharged from your care.

This charge is found proved in its entirety.

The panel noted that you admitted to breaching professional boundaries in relation to charge 2a, 2b, 2c, 2d, 2e, and 2g.

The panel then went on to consider whether you had breached professional boundaries as you developed an inappropriate relationship with Patient A when providing him with nursing care (as set out in charge 1a, and 1b).

The panel determined that when providing Patient A with nursing care, your relationship with him had developed to become more akin to a personal relationship over a period between April and August 2020, and that by taking no action to address this, you had crossed professional boundaries. You stated in contemporaneous statements that you had *'developed a bond'*, and that *'over the months'* leading up to his discharge you had had *"conversations and interactions that were inappropriate and unprofessional".*

In your written statement dated 7 October 2020, you stated:

> *'*[…] [Patient A] *stated he was falling in love with me. I told him I felt the same but I knew that this could not happen. I said that I have been the real me with you not the nurse and that I should have remained only the nurse. I told him that my head and my heart was split. The professional side of me telling me this can't be and the personal side that wanted to express the same things that he was saying to me.* […]*'*

You told the panel that while Patient A was in hospital, you told [PRIVATE] that you were in love with Patient A. The panel took into account your written statement dated 7 October 2020 which stated *'*[…] *I felt so much love for him, feelings I had never experienced before and I couldn't stop thinking about how much I cared for him, I was going to miss him. I confided in* [PRIVATE] *that I knew I had given too much of myself and was falling in love with him* […]*'.*

The panel also took into account Witness 2's written statement dated 8 October 2020 which stated

> *'*[…] *She stated she had wanted him to feel "normal" when she was with him, and to see her as a person and not as a nurse.* […]*'.*

The panel further took into account your reflective piece dated May 2022 which stated:

> *'*[…] *I was becoming too involved in his journey. I lost my objective standpoint. This focus on him is what then continued to impact upon my judgement. I wasn't able to see it and I thought once he is discharged it will be ok and my focus would stop. I wasn't able to recognise this wasn't a normal patient and nurse relationship and that I was too invested in his recovery and wellbeing.* […]*'*

The panel determined that this relationship did not develop spontaneously, but that it had developed over the preceding weeks and months while Patient A was in hospital in your care.

The panel noted that the home visit, as outlined in charge 1a, occurred in the final two to three weeks before discharge. At the multidisciplinary team (MDT) meeting, a doctor had requested a nurse do a home visit as the occupational therapist was unavailable. You chose to go, despite other nurses being available on that day, and the following days. Witness 2, on seeing you prepare to leave, immediately raised her concerns with you about doing that home visit as this was not a usual nurse duty and she had concerns about safety. She instructed you to take a male healthcare

assistant (HCA) for this reason. Despite the HCA accompanying you, you ignored Witness 2's instructions and went into Patient A's home alone whilst the HCA remained in the car. Witness 2 was your senior, and manager, and you chose to ignore her instructions. You told the panel in oral evidence it was *"a difficult home visit"* as Patient A met his neighbours and also had an interaction with a shopkeeper who he had threatened with a weapon immediately prior to his admission to hospital. You also conceded that this home visit had been unsafe and dangerous, and that you should have had the HCA with you.

The panel determined that this visit alone, in Patient A's home, was wholly inappropriate and put Patient A, and others, at risk. The action you took, despite clear instructions from your manager, showed a lack of objective judgement and professionalism more likely than not caused by you already having developed an inappropriate relationship with Patient A, and having blurred and breached professional boundaries with him.

Regarding the drug testing incident, as outlined in charge 1b, the panel considered that it appeared to have occurred during the latter stages of Patient A's stay in hospital as you told the panel in oral evidence *"I remember just voicing that you know it's a disappointment. That he had been recovering really well. He was he was getting better".*

The panel had regard to the written notes from the investigation meeting held on 18 November 2020 in which you responded to the following question:

'[…] *Do you feel the relationship that you developed impacted on the care you offered this patient (examples offered include an unwillingness to ask him for a drug screen)?*

I recognize as well that I tried to take a step back from that when it comes to medications etc. I would ask another member of staff to do this as I had built a therapeutic relationship and didn't want to ruin this but subconsciously, I was taking a step back in a nursing role as I was struggling and I found it difficult to be involved in that and be part of that. […]*'*

The panel noted that your oral evidence was inconsistent and evasive on this matter. You had admitted charge 1b unequivocally, but when asked questions about why you had been reluctant to drug test Patient A, you told the panel you had no recollection of what happened on that day. The panel determined that in relation to this incident, your reluctance to drug test Patient A, despite being his named nurse, was more likely than not caused by you already having developed an inappropriate relationship with Patient A, and having blurred and breached professional boundaries with him.

The panel determined that the incidents in charge 1a and 1b had taken place within the weeks leading up to Patient A's discharge, and as your inappropriate relationship with him had already crossed professional boundaries by this stage, your actions in charge 1a and 1b were more likely than not to have been a consequence of this.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether your fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, your fitness to practise is currently impaired as a result of that misconduct.

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

- Mr 4: Service Manager at Birmingham and Solihull Mental Health NHS Foundation Trust

- Ms 5: Your previous line manager at Birmingham and Solihull Mental Health NHS Foundation Trust

The panel also heard evidence from you under affirmation.

Submissions on misconduct

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council (No. 2)* [2000] 1 AC 311 which defines misconduct as a *'word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.'*

Mr Choudhury invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code) in making its decision.

Mr Choudhury identified the specific, relevant standards where your actions amounted to misconduct. He submitted that this case involves your failure to maintain professional boundaries which occurred over a period of time from April to August 2020. He submitted that there was a power imbalance between you and a vulnerable patient which could have had an impact on Patient A and yourself. Mr Choudhury submitted that your actions were so serious as to amount to misconduct.

Mr Buxton submitted that you acknowledge that your actions amount to misconduct and therefore did not intend to make any further submissions in relation to misconduct.

Submissions on impairment

Mr Choudhury moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Mr Choudhury submitted that you made early admissions to a majority of the charges. He submitted that there have been no further concerns raised since the incidents of 2020 and made reference to the positive testimonials provided by your colleagues. Mr Choudhury submitted that you have repeatedly expressed sorrow, regret, and remorse within your reflective pieces and live evidence throughout this hearing. However, Mr Choudhury submitted that there are concerns regarding public protection. He submitted that firstly, a perinatal setting is very different from an acute mental health inpatient setting, and secondly, that the misconduct was with a male patient whereas you are currently working with predominantly female patients.

Mr Choudhury submitted that limbs a, b, and c of the *Grant* test apply in this case. He submitted that your actions fell significantly below the standard expected of a registered nurse and brought the nursing profession into disrepute. He submitted that public confidence in the nursing profession would be undermined if a finding of current impairment were not made in this case. Mr Choudhury therefore invited the panel to find your fitness to practise currently impaired on the grounds of public protection and public interest.

Mr Buxton submitted that you have had no adverse criticism made against your clinical practise, and that, despite the charges found proved in this case, you have had a blameless career. He submitted that a finding of current impairment is not

necessary. He submitted that you have engaged in an in-depth period of reflection, undertaken relevant training, and engaged in supervisions with your current employer since 2021.

Mr Buxton submitted that your conduct is remediable. He referred the panel to the relevant reading materials that you have taken time to consider, particularly around professional boundaries. Mr Buxton reminded the panel of your oral evidence when you explained that you view this remediation as an ongoing exercise, and one that will continue indefinitely into the future. He submitted that you have demonstrated a deep understanding of what you did and how wrong it was. Mr Buxton further submitted that you accept that your actions had the potential to harm Patient A. He submitted that you now understand what is expected of you, and said that if you were in such a situation again, you would act very differently.

Mr Buxton submitted that there is no risk of the conduct being repeated. He submitted that you have demonstrated a competent and impressive skill set since the incidents of 2020 throughout your continued clinical practice in the perinatal department.

Mr Buxton submitted that the remediation and insight in this case is complete. He submitted that a finding of current impairment is not necessary on the grounds of public protection or public interest.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgements and the NMC Fitness to Practise Library guidance.

Decision and reasons on misconduct

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that your actions did fall significantly short of the standards expected of a registered nurse, and that your actions amounted to a breach of the Code. Specifically:

*'**13 Recognise and work within the limits of your competence***
To achieve this, you must, as appropriate:
***13.4** take account of your own personal safety as well as the safety of people in your care*

19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice
To achieve this, you must:
***19.4** take all reasonable personal precautions necessary to avoid any potential health risks to colleagues, people receiving care and the public*

20 Uphold the reputation of your profession at all times
To achieve this, you must:
***20.1** keep to and uphold the standards and values set out in the Code*
***20.3** be aware at all times of how your behaviour can affect and influence the behaviour of other people*
***20.5** treat people in a way that does not take advantage of their vulnerability or cause them upset or distress*
***20.6** stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers*
***20.8** act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to'*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that these concerns are very serious. Your conduct breached professional boundaries and had the potential to cause harm to Patient A. It also caused a risk to others including colleagues and other patients and ultimately for patients and the public to lose trust and confidence in the profession.

The panel acknowledged that there was a power imbalance between you and Patient A, who was vulnerable at a time when you were his named nurse. It

considered that your actions would have had a significant impact on Patient A. You developed an inappropriate personal relationship with Patient A over four months which included his time as an inpatient under your care, while he was likely to have been at his most vulnerable, and following his discharge. The nature of the relationship appeared to have escalated on the day of Patient A's discharge where you met with him, kissed him, stated that you loved him and/or were in love with him, spent a night at a hotel with him, and arranged to meet him on another occasion.

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

Decision and reasons on impairment

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

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 February 2024, which states:

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

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

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

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

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

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

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

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

d) *...'*

The panel considered that Patient A was put at risk of harm as a result of your misconduct. Your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel took into account that you made early admissions to the majority of the charges and have demonstrated an understanding of why what you did was wrong and how this impacted negatively on the reputation of the nursing profession. The panel also took into account the context at the time in that it was during the Covid pandemic and you were isolated from your friends and family. The panel acknowledged that you were working towards a promotion to band 6 and you stated that [PRIVATE]. You said in oral evidence that you realise now that you were exhausted at the time and that going back into an acute mental health setting in the future would not be good for you.

The panel took into account that there have been no previous concerns raised regarding your clinical practice, and no concerns raised regarding your professionalism or behaviour from your current employer. The panel had sight of positive testimonials provided by your colleagues, and also heard live evidence from your previous line manager and the service manager within your current trust who attest to your good character.

The panel considered the extensive training and reflections you have completed, particularly regarding professional boundaries. It also took into account the consistent supervision you have attended with your current employer, and that you have demonstrated significant regret and remorse.

However, the panel found that your reflection on your misconduct, during the period when Patient A was still under your care and potentially at his most vulnerable, was insufficient and did not recognise the potential clinical, psychological, and emotional impact that your actions could have had on Patient A. The panel considered that your current insight did not demonstrate sufficient retrospective reflection about your actions and the direct impact your actions could have had on Patient A, and as a result, your insight remains incomplete.

The panel then considered the factors set out in the case of *Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin) and determined that the misconduct is such that it may be capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not you have

taken steps to strengthen your practice. The panel considered that you have not been able to demonstrate that you can implement and embed what you have learnt and reflected on in a work setting, working as a lone practitioner with your own patient case load. The panel noted that you have been working in a perinatal outpatient setting with predominantly female patients and have been restricted by your current employer to telephone triage work. As such, the panel is of the view that there remains a risk of repetition. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case. This is due to the clear breach of professional boundaries with a vulnerable patient, developing an inappropriate relationship with an inpatient on an acute mental health ward under your care which escalated on the day of their discharge, with a potential to cause harm. The panel therefore also finds your fitness to practise impaired on the ground of public interest.

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

Sanction

The panel has considered this case very carefully and has decided to make a conditions of practice order for a period of 18 months. The effect of this order is that your name on the NMC register will show that you are subject to a conditions of practice order and anyone who enquires about your registration will be informed of this order.

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

Submissions on sanction

Mr Choudhury informed the panel that the NMC were originally seeking the imposition of a striking-off order if it found your fitness to practise currently impaired. During the course of the hearing, the NMC have considered your remorse, remediation, and insight and decided to revise its proposal. Mr Choudhury submitted that the NMC consider a 12-month suspension order is more appropriate in light of the panel's findings.

Mr Choudhury submitted that taking no action or imposing a caution order would not be appropriate as they would not signify the seriousness of the misconduct in this case.

Mr Choudhury submitted that whilst it may be possible for the panel to formulate conditions to manage the risk identified, a conditions of practice order would not mark the seriousness of the misconduct.

Mr Choudhury submitted that a suspension order for a period of 12 months would mark the seriousness of this case and would send the proper message to the nursing profession.

Mr Choudhury submitted that you are well regarded within your current employment and are viewed as an asset to the team. He made reference to your current colleagues who said during live evidence that if you were to be struck off the NMC register, it would be a major loss to the nursing profession. Mr Choudhury submitted that a striking-off order is no longer appropriate.

Mr Buxton submitted that taking no action or imposing a caution order would not be appropriate given the panel's findings of public protection and public interest concerns.

Mr Buxton submitted that a conditions of practice order is an appropriate, proportionate, and workable sanction in this case. He submitted that you have made efforts to remediate and that a conditions of practice order would ensure that you can develop your full potential as a mental health nurse within the perinatal setting with oversight by the NMC and your current employer.

Mr Buxton invited the panel to impose a conditions of practice order and suggested a period of six months or less, but submitted that the length of the sanction is a matter for the panel.

Mr Buxton submitted that a suspension order would be punitive and runs the severe risk of your current employer terminating your employment.

The panel accepted the advice of the legal assessor.

Decision and reasons on sanction

Having found your fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Conduct which put a vulnerable patient at risk of suffering harm
- A pattern of misconduct over a period of four months in developing an inappropriate personal relationship
- Breached fundamental tenets of the nursing profession
- Abuse of a position of trust as Patient A’s named nurse
- Disobeyed line manager instructions in relation to the home visit

- Your current insight does not demonstrate sufficient retrospective reflection about your actions and the direct impact your actions could have had on Patient A

The panel also took into account the following mitigating features:

- Early admissions to a majority of the charges
- Apologised for actions and expressed genuine deep remorse, shame, and regret
- Steps taken to prevent conduct being repeated in the future including undertaking extensive training, clinical supervision, and reflection on how learning can be integrated going forward
- No concerns raised since the incidents in 2020
- Personal mitigation including working during Covid and being isolated from friends and family, not having annual leave for a year and working in a stressful working environment
- Testimonials attesting to your outstanding work as a perinatal mental health nurse

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 your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the 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 your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular that conditions may be appropriate when some or all of the following factors are apparent, and considered that these apply in your case:

- *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 it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case, protect the public, and meet the public interest. The panel considered that a conditions of practice order would allow you to continue to work and further strengthen your practice. The panel bore in mind the passage of time since the incidents in 2020, as well as your previous unblemished record, and extremely positive testimonials from your colleagues.

The panel weighed up the public confidence in the nursing profession and determined that a lengthy public hearing with a finding of impairment together with a conditions of practice order would mark the seriousness of the misconduct. In considering the length of a conditions of practice order, the panel considered that 18 months would reflect the seriousness and allow you sufficient time to fully demonstrate that you can practise kindly, safely, and professionally. It further

considered that a member of the public, with full knowledge of this case, would be satisfied that a conditions of practice order would be proportionate given the large volume, strength, and consistency of your learning, reflection, and remorse you have demonstrated over the last five years; as well as the outstanding work you have done to become a specialist in perinatal mental health nursing.

Balancing all of these factors, the panel determined that the appropriate and proportionate sanction is that of a conditions of practice order for 18 months.

The panel was of the view that to impose a suspension order would be wholly disproportionate and would not be a reasonable response in the circumstances given the panel's consideration that the misconduct is capable of being remediated. The panel considered that a suspension order would be overly punitive and would not allow you to continue to strengthen your practice. The panel acknowledged that the misconduct was not a one-off incident as it occurred over a period of four months, but also considered that there is no evidence of any deep-seated attitudinal problem, and no evidence of repetition of the behaviour since the incident. The panel considered that you have developed sufficient strategies to prevent a similar recurrence, but need the opportunity to embed this in your work as an autonomous practitioner in the future.

The panel considered that to impose a striking-off order would be wholly disproportionate in this case as the misconduct is not fundamentally incompatible with you remaining on the register.

Having regard to the matters it has identified, the panel has concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession, and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.

The panel determined that the following conditions are appropriate and proportionate in this case:

‘For the purposes of these conditions, ‘employment’ and ‘work’ mean any paid or unpaid post in a nursing, midwifery or nursing associate role.’

1. You must limit your nursing practice to one substantive employer. This must not be an agency or bank work, and you must not work in a self-employed capacity.

2. You must produce a reflective piece setting out in detail your insight into the extent of the potential harm that your misconduct could have had on Patient A whilst he was an inpatient, and following his discharge. You must send your NMC case officer a copy of your reflective piece no later than seven days before the next review.

3. You must meet monthly with your line manager, mentor, or supervisor to develop, implement, and monitor an action plan to enable you to reintegrate into autonomous practice and to safely build your case load with a particular reference to:

    a) Professional boundaries
    b) Communication with colleagues
    c) Safeguarding

    The action plan must be sent to your NMC case officer within seven days of being produced.

4. You must send your case officer a report from your line manager, mentor, or supervisor, every two months discussing your reintegration into autonomous practice and progress made in safely building your case load, with a particular reference to:

    a) Professional boundaries
    b) Communication with colleagues

c) Safeguarding

5. You must keep the NMC informed about anywhere you are working by:
   a) Telling your case officer within seven days of accepting or leaving any employment.
   b) Giving your case officer your employer's contact details.

6. You must immediately give a copy of these conditions to:
   a) Any organisation or person you work for.
   b) Any employers you apply to for work (at the time of application).

7. You must tell your case officer, within seven days of your becoming aware of:
   a) Any clinical incident you are involved in.
   b) Any investigation started against you.
   c) Any disciplinary proceedings taken against you.

8. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:
   a) Any current or future employer.
   b) Any other person(s) involved in your supervision required by these conditions.

The period of this order is for 18 months.

Before the order expires, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- Your attendance and participation at future review hearings
- Testimonials from your colleagues following the implementation of the conditions of practice order.

This will be confirmed to you in writing.

Interim order

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

Submissions on interim order

The panel took account of the submissions made by Mr Choudhury. He submitted that an interim conditions of practice order to the same effect as the basis of the panel's decision on sanction may be appropriate given the panel's findings.

Mr Buxton submitted that an interim order is not necessary as you will continue working with your current employer and will provide them with your conditions of practice order immediately.

The panel accepted the advice of the legal assessor.

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the

seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that the only suitable interim order would be that of a conditions of practice order, as to do otherwise would be incompatible with its earlier findings. The conditions for the interim order will be the same as those detailed in the substantive order for a period of 18 months to allow time for any possible appeal.

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

That concludes this determination.