

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

**Substantive Hearing**

**Monday, 18 November 2024 – Monday, 25 November 2024  
Wednesday, 27 November 2024 – Friday, 29 November 2024  
Tuesday, 06 May 2025- Wednesday, 07 May 2025  
Monday, 9 June 2025- Thursday, 19 June 2025  
Tuesday, 24 June 2025-Thursday, 26 June 2025  
Monday, 1 September 2025- Tuesday, 2 September 2025 and  
Thursday, 4 September 2025  
Monday, 23 March 2026- Thursday, 26 March 2026 and Monday, 30 March 2026-  
Tuesday, 31 March 2026 and Wednesday, 1 April 2026**

Nursing and Midwifery Council  
2 Stratford Place, Montfichet Road, London, E20 1EJ

**Name of Registrant:** Jenna Hannah Mackay

**NMC PIN:** 0810424S

**Part(s) of the register:** Registered Nurse - Sub part 1  
Adult nurse, level 1 (5 September 2011)

**Relevant Location:** Jersey

**Type of case:** Misconduct

**Panel members:** Michelle McBreeze (Chair, Lay member)  
Christine Wint (Registrant member)  
Chantelle Whitehead (Lay member)

**Legal Assessor:** John Moir (18- 25 November 2024 and 27-29  
November 2024), Ashraf Khan (6 and 7 May  
2025) and John Bassett (9- 19 June 2025 and  
24- 26 June 2026 and 1- 2 September 2025 and  
4 September 2025 and 23- 31 March 2026 and 1  
April 2026)

**Hearings Coordinator:** Tyrena Agyemang (18- 25 November 2024 and  
27-29 November 2024), Eidvile Banionyte (9- 19  
June 2025 and 24- 25 June 2026 and 1- 2

September 2025 and 4 September 2025 and 23-31 March 2026 and 1 April 2026) and Adaobi Ibuaka (26 June 2025)

**Nursing and Midwifery Council:** Represented by Matthew Kewley (18- 25 November 2024 and 27-29 November 2024 and 6 and 7 May 2025 and 9- 19 June 2025 and 24-26 June 2026 and 1- 2 September 2025), Marcia Persaud (4 September 2025) and Benjamin D'Alton (23- 31 March 2026 and 1 April 2026), Case Presenters

**Mrs Mackay:** Present and represented by Laurence Harris, instructed by the Royal College of Nursing (RCN)

**No case to answer:** Charges 1c, 1h, 7g, 10a, 10b and 11.

**Facts proved:** Charges 1a, 1b, 1f, 1i(i) and 1i(ii), 2 (in respect of 1i and 1f only), 3b, 4 (in respect of charge 3b only), 5d(i) and 5d(ii), 5e(i), 6 (in respect of 5d only), 7a, 7b(i) and 7b(ii), 7c(i) and 7c(ii), 7d, 7e, 7f, 7i, 8 (in respect of 7a, 7b, 7c(ii), 7d and 7f), 12 and 16.

**Facts not proved:** Charges 1d,1e, 1g(i), 1g(ii), 1g(iii), 3a, 5a, 5b, 5c, 5e(ii), 7h, 9, 13, 14, 15, 17 and 18.

**Fitness to practise:** **Impaired**

**Sanction:** **Suspension order (6 months) with a review**

**Interim order:** **Interim Suspension order (18 months)**

## Decision and reasons on application to amend the charge

The panel heard an application made by Mr Kewley, on behalf of the Nursing and Midwifery Council (NMC), to amend the wording of charges numbers 5d and 7b.

The proposed amendment was to add a word '*with*' in charge 5d and change the date to 30 July 2020 from 20 June 2020 in charge 7b. It was submitted by Mr Kewley that the proposed amendment would provide clarity and more accurately reflect the evidence.

“That you, a registered nurse:

5. In respect of Colleague B;

d) Around October/November 2017 failed to provide colleague B **with** support during a clinic, in that you unfairly criticised Colleague B using words to the effect of;

7. In respect of Colleague C;

b) On ~~20 June~~ **30 July** 2020 during a discussion about a handover sheet;

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

Mr Harris, on your behalf, agreed to the amendments.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel was of the view that such an amendment, as applied for, was in the interest of justice. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

### **Details of charge (as amended)**

That you, a registered nurse between 2017 and 2021 whilst working at the Jersey General Hospital ('the Hospital');

1) In respect of colleague A;

a) On an unknown date, used words to the effect of *'Oh it's alright for you, you're [PRIVATE] and don't have to worry about being next to someone being hot in this weather.'*

b) On or around 15 May 2019 shouted/raised your voice using words to the effect *'No one is blaming you.'*

c) On one or more occasions unfairly rostered Colleague A for shifts which prevented her from completing her study session dates/training days.

d) On an unknown date, shouted using words to the effect of *'Is anyone going to get that bell?'*

e) On 24 October 2019 during a morning huddle, spoke to Colleague A in an undermining manner using words to the effect of *'This should have been done – why hasn't this been done.'*

f) On 25 October 2019 shouted/raised your voice at Colleague A in relation to them taking a break.

g) On an unknown date during whilst Colleague A was performing an ANTT ('aseptic non-touch technique') on a patient;

i) Spoke to Colleague A in a condescending manner whilst they were trying to perform the ANTT procedure.

ii) Disregarded information about the Rectus Sheath Catheter Policy provided by Colleague A;

iii) Incorrectly told Colleague A to place a used cap back on the ports/catheter.

h) Unfairly rostered Colleague A on 4 weekend shifts in a row.

i) After Colleague A had raised concerns to Colleague W about being rostered unfairly on 8 weekend shifts in a row, you spoke to Colleague A using words to the effect of;

i) *'Colleague W is [PRIVATE] and said you were [PRIVATE] about the rota and brought your [PRIVATE] up.'*

ii) *'You shouldn't have brought [PRIVATE] into it.'*

2) Acted in a bullying manner towards Colleague A, in one or more of charges 1 a), 1 b), 1 c), 1 d), 1 e), 1 f), 1 g), 1 h, & 1 i).

3) Around 10 May 2021 provided inaccurate information in a reference, in that you stated that;

a) Colleague A had demonstrated poor performance in areas including;

- i) Quantity of work
- ii) Application to the job
- iii) Management skills
- iv) Attendance/Punctuality

b) Colleague A had failed to complete her notice period, without any further explanation/context regarding sick/annual leave.

4) Your actions in one or more of charges 3) a) i), 3) a) ii), 3) a) iii), 3) a) iv) and 3) b) above lacked integrity in that you provided inaccurate information about a staff member in a formal reference.

5) In respect of Colleague B;

a) On one or more occasions inappropriately threatened Colleague B with NMC referrals.

b) Around August 2017, unfairly blamed/reprimanded Colleague B;

- i) For being responsible for a patient suffering a fall.
- ii) For not catching a patient whilst they suffered a fall.
- iii) For not completing neurological assessments.

c) Around August/September 2017 unfairly reprimanded Colleague B for feeling upset.

d) Around October/November 2017 failed to provide colleague B with support during a clinic, in that you unfairly criticised Colleague B using words to the effect of;

- i) *'You are incompetent.'*

ii) *'You aren't up to speed on what you are doing.'*

e) Around September 2017;

i) Telephoned Colleague B whilst they were [PRIVATE] and requested that Colleague B provide you with a stool sample.

ii) After Colleague B had returned to work following their [PRIVATE], informed Colleague B that *'You aren't going to get [PRIVATE] because you didn't provide a stool sample.'*

6) Acted in a bullying manner towards Colleague B, in one or more of charges 5 a), 5 b), 5 c), 5 d) & 5 e).

7) In respect of Colleague C;

a) On 23 June 2020, in front of at least one colleague, made a personal remark to the effect of *'Oh God, you're all bony and skinny.'*

b) On 30 July 2020 during a discussion about a handover sheet;

i) Spoke about Colleague C using words to the effect of *'I wish the world would swallow her up.'*

ii) After Colleague C attempted to correct you, used words to the effect of *'that's rubbish.'*

c) On an unknown date after Colleague C had assisted a Doctor with an audit to streamline the working process;

i) Spoke to Colleague C using words to the effect of *'You should not be getting involved, especially without talking to me first.'*

ii) Threatened to put Colleague C on a performance improvement plan, without any justification

d) On 31 July 2020 at the morning handover, after Colleague C disclosed information about [PRIVATE], spoke words to the effect of *'God, you don't hear Colleague E moaning and she's much older than you, you're only 23!'*

e) On 9 September 2020 on one or more occasions spoke over/interrupted Colleague C in an inappropriate manner

f) On 26 November 2020 spoke to Colleague V, about Colleague C using words to the effect of *'I feel sorry for you having to work with her.'*

g) Unfairly rostered Colleague C on more weekend shifts than other staff members

h) After Colleague C informed you that she was unsuccessful with an Emergency Assessment Unit vacancy, laughed at Colleague C.

i) After Colleague C obtained an X-Ray for a [PRIVATE], spoke to Colleague C using words to the effect of *'You couldn't have waited until you finished on [PRIVATE] to go and have your X-Ray.'*

8) Acted in a bullying manner towards Colleague C, in one or more of charges 7 a), 7 b), 7 c), 7 d), 7 e), 7 f), 7 g), 7 h) & 7 i).

9) On 2 September 2020, after informing Colleague C that you would cover the ward during her break, left the ward short staffed

10) In respect of Colleague D;

a) Responded unfairly to Colleague D's request for nightshifts.

b) Unfairly did not allow Colleague D the opportunity to take bloods.

11) Acted in a bullying manner towards Colleague D, in one or more of charges 10 a) & 10 b).

12) On an unknown date, made an inappropriate personal remark to Colleague Y using words to the effect of '*[PRIVATE]*'

13) On an unknown date, during a morning handover spoke about Colleague X using words to the effect of '*Does Colleague X have [PRIVATE]?*'

14) On an unknown date, referred to Person Z as '*slag*'.

15) Around August 2020, shouted/raised your voice at Patient U, without justification, using words to the effect of '*Don't you dare speak to me like that.*'

16) Your conduct at Charge 12 was inappropriate in that:

a) It was unwanted.

b) It related to a colleague's protected characteristic, namely their sexual orientation.

c) It had the purpose or effect of:

i. Violating the colleague's dignity.

ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for anyone hearing your comment(s).

17) On an unknown date in 2020 used words to the effect of '*Scottish and Irish nurses are superior.*'

18) Your actions in charge 17) above were racially motivated.

And in light of the above for your fitness to practise is impaired by reason of your misconduct.

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

Mr Kewley, on behalf of the Nursing and Midwifery Council (NMC), made a request that this case be held in private on the basis that proper exploration of your case involves reference 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 Harris, on your behalf, indicated that he supported the application to the extent that any reference to [PRIVATE] should be heard in private.

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 if and when reference is being made to [PRIVATE] in order to protect the privacy of all relevant parties.

### **Decision and reasons on application of no case to answer**

The panel considered an application from Mr Harris that there is no case to answer in respect of Charges 1c, 1g(iii), 1h, 3a(i)–(iv), 3b, 4, 7g, 10a, 10b and 11. This application was made under Rule 24(7).

The panel had regard to Mr Harris' written submissions:

Mr Harris within his submissions have categorised these charges into "fairness" charges and "accuracy" charges.

With regards to Charges 1c, 1h, 7g, 10a, 10b and 11, Mr Harris submitted:

*'6. The panel should find no case to answer on each of these charges because whilst there is some evidence of unfairness, it is not enough that the tribunal – properly directed – taking the evidence at its highest could find the charges proved.*

*7. The panel heard evidence from each of the live NMC witnesses about their perception of unfairness at the rostering. It is accepted that this evidence alone takes it out of a 'limb 1' case.*

*8. However, taking this evidence at its highest, the panel cannot properly find that any of these rota decisions was unfair.*

*a. There is some exhibited 'rota' evidence, but there is no accompanying witness statement to assist the panel with its provenance; how it should be interpreted, and whether (or to what extent) it was accurate.*

*b. In the absence of reliable rota documentation, the witnesses' recollection of their allocation cannot be corroborated. The panel do not have, and could not have, any way of corroborating their accounts.*

*c. Moreover, in the absence of any policy regarding how shifts should be allocated, the witnesses' claims of unfairness cannot be properly assessed, and the NMC must therefore fail to discharge its burden.*

*9. Inevitably, if the panel find no case to answer on both Charges 10(a) and (b), then the concomitant Charge 11 must also be found to have no case to answer.'*

With regards to Charges 1g(iii), 3a(i-iv), 3b and 4 Mr Harris submitted:

*'11. Similarly to the 'fairness' cases, all of these charges centre on steps taken by the Registrant that are said to have been 'inaccurate'.*

*12. The burden remains on the NMC throughout to show on the balance of probabilities that each surcharge was inaccurate. It therefore is incumbent on the NMC to provide at least some evidence of what the objective accurate step should have been.*

*13. It is submitted that the panel, properly directed and taking the evidence at its highest cannot find that any of these actions said to have been taken by the Registrant was inaccurate.*

*a. 1(g)(iii) - There is insufficient evidence before the panel that the Registrant incorrectly told Colleague A to place a used cap back on the ports/catheter.*

*b. 3 – There is insufficient evidence before the panel to find that on the balance of probabilities the Registrant was incorrect in her assessment of Colleague A's performance or the circumstances of her notice period.*

*c. 4 – There is insufficient evidence for the panel to find that any inaccuracy in the reference was founded upon a lack of integrity. To find such would stretch the evidence far beyond what it could properly be said to bear.'*

The panel also had regard to Mr Kewley's written submissions:

With regards to Charge 1c, Mr Kewley submitted that:

*'9. The NMC does not oppose the submission of no case to answer in respect of this charge. It is recognised that in order for the NMC to prove that there had been 'unfairness' (as alleged in the charge) in respect of rostering, the panel would most*

*likely need to receive evidence in relation to (a) the policies and procedures that applied to those responsible for drafting rotas in the hospital (b) evidence as to how rotas were in fact produced (c) evidence to explain how to interpret rota data and (d) data showing how issues such as weekend working and study days were approached by comparison to a much wider staffing cohort in order to show unfairness in respect of one particular staff member. The NMC has obtained some shift data (as seen in the exhibits bundle), however, there is no witness who can provide an explanation of what the data purports to show including, for example, whether the data reflects any last minute changes that may have been made to rotas. It is accepted that in order to show unfairness, the panel would most likely require the provision of specific dates and specific examples in order to make an assessment of whether that particular rota had been produced 'unfairly.'*

With regards to Charge 1g(iii), Mr Kewley submitted:

*'12. It is accepted by the NMC that the relevant policy has not been adduced in evidence. However, the issue in respect of charge 1(g)(iii) is whether there is sufficient evidence upon which the panel could find that the Registrant incorrectly told Colleague A to place a used cap back on the ports/catheter.*

*13. As to the requirement of the policy, it can be seen that it was put to Laura Robinson in cross examination that 'the policy on the procedure is clear isn't it that your supposed to put a clean one on and not reuse the dirty one'. It is clear, therefore, that there is no actual dispute about what the 'correct' approach would have been. It appears that the nub of this charge is whether the event happened as opposed to what the policy required. It is submitted that there is, therefore, a case to answer in respect of charge 1(g)(iii).'*

With regards to Charge 1h, Mr Kewley submitted:

*'16. As with charge 1(c), the NMC does not oppose the submission of no case to answer in respect of this charge. It is recognised that in order for the NMC to prove that there had been 'unfairness' (as alleged in the charge) in respect of rostering, the panel would most likely need to receive evidence in relation to (a) the policies and procedures that applied to those responsible for drafting rotas in the hospital (b) evidence as to how rotas were in fact produced (c) evidence to explain how to interpret rota data and (d) data showing how issues such as weekend working and study days were approached by comparison to a much wider staffing cohort in order to show unfairness in respect of one particular staff member. The NMC has obtained some shift data (as seen in the exhibits bundle), however, there is no witness who can provide an explanation of what the data purports to show including, for example, whether the data reflects any last minute changes that may have been made to rotas. It is accepted that in order to show unfairness, the panel would most likely require the provision of specific dates and specific examples in order to make an assessment of whether that particular rota had been produced 'unfairly.'*

With regards to Charges 3 and 4, Mr Kewley submitted:

*'20. Charge 3 begins by alleging that the Registrant provided 'inaccurate' information in the reference. The alleged inaccurate information is pleaded by reference to two elements:*

- a. 3(a) relates to four work domains (i.e quantity of work, application to the job, management skills and attendance/punctuality) which appear to have required the Registrant to choose a rating from a 'drop down' box on the reference form.*
- b. 3(b) relates to the free hand text section at the bottom of reference in which the Registrant allegedly provided inaccurate information by not explaining the context around [Colleague A] using sick leave and annual leave etc during her notice period.*

21. In relation to 3(a), in order to show that the answers given by the Registrant were 'inaccurate', the NMC would need to show that [Colleague A]'s ability could not be viewed as 'poor' across the four domains in charge 3(a). It is acknowledged that there has been limited evidence in respect of these four domains beyond [Colleague A]'s own assertion that she personally feels that the gradings were not accurate. For example, there has been no evidence in relation to 'quantity of work' or 'management skills'. The panel has also received no evidence as to what the expectations were in respect of the Registrant completing the reference including, for example, whether there was any guidance addressing what the author of a reference should or should not include when deciding on how to grade a candidate for the purpose of the reference. The NMC does not oppose the submission of no case to answer in respect of 3(a).

22. In relation to 3(b) (and 4 insofar as it relates to 3(b)) it is submitted that there is a case to answer. [Colleague A]'s evidence was clear in that she took planned leave and [PRIVATE] during her notice period. This can be contrasted with the Registrant's comments in the reference at [PRIVATE] which state '...left the island to return to the UK without completing her notice'. It is submitted that there is a case to answer in respect of this information being 'inaccurate' through its omission to provide any context or explanation as to sick leave/annual leave when writing that [Colleague A] 'left the island to return to the UK without completing her notice'.

With regards to Charge 7g, Mr Kewley submitted:

'25. As with charges 1(c) and 1(h), the NMC does not oppose the submission of no case to answer in respect of this charge. It is recognised that in order for the NMC to prove that there had been 'unfairness' (as alleged in the charge) in respect of rostering, the panel would most likely need to receive evidence in relation to (a) the policies and procedures that applied to those responsible for drafting rotas in the hospital (b) evidence as to how rotas were in fact produced (c) evidence to explain how to interpret rota data and (d) data showing how issues such as weekend

*working and study days were approached by comparison to a much wider staffing cohort in order to show unfairness in respect of one particular staff member. The NMC has obtained some shift data (as seen in the exhibits bundle), however, there is no witness who can provide an explanation of what the data purports to show including, for example, whether the data reflects any last minute changes that may have been made to rotas. It is accepted that in order to show unfairness, the panel would most likely require the provision of specific dates and specific examples in order to make an assessment of whether that particular rota had been produced 'unfairly.'*

With regards to Charges 10 and 11, Mr Kewley submitted:

*'27. In relation to the issue of [Colleague D]'s night shifts, it is acknowledged that the NMC would be required to prove that the Registrant acted 'unfairly'. As with other charges that relate to rostering issues, it is accepted that the panel has little information to determine whether a particular act of rostering was in fact unfair (as opposed to simply necessary by virtue of the complexities that must be inherent in preparing a rota).*

*28. In relation to the issue of taking bloods, [Colleague D] was asked in oral evidence whether she had any theory as to why the Registrant would prevent her from taking bloods she stated she did not - [Colleague D] did not suggest this was an act of bullying by the Registrant (P184).*

*29. [Colleague D] also stated that she seemed to recall the reason she may not have been able to take bloods was related to insurance (P184).*

*30. When [Colleague D] was called to give evidence to the panel, the overall tenor of her evidence appeared to be one of unhappiness and disillusionment with the hospital as opposed to asserting that the Registrant was deliberately or maliciously bullying her in respect of night shifts and blood taking.*

*31. The NMC does not oppose the submission in respect of these charges.'*

In his oral submissions, Mr Harris added that the NMC have effectively conceded or certainly are not contesting the "fairness" cases, Charges 1c, 1h, 7g, 10a, 10b and 11. With regards to Charge 1g(iii), he submitted that the policy for how to approach caps has not been provided in evidence and therefore the panel would not know what the actual policy is and therefore it cannot assess the accuracy of advice or recommendations given by you.

With regards to Charge 3b, Mr Harris referred the panel to the wording of the charge and submitted that it cannot be said to be inaccurate not to provide the full context and further submitted that there is always a degree of subjectivity in terms of what is a full explanation. He submitted that the same applies to Charge 4.

Mr Kewley, in his oral submissions, submitted regarding Charge 1g(iii), that whilst the panel did not have a policy, it had evidence from Colleague A, as to what she considered to be required under the policy. He submitted that a lack of policy is not fatal to the charge at this stage.

With regards to Charges 3 and 4, Mr Kewley submitted that when the panel look at the charge, the evidence, the context in which this has arisen, the panel could find on this material that the reference did provide inaccurate information through its admission to explain any of the context around the alleged failure to work the notice period.

The panel took account of the submissions made and heard and accepted the advice of the legal assessor.

In reaching its decision, the panel has made an initial assessment of all the evidence that had been presented to it at this stage. The panel was solely considering whether sufficient evidence had been presented, such that it could find the facts proved and whether you had a case to answer.

The panel considered each charge in turn:

Charge 1c - On one or more occasions unfairly rostered Colleague A for shifts which prevented her from completing her study session dates/training days

The panel noted that the NMC conceded that there is no case to answer in relation to this charge. The panel noted that it has not been provided with any comparison data or evidence in relation to how to interpret the rota data. The panel determined that to find *unfairness*, it would require examples of specific dates and specific examples of unfair rostering in order to make an assessment as to whether a particular rota had been produced *unfairly*. The panel determined that there is no case to answer in relation to this charge.

Charge 1g(iii) - Incorrectly told Colleague A to place a used cap back on the ports/catheter

The panel determined that whilst it was not provided with the relevant policy, the relevant issue in this charge was whether there is sufficient evidence upon which it could find that you incorrectly told colleague A to place a used cap back on the ports/catheter. The panel had regard to Colleague A's evidence in which she was consistent and answered questions regarding this issue very clearly. The panel were also mindful that this charge was one of three sub-charges related to an interaction between you and Colleague A concerning a ANTT on a patient. The panel determined that there is a case to answer in relation to this charge.

Charge 1h - Unfairly rostered Colleague A on 4 weekend shifts in a row

The panel noted that in order for it to assess unfairness, it would require evidence of policies and procedures with regards to drafting rotas as well as evidence explaining how to interpret such data. It further noted that whilst there was some limited data provided by the NMC, there was not a witness able to explain this data. The panel determined that there is no case to answer in relation to this charge.

Charges 3a(i)-(iv) – Around 10 May 2021 provided inaccurate information in a reference, in that you stated that Colleague A had demonstrated poor performance in areas including Quantity of work; Application to the job; Management skills; Attendance/Punctuality

The panel noted that the NMC conceded that there is no case to answer in relation to this charge.

However, the panel reminded itself that it had written and oral evidence relating to Colleague's A roles in the hospital including that she was routinely rostered on shifts as the nurse in charge. The panel were further reminded of the points Colleague A raised about her role and that she had never been spoken to about her performance or her work. The panel also noted that when Colleague F was asked to provide any meeting notes/ records of conversations regarding disciplinary action or work performance regarding Colleague A she only referred to the probation extension

The panel was also mindful that this was a sub-charge relating to a reference prepared by you in respect of Colleague A and the panel believed as the charges related to the same theme of accuracy, there was a case to answer in relation to this charge. Based on the evidence before it, the panel determined that there is a case to answer in relation to this charge.

Charge 3b - Around 10 May 2021 provided inaccurate information in a reference, in that you stated that Colleague A had failed to complete her notice period, without any further explanation/context regarding [PRIVATE]/annual leave

The panel was mindful of Mr Kewley's submissions:

*'In relation to 3(b) (and 4 insofar as it relates to 3(b)) it is submitted that there is a case to answer. Colleague A's evidence was clear in that she took planned leave and [PRIVATE] during her notice period. This can be contrasted with the Registrant's comments in the reference at [PRIVATE] which state '...left the island to return to the UK without completing her notice'. It is submitted that there is a case to answer in respect of this information being 'inaccurate' through its omission*

*to provide any context or explanation as to [PRIVATE]/annual leave when writing that Colleague A 'left the island to return to the UK without completing her notice'.*

The panel also had regard to Colleague A's oral evidence in relation to her notice period and absence, which calls into question the other aspects of this reference and therefore determined that there is a case to answer in relation to this charge.

Charge 4 - Your actions in one or more of charges 3(a) (i)-(iv) and 3(b) above lacked integrity in that you provided inaccurate information about a staff member in a formal reference

Following the panel's findings in relation to Charges 3a (i)-(iv) and 3b above, there is a case to answer in relation to this charge.

Charge 7g - Unfairly rostered Colleague C on more weekend shifts than other staff members

The panel noted that in order for it to assess unfairness, it would require evidence of comparison with regards to rosters for other colleagues. The panel determined that there is no case to answer in relation to this charge.

Charges 10a and b – In respect of Colleague D, responded unfairly to Colleague D's requests for nightshifts and unfairly did not allow Colleague D the opportunity to take bloods.

The panel had regard to Colleague D's evidence in that she did not feel bullied or harassed. The panel noted that some of her answers were not clear and that she had been given reasons why she was not given shifts, which related to the needs of the service. The panel determined that there is no case to answer in relation to these charges.

Charge 11 – Acted in a bullying manner towards Colleague D, in one or more of charges 10(a) and 10(b).

Following the panel's findings in relation to Charges 10a and b above, there is no case to answer in relation to this charge.

## **Background**

The charges arose whilst you were employed as a registered nurse by [PRIVATE] ('the Hospital').

You were referred to the NMC by Colleague A, whose direct line manager you were at the time of the allegations. She alleged that you had bullied her whilst she worked at the Hospital. Further allegations of bullying were made to the NMC when they investigated the referral.

## **Decision and reasons on application to admit written statements of Colleague W, Colleague K and Colleague G.**

The panel heard an application made by Mr Harris under Rule 31 to allow the written statements of Colleague W, Colleague K and Colleague G into evidence. These witnesses were not present at this hearing and there was no suggestion that the NMC would object to the admission of their witness statements into the evidence. Mr Harris submitted that should the panel wish to call these witnesses to attend the hearing and give live evidence, arrangements could be made.

Mr Kewley submitted that he did not object to these applications.

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 or not it is admissible in civil proceedings.

The panel gave the application in regard to Colleague W, Colleague K and Colleague G serious consideration. The panel noted that their statements had been prepared in anticipation of being used in these proceedings and contained the paragraph, 'This statement ... is true to the best of my information, knowledge and belief' and signed by them.

In all the circumstances, the panel came to the view that it would be fair and relevant to accept into evidence the written statements of Colleague W, Colleague G and Colleague K, but would decide whether it wished to hear oral evidence from any of these three witnesses as the case progressed.

Subsequently, the panel decided to call Colleague W to give evidence at this hearing.

### **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 Kewley and Mr Harris.

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:

- Colleague A: Registered Nurse, employed by the Hospital at the time of the allegations
- Colleague B: Registered Nurse, employed by the Hospital at the time of the allegations

- Colleague C: Registered Nurse, employed by the Hospital at the time of the allegations
- Patient U: Patient at the Hospital. Staff nurse on [PRIVATE] at Hospital previously.
- Colleague D: Healthcare Assistant at the Hospital at the time of the allegations.

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

- Colleague W: Registered nurse at the Hospital.

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 you.

At the outset of its deliberations and being fully aware that the burden of proof in this case remains on the NMC throughout, the panel was of the view that it would be helpful at the beginning of its findings to set out its views on the credibility of your evidence and you as a witness.

In making this assessment the panel took full account of the numerous testimonials, the feedback and the training evidence presented on your behalf. The panel did so as such evidence is admissible at this stage not only for the purposes of propensity but also in the assessment of your reliability and credibility as a witness.

The panel had no doubt that you are a skilful nurse and that you have grown into the management role over the years. By your own admission, you were new to management and did not have the requisite management or leadership training for the role. [PRIVATE]

The panel is conscious that you have been facing these allegations for a number of years. However, it was left with the impression that a number of your answers appeared to be rehearsed, were not always directly on point, evasive and implausible. The panel felt that some of your responses likely set out how you would act now as opposed to at the time of the allegations.

The panel also want to put it on the record that having carefully considered the evidence and material put before it, much of which was introduced by Mr Harris, it is satisfied that there has been no collusion between the witnesses called by the NMC to fabricate evidence against you. It is undoubtedly the case that when Colleague A learned of the reference you had given her in 2021; this was the catalyst for her referral to the NMC. Nevertheless, the contact that she had thereafter with other witnesses was in effect at the request of the NMC in order to ascertain whether other witnesses would support the allegation of bullying.

The panel then considered each of the disputed charges. It first considered the charges where the principal witness for the NMC was Colleague A; next it considered the charges where the principal witness was Colleague B; next, where the principal witness was Colleague C; next, where the principal witness was Patient U. The panel also considered the credibility of each witness and made the following findings.

### **Charge 1a)**

That you, a registered nurse between 2017 and 2021 whilst working at the [PRIVATE] ('the Hospital'), in respect of colleague A:

a) On an unknown date, used words to the effect of *'Oh it's alright for you, you're [PRIVATE] and don't have to worry about being next to someone being hot in this weather.'*

**This charge is found proved.**

In reaching this decision, the panel took into account Colleague A's evidence and your evidence.

Colleague A was adamant that the comment was made due to how it made her feel at the time. She was able to very clearly recall the feelings: *"[PRIVATE], it was something that stuck in my memory. That's how I know that it was said in that exact way"*. The panel was of the view that in these types of allegations, feelings are important, because it is the feelings that witnesses tend to recall the best.

When considering the oral evidence of Colleague A, the panel accepted that she was a vulnerable witness. In her evidence, whilst she could not remember some of the details of the wider context in which the comment was made, she spoke about being [PRIVATE] and that the comment stuck with her. The panel was of the view that given the context, in particular Colleague A going through [PRIVATE], it was entirely credible that this comment would have made her upset.

In your evidence you said: *"I don't recall this being said at all. It is very hot in Jersey in the summer. The reason I know I would not make fun of her [PRIVATE] is because I knew it was detrimental to [PRIVATE]"*. You also told the panel that it was not uncommon for relationships to be discussed amongst team members and the panel had sight of your supportive messages to Colleague A about [PRIVATE].

Against this background, the panel considered it was likely that you did make the comment, possibly intending it to be a light-hearted remark, as part of a conversation.

The panel was of the view that Colleague A was a credible witness, and that the lack of any contemporaneous notes does not result in lack of credibility.

The panel preferred the evidence of Colleague A and therefore found this charge proved on the balance of probabilities.

### **Charge 1b)**

That you, a registered nurse between 2017 and 2021 whilst working at the [PRIVATE] ('the Hospital'), in respect of colleague A:

b) On or around 15 May 2019 shouted/raised your voice using words to the effect '*No one is blaming you.*'

### **This charge is found proved.**

In reaching this decision, the panel took into account evidence of Colleague A and your evidence.

You denied that you ever shouted but accepted that you have a clear projecting voice, which others had commented upon.

The panel noted that you accept that there was an occasion when you spoke to Colleague A after there had been confusion over a booking for an ILS training event. You booked Colleague A on a course when she was due to be working a shift.

Colleague A was able to recall the incident clearly, detailing a conversation and your explanation as to why you would need to phone your line manager.

You agreed that Colleague A's non-attendance at the training had potential cost implications for the Ward. You also agreed that this was a matter which you would need to discuss with your line manager.

In these circumstances, the panel accepts the evidence of Colleague A that you did ring your line manager in her presence. It considers that it is likely that Colleague A sought to explain her side of the matter, whilst you were on the phone, and you did use the words alleged and that it was likely you raised your voice in doing so.

On the balance of probabilities, the panel found this charge proved on the basis of *raised your voice* only.

#### **Charge 1d)**

That you, a registered nurse between 2017 and 2021 whilst working at the [PRIVATE] ('the Hospital'), in respect of colleague A:

d) On an unknown date, shouted using words to the effect of '*Is anyone going to get that bell?*'

#### **This charge is found not proved.**

Colleague A's evidence is that straight after the morning huddle, a patient's bell went off and you stood in front of her and shouted, "*Is anyone going to get that bell?*". It's Colleague A's evidence that you looked directly at her when you shouted, but she accepts that there were other team members present. Colleague A was unable to be specific as to the date.

In your evidence, you accepted that an instance such as this may have happened, and you probably would have said this because patient safety was your "*highest priority*". You further said that you could not recall this specific event.

The panel noted the context of this event: a lot of people, straight after a huddle, bell ringing. The panel was of the view that you would have had to raise your voice to get someone's attention. However, in these particular circumstances, it cannot be satisfied that you shouted.

Accordingly, the panel found this charge not proved.

### **Charge 1e)**

That you, a registered nurse between 2017 and 2021 whilst working at the [PRIVATE] ('the Hospital'), in respect of colleague A:

e) On 24 October 2019 during a morning huddle, spoke to Colleague A in an undermining manner using words to the effect of '*This should have been done – why hasn't this been done.*'

### **This charge is found not proved.**

In reaching this decision, the panel took into account evidence of Colleague A and your evidence.

The panel considered that whilst Colleague A remembered the date, she did not recall what this comment was made in relation to. The panel noted that in her oral evidence, Colleague A said that the tone you used was undermining, however, she did not mention the tone in her witness statement.

You had no recollection of this particular event.

The panel determined that there was insufficient detail and clarity with regards to this allegation. Furthermore, the panel noted that there were some inconsistencies in Colleague A's evidence.

Therefore, on balance of probabilities, the panel found this charge not proved.

## Charge 1f)

That you, a registered nurse between 2017 and 2021 whilst working at the [PRIVATE] ('the Hospital'), in respect of colleague A:

f) On 25 October 2019 shouted/raised your voice at Colleague A in relation to them taking a break.

### **This charge is found proved.**

In reaching this decision, the panel took into account evidence of Witness A and your evidence.

The panel noted that Colleague A was very clear and descriptive in her evidence on this point. Colleague A described in her written evidence that you spoke to her like "*a parent to a child*" and this is often how you spoke to her. Colleague A also describes that following this event on her way home she had to pull-up and [PRIVATE]. This was also to be her last working day at the Hospital which would have been memorable to her.

The panel further noted, while you stated that you could not recall this specific incident, you agreed in your oral evidence that you were very clear and particular about staff having breaks. The panel considered this to be consistent with the evidence Colleague A gave and therefore it was indicative of your approach.

Colleague A was asked by Mr Harris to describe the level at which you shouted at her. Colleague A's answer was that, on a scale of one to ten, ten being "*at an absolute scream in your face shout*", it was at a level of three to four. In light of that answer, while the panel is not satisfied that you shouted at Colleague A, it is satisfied that you raised your voice to her.

Therefore, on the balance of probabilities, the panel found this charge proved on this basis.

## **Charges 1g(i) and 1g(ii)**

That you, a registered nurse between 2017 and 2021 whilst working at the Jersey General Hospital ('the Hospital'), in respect of colleague A:

g) On an unknown date during whilst Colleague A was performing an ANTT ('aseptic non-touch technique') on a patient;

i) Spoke to Colleague A in a condescending manner whilst they were trying to perform the ANTT procedure.

ii) Disregarded information about the Rectus Sheath Catheter Policy provided by Colleague A;

### **This charge is found not proved in its entirety.**

The panel noted that it was common ground that there was an occasion where Colleague A and yourself were required to perform a ANTT procedure. There is complete diversion however, between the accounts that were given. In Colleague A's account, she was seeking your assistance as a second checker, as she had already completed the training on a night shift, which had been conducted by an ITU nurse. In your account, it was a training setting to enable Colleague A to be signed off as competent.

In Colleague A's account, the allegation that you spoke to her in a condescending manner arose when she asked you where the new cap was stored. In summary, Colleague A's account is that matters escalated whereby it is alleged you told her to put the old cap back on and denied that policy required a new cap to be used. You denied that you ever instructed or told Colleague A to put the old cap back on as this would have been contrary to the policy.

The panel already made the observation that at the relevant time your practice was strongly driven by policy and procedure. The panel considers in these circumstances that it is improbable that you would have told Colleague A to do something that would have been completely contrary to the policy and procedure and patient safety, which was something that you strictly adhered to.

In these circumstances, the panel found that this charge is not proved in its entirety.

### **Charges 1i(i) and 1i(ii)**

That you, a registered nurse between 2017 and 2021 whilst working at the Jersey General Hospital ('the Hospital'), in respect of colleague A:

i) After Colleague A had raised concerns to Colleague W about being rostered unfairly on 8 weekend shifts in a row, you spoke to Colleague A using words to the effect of;

*i) 'Colleague W is [PRIVATE] and said you were [PRIVATE] about the rota and brought [PRIVATE] up.'*

*ii) 'You shouldn't have brought [PRIVATE] into it.'*

### **This charge is found proved in its entirety.**

In reaching this decision, the panel took into account the evidence of Colleague A, Colleague W and your evidence.

The panel noted that Colleague A was very clear that this issue stemmed from being rostered for eight weekends in a row. She told the panel that you had been responsible for drawing up the roster for the first four weekends and that Colleague W, following her promotion, had been responsible for drawing up the roster for the second four weekends. That roster was effectively a mirror image of the roster that you had drawn up. At the time,

Colleague A had a diagnosed [PRIVATE] and felt that this roster was impacting on her [PRIVATE] and ability to [PRIVATE] in Jersey. Consequently, she asked Colleague W to bear this in mind when drawing up the rosters. Colleague A's evidence was that after her conversation with Colleague W, you spoke to her in the terms set out in the charge.

In your evidence, you told the panel that you had no recollection of this conversation nor was it in your nature to speak in such a way. You also told the panel that you were aware of Colleague A's [PRIVATE] because she was open about sharing it with yourself and her colleagues on the Ward.

In Colleague W's written and oral evidence, she had no recollection of this conversation with Colleague A. She also told the panel that she was not aware that Colleague A had a specific [PRIVATE] but was aware that she [PRIVATE]. Colleague W in her evidence confirmed that she had taken over the responsibility for preparing the rosters in about May 2019, however, she did not like preparing the rosters as she found it stressful, and she returned this duty to you shortly thereafter.

The panel considered that both you and Colleague W were evasive in answering questions about the details of this charge. In particular, the panel noted that Colleague W described herself, in oral evidence, as a "*mother figure*" type of a character, that nurses would feel comfortable talking to. Colleague A agreed that Colleague W was "*great*" when asked by Mr Harris. The panel considered that Colleague W would be someone that Colleague A would go to speak to about the rosters given she was collating the rosters at the time and was also somebody that she found supportive and would talk to her about this topic.

Therefore, the panel concluded that it was highly likely that Colleague A did approach Colleague W regarding her being rostered for eight weekends and to take this into consideration, when completing future rosters, along with her [PRIVATE].

The panel also concluded that it was highly likely that Colleague W would have spoken to you, following the conversation with Colleague A about the rosters, given that she was

your deputy sister and was stressed about preparing rosters. In turn, you went to Colleague A as a result of what Colleague W had reported to you.

In these circumstances, the panel is satisfied that it is likely you spoke to Colleague A in the terms of the charge and as such, on the balance of probabilities, found these charges proved.

## **Charge 2**

Acted in a bullying manner towards Colleague A, in one or more of charges 1 a), 1 b), 1 c), 1 d), 1 e), 1 f), 1 g), 1 h, & 1 i).

**This charge is found proved in respect of 1i and 1f only.**

The panel had regard to the definition of bullying within the NMC Guidance FTP-2a:

*'Bullying can be described as unwanted behaviour from a person or a group of people that is either offensive, intimidating, malicious or insulting. It can be an abuse or misuse of power that undermines, humiliates, or causes physical or emotional harm to someone.'*

The panel considered these charges individually.

With regard to Charge 1a, the panel considered that this was a thoughtless comment but did not consider that this amounted to bullying.

With regard to Charge 1b, the panel considered that this was a sharp comment made during a three-way conversation. The panel did not consider this to amount to bullying.

With regard to Charges 1i(i) and 1i(ii), the panel has found that you spoke to Colleague A in the terms set out in the charge at a time when you knew that she had a [PRIVATE] and indeed you had referred her for [PRIVATE]. The panel considered that for you to speak to Colleague A in these terms when she had made a reasonable request to Colleague W,

was not only unsympathetic but also undermining, humiliating and caused Colleague A emotional harm. The panel therefore is satisfied on the balance of probabilities that this conduct amounted to bullying.

With regard to Charge 1f, the panel has found that you raised your voice at Colleague A in relation to her taking a break. Colleague A, in her written evidence, stated that she had never seen you speak to any other staff member like that over breaks and that you spoke to her "*like a parent to a child*". Following this incident, Colleague A stated in her oral evidence, that she left the hospital and on her way home, had to pull over and [PRIVATE]. Colleague A subsequently [PRIVATE]. The panel had sight of the [PRIVATE]. In these circumstances, the panel was satisfied, on the balance of probabilities, that your conduct on this occasion also undermined and humiliated Colleague A and caused her emotional harm. As such, this conduct also amounted to bullying.

### **Charge 3a)**

Around 10 May 2021 provided inaccurate information in a reference, in that you stated that;

a) Colleague A had demonstrated poor performance in areas including;

- i) Quantity of work
- ii) Application to the job
- iii) Management skills
- iv) Attendance/Punctuality

### **This charge is found not proved.**

The panel had sight of the reference that you provided Colleague A on 10 May 2021. The panel noted that Colleague A stated that the content of that reference was incorrect and untrue. The panel further noted that in so far as the four areas referred to in Charge 3a, you were required to select from drop-down boxes. You told the panel that, from your

recollection, you were given only three options to choose from (poor, fair and good). This evidence has not been contradicted.

You told the panel that, despite the fact you had completed “*loads of references over the years*”, there was no guidance against which you could objectively assess the performance of an applicant in respect of the specified areas. The panel considered that your explanation in relation to your assessment of the criteria was subjective and was not wholly evidence based.

However, it is recognised by Mr Kewley, on behalf of the NMC, that “*the reference form [you were] required to complete required [you] to give [your] subjective assessment of each domain*”. As such, Mr Kewley “*recognised that there is some difficulty in suggesting that [your] subjective opinion...was wrong*”.

In these circumstances, the panel considers that the evidence before it is insufficient to prove this charge. The panel therefore found this charge not proved.

### **Charge 3b)**

Around 10 May 2021 provided inaccurate information in a reference, in that you stated that;

b) Colleague A had failed to complete her notice period, without any further explanation/context regarding [PRIVATE]/annual leave.

### **This charge is found proved.**

Colleague A’s evidence was that she handed in her notice on 19 September 2019 and her last working day would have been 23 November 2019. She stated that having visited her [PRIVATE], that covered her from 28 October to 9 November 2019. She then took annual leave from 10 November to 23 November 2019, which completed her required notice period. In her oral evidence, Colleague A confirmed that she did not leave the island when she was on [PRIVATE], but when she was on annual leave for a pre-booked holiday.

The panel had regard to the correspondence between you and Colleague A. In your letter dated 1 October 2019, you confirmed that you had calculated and added Colleague A's leave and time owing together. You agreed that her annual leave would commence 10 November 2019 and that her last working day on the Ward would be 23 November 2019. The panel determined that this confirmed that you were aware that Colleague A would be leaving the island during her annual leave for a holiday and not during her period of [PRIVATE].

The panel also noted Colleague A's letter to you confirming that she would be physically leaving Jersey on or about 3 December 2019, which would have been after her notice period.

In the reference, there was a drop-down box, saying "*Would you re-employ*" and you answered *No*. Below this, the document asked, "*Please give a brief summary of your opinion of the applicant's suitability for this post*". Your response was "[Colleague A] was on a development plan during her time on [PRIVATE], she was also on managing attendance due to her [PRIVATE] and following her giving her resignation, [Colleague A] left a [PRIVATE] in the sister's office on the Ward and left the island to return to the UK without completing her notice".

You further told the panel that Colleague A called [PRIVATE] on 28 October 2019 and advised that she would be absent for that day's shift. You told the panel that Colleague A did not contact the Ward or a line manager and then you received a [PRIVATE] from her on 1 November 2019.

The panel noted that in your evidence you were clear that if a nurse goes to mainland UK whilst on [PRIVATE], they needed to inform Social Security.

In your statement you said that "*What I meant by notice period being not completed where there was a period [Colleague A] was absent without leave as she was not communicating with the organisation as per the policy*".

The panel also noted your oral evidence in which you stated that *“I agree, my words could have been better”*.

On the balance of probabilities, given the evidence referred to above, this part of the reference was inaccurate as it failed to give any explanation or context regarding the way in which Colleague A left her employment.

The panel found this charge proved.

#### **Charge 4**

Your actions in one or more of charges 3) a) i), 3) a) ii), 3) a) iii), 3) a) iv) and 3) b) above lacked integrity in that you provided inaccurate information about a staff member in a formal reference.

#### **This charge is found proved in respect of charge 3b only.**

In oral evidence you said that you felt uncomfortable about completing the reference because you knew *“that it would not be a glowing reference”* and that you wished you were *“not put in that position”*. You said that you asked your line managers to read your reference, but you did not discuss this with your HR business partner.

The panel noted that you have expressed concerns with regards to Colleague A’s clinical practice causing safeguarding issues, and that you were under a duty as her manager, under the NMC Code of conduct, to report such instances.

In your statement you said,

*‘Whilst I still believe I acted with integrity and provided information to the best of my knowledge, I do believe that I could have been clearer with what I meant by notice period not being completed.’*

The panel considered that as Colleague A's former manager, you were under a duty to give accurate information in the reference and that duty is underlined by Section 20.2 of the NMC's Code of Conduct. Furthermore, you would have been aware of the potentially adverse consequences for Colleague A's application for re-employment in Jersey should you indicate that she was not suitable for the post she was applying for.

The panel noted your evidence in that you wrote this reference the way that you did due to several safeguarding concerns. You also told the panel that you were limited in what you could write because of the word count. However, the panel noted, that there was no mention of safeguarding concerns in the reference. The panel was of the view that if you felt so strongly about Colleague A's safeguarding concerns, you would have mentioned it in the reference, especially given the limited word count. Instead, you chose to mention where the resignation note was left, which appeared of less importance than any potential safeguarding concerns. Moreover, you compounded this by creating the impression that having left the [PRIVATE], Colleague A left the island without informing her employers in breach of the Social Security rules and her contractual obligations thus providing a negative impression of Colleague A.

The panel determined that your action in providing this inaccurate information lacked integrity. The panel, therefore, on the balance of probabilities, found the charge proved in relation to Charge 3b.

### **Charge 12**

On an unknown date, made an inappropriate personal remark to Colleague Y using words to the effect of '[PRIVATE]'

### **This charge is found proved.**

In Colleague A's written statement, whilst being unable to give specific details of the time, date and the context of the remark, she stated that she had heard you making this

unprofessional, inappropriate comment to Colleague Y. She described Colleague Y as a private person and that when this comment was made to her, she replied “*No I am not*”.

In your evidence, you said that you did not recall this event. You also stated that there were often conversations on the Ward surrounding relationships. The panel also noted that in your oral evidence you said that Colleague Y did [PRIVATE] and therefore you would have not made such a comment as alleged. You also accepted that had you said this, it would have been an inappropriate remark to make.

The panel did not hear any evidence from Colleague Y; however, it considered that there was evidence that supported Colleague A’s account. In her statement, Colleague C states that Colleague Y had told her of the incident. Colleague C was not challenged on this part of her statement. Furthermore, in the course of the hearing, the panel had sight of a note Colleague C made on her phone which the panel is satisfied relates to this incident.

The panel also noted that you were not as definitive with your answers to this charge as you were with others.

The panel was satisfied that neither Colleague A, nor Colleague C had any reason to make up an incident involving Colleague Y.

On the balance of probabilities, the panel found this charge proved.

### **Charge 16**

Your conduct at Charge 12 was inappropriate in that:

- a) It was unwanted.
- b) It related to a colleague’s protected characteristic, namely their sexual orientation.
- c) It had the purpose or effect of:
  - i. Violating the colleague’s dignity.

- ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for anyone hearing your comment(s).

**This charge is found proved.**

Having found that you did make the comment set out in Charge 12, the panel was satisfied that it was a comment about Colleague Y's [PRIVATE]. Furthermore, it is satisfied that the reason Colleague Y told Colleague C about it was because it was unwanted and it had the effect of violating her dignity and creating a humiliating and offensive environment for her. Accordingly, the panel found this charge proved.

**Charge 13**

On an unknown date, during a morning handover spoke about Colleague X using words to the effect of '*Does Colleague X have [PRIVATE]*'

**This charge is found not proved.**

Colleague A in her oral and written evidence said that you directly asked her in front of everyone if Colleague X had [PRIVATE]. Colleague A could not recall exactly who was there.

You said, in your written statement, that "*this is not something that I would say. There was always lots of general [PRIVATE] conversation within the Ward environment as a group of females who often supported each other through periods of [PRIVATE]. However, at no point did I enquire if any staff member had [PRIVATE]*".

The panel noted your oral evidence in which you shared your personal exposure to people within your social circle who had experienced [PRIVATE]. The panel noted that you were particularly emotional regarding this charge and found your evidence to be genuine, reliable and unrehearsed.

The panel also noted that Colleague A was contradictory in her evidence in that she accepted in her cross-examination that "*everyone in the Ward knew that [PRIVATE]*", when talking about Colleague X. The panel considered that this is more consistent with

your evidence in that you knew that Colleague X did not have an [PRIVATE] but rather was working hard [PRIVATE].

The panel accepted your evidence in that, given your personal exposure within your social circle, this was a not a comment you would have made.

The panel therefore found this charge not proved.

#### **Charge 14**

On an unknown date, referred to Person Z as '*slag*'.

#### **This charge is found not proved.**

In her written statement Colleague A said that you often had to lie about Person Z's whereabouts. She also said that you often referred to Person Z as "*slag*". In her oral evidence, Colleague A was very clear and said that she "*knew the truth*" and that you "*knew it as well*".

Colleague A said that "*various other staff had also witnessed this*". However, in her oral evidence, Colleague A was not able to recall "*exactly who it was*" who had witnessed this.

When it was suggested during cross-examination that she was making the allegation up, Colleague A said that she "*knew the truth*" and that you "*knew it as well*".

In your evidence you said you "*have never ever spoken derogatorily in relation to this topic*". You also said that you "*never referred to anyone as a 'slag'*" and that you "*don't believe any women should be labelled*".

In your oral evidence you told the panel that you and Person Z were friends, and she was friends with Colleague A as well. You also said that "*I've got no reason to ever suggest that [Person Z] would be that*". You said that the whole time you have known Person Z she had been [PRIVATE].

The panel considered that there was very limited information provided in respect of these alleged comments and furthermore, there was no corroborating evidence from the colleagues alleged to have also heard this comment.

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

### **Charge 5a)**

In respect of Colleague B;

- a) On one or more occasions inappropriately threatened Colleague B with NMC referrals.

### **This charge is found not proved.**

The panel considered the evidence of Colleague B. The panel was of the view that Colleague B was forthcoming with her evidence, however, there were inconsistencies in her accounts, potentially due to passage of time since the incidents. In addition, Colleague B was quite emotional whilst giving her evidence.

In her written statement, Colleague B said she recalled an occasion in June or July 2017, when you tried to intimidate her by threatening to report her to the NMC. She also said that you threatened her with an NMC referral on many occasions. However, in Colleague B's oral evidence, in answer to a question from the panel, she said:

*"I just remember being in the office, and it was sort of like a loose threat that, you know, I should look online and see why people were being put up against – in front of the NMC, and that it one day could be me. Yes, I just remember being in the office, I don't remember any of the circumstances around that."*

Colleague B confirmed that you have in fact never reported her to the NMC.

You told the panel that you would never refer someone to the NMC hearing outcomes because up until you were referred to the NMC yourself, you had never looked at them yourself.

The panel noted that you said that regulatory duties were very important to you. You told the panel you did recall there were times when you did refer Colleague B to NMC guidelines on documentation because her documentation was of concern.

Given Colleague B's inability to provide any detail regarding the circumstances she alleges she was threatened with referrals to the NMC, the panel cannot rule out the possibility that she misconstrued your advice that she should read the NMC guidelines on documentation as a threat to refer her to the NMC.

The panel found this charge not proved.

#### **Charge 5b)**

In respect of Colleague B;

b) Around August 2017, unfairly blamed/reprimanded Colleague B;

- i) For being responsible for a patient suffering a fall.
- ii) For not catching a patient whilst they suffered a fall.
- iii) For not completing neurological assessments.

#### **This charge is found not proved in its entirety.**

The panel first considered charges 5b(i) and 5b(ii) together.

It is Colleague B's evidence that the blame was "*fully fully fully*" put on her for the patient falling. In her cross-examination, she was adamant that you asked, "*Why did you not catch her*". In her statement she said,

*“I saw the patient then crumple down on the floor landing on her bottom, the patient didn’t slip”.*

However, in her oral evidence, Colleague B said that the patient slipped and landed on her bottom. The panel noted the inconsistencies in Colleague B’s account with what was recorded in the Datix document, which is a contemporaneous document:

*“Patent(sic) stepped back and fell on floor and appeared to bang head”.*

In your oral evidence, you stated that you remembered attending a meeting lead by Colleague P, in order to ascertain what had happened during the incident. You denied interjecting and said you seldom spoke, and you did not blame Colleague B for not catching the patient. Rather, Colleague P did ask Colleague B if she had an opportunity to do an assisted fall or put a pillow behind their head safely.

The panel accepted that a patient suffering a fall was a serious incident and that a hospital should follow due process in establishing the causes of the fall and take appropriate action. The panel noted that an investigation had been completed by Colleague P and the panel had sight of Colleague P’s entries made in the Datix documents. Colleague P recorded that she: *“Discussed with the nurse why an assisted fall was not attempted. Nurse informed myself due to patient’s weight she felt she would not be able to assist without causing injury to herself”.*

In her oral evidence, Colleague B stated that the *“trauma”* of this incident had *“stayed in [her] mind ever since it’s happened”*. The panel considered that this may well have affected how she recalled the meeting. In light of this, and the inconsistencies in Colleague B’s accounts, on the balance of probabilities, the panel found this part of the charge not proved.

The panel then went on to consider charge 5b(iii).

In her written statement, Colleague B stated that you told her that she had not done neuro assessment properly and had done it incorrectly. In the Datix incident report, Colleague B

recorded that *'neuro obs completed'*. However, Colleague P, who conducted the post-fall investigation, recorded that *'neuro obs only completed twice post fall, no documentation post fall review from nursing staff'*.

In her oral evidence, Colleague B told the panel the following:

*"the only thing/the thing I did wrong was that I didn't make sure that the doctor had documented about the neuro obs"*.

In your written and oral evidence, you stated that Colleague B initially explained, during the meeting, that the doctor advised her not to complete neurological assessments, however, then Colleague B explained she did complete them but did not document them, and then Colleague B explained she did not complete them as frequently as she should have.

The panel does consider that Colleague B's evidence about this incident is inconsistent and cannot be relied upon to prove this charge. The panel noted that her account was inconsistent at the time of the fall and remained inconsistent in her evidence.

On the balance of probabilities, the panel found this charge not proved.

### **Charge 5c)**

In respect of Colleague B;

c) Around August/September 2017 unfairly reprimanded Colleague B for feeling [PRIVATE].

**This charge is found not proved.**

Colleague B confirmed that you said to her *"[PRIVATE], and that it was unacceptable"*.

*Colleague B told the panel [PRIVATE].*

In answer to a question from the panel as to whether she was reprimanded for being [PRIVATE], Colleague B said,

*“its to do with me being [PRIVATE]. Because the words were I was [PRIVATE]. So it wasn't to do with me being – [PRIVATE]. It was to do with me being [PRIVATE]”*

In your witness statement you stated that at no point was Colleague B reprimanded for being [PRIVATE]. You stated that you were made aware by Colleague B and several work colleagues that Colleague B was [PRIVATE] whilst in Jersey due to [PRIVATE].

In your oral evidence you stated that you did have an “*honest conversation*” with Colleague B telling her that if she was unhappy after six months, she would have to give two months’ notice before leaving, but during her probationary period she needed to give only one weeks’ notice.

The panel accepted the evidence of Colleague B in that she had been reprimanded by you for being ‘[PRIVATE]’.

However, the charge is that you unfairly reprimanded Colleague B for feeling [PRIVATE]. The panel have carefully considered whether ‘[PRIVATE]’ is synonymous with ‘[PRIVATE]’. It does not consider that it is.

Therefore, the panel found this charge not proved.

### **Charge 5d)**

In respect of Colleague B;

d) Around October/November 2017 failed to provide colleague B with support during a clinic, in that you unfairly criticised Colleague B using words to the effect of;

i) ‘*You are incompetent.*’

ii) ‘*You aren't up to speed on what you are doing.*’

**This charge is found proved.**

Colleague B stated that this was the second time she was setting up the hysteroscopy clinic having only set up the clinic one month before. In her oral evidence Colleague B said that she was *“learning new skills ... to be fair about [her] time in Jersey, [she] was getting to do clinic work, and [she] was really enjoying that”*

However, in her witness statement Colleague B stated,

*‘I couldn’t remember everything I was taught and how to set it out correctly’.*

Colleague B in her oral evidence stated,

*“I was just expected to set everything up perfectly when I’d only done it once, and I was told I was incompetent, and I was made to feel I was incompetent and I wasn’t good enough at my job and I wasn’t up to speed.”*

Colleague B said, *“It had definitely happened”*.

You told the panel that there is a particular way of setting up the hysteroscopy clinic. However, you stated that you had never spoken in this manner to any staff member and never would. You said in your oral evidence that it had been identified and was in Colleague B’s probation plan that she required more scheduled time in the clinic. This was actioned and although Colleague B did not pass the competency on this occasion, she subsequently passed the competency at a later date.

The panel preferred the evidence of Colleague B; her recall of the incidents was detailed and consistent in both written and oral evidence. The panel was mindful that this incident took place early on in your time as a manager when you were working closely with mentor Colleague F. Colleague B did not meet the competency on this occasion and on her own account could not remember how to set up the clinic and therefore, it was likely that you would have commented upon her not meeting this competency. The panel, taking into

account your management style and how particular you were about following the rules, found it is more likely than not that you made such comments.

The panel, on the balance of probabilities, found this charge proved in its entirety.

### **Charge 5e)**

In respect of Colleague B;

e) Around September 2017;

i) Telephoned Colleague B whilst they were on [PRIVATE] and requested that Colleague B provide you with a stool sample.

ii) After Colleague B had returned to work following their [PRIVATE], informed Colleague B that *'You aren't going to get [PRIVATE] because you didn't provide a stool sample.'*

**This charge is found proved in relation to Charge 5e(i) and not found proved in relation to Charge 5e(ii).**

The panel noted that this was the first time Colleague B had been on a period of [PRIVATE] and she conceded in her oral evidence that she wasn't aware of the policy in Jersey, in relation to providing the stool sample.

You accepted you did ring up Colleague B when she was on [PRIVATE] requesting her to provide a stool sample because this was in accordance with the hospital policy.

On this basis the panel found charge 5e(i) proved.

Colleague B in her written statement recalls,

*"I was called into the office and [you] and [Colleague F] had a meeting with me about my [PRIVATE]. You said I wasn't going to get paid because I didn't provide a stool sample"* Colleague B replied, *"If I don't get paid I don't get paid"*.

In your written statement you said that *“it is not my recollection of the conversation. There was no discussion surrounding [PRIVATE] pay in relation to the stool sample.”* In your oral evidence you said, *“there would have been a return-to-work meeting”*. Furthermore, in both your written and oral evidence you stated that there was a conversation in relation to a stool sample and Bradford score.

The panel considered that the way in which you and Colleague F conducted the return-to-work meeting was less than satisfactory and may have been regarded as overbearing by Colleague B. The way in which the meeting was conducted plainly impacted upon Colleague B and the panel accept that she was left with the impression that she would not receive [PRIVATE] pay because she had failed to provide a stool sample. The panel found your own evidence to be confusing and therefore it may not be surprising that Colleague B also found it confusing. However, the charge is specific that you used the words set out in the charge and in the circumstances the panel cannot be satisfied on the balance of probabilities that you actually did. On this basis, the panel found this part of the charge not proved.

### **Charge 6**

Acted in a bullying manner towards Colleague B, in one or more of charges 5 a), 5 b), 5 c), 5 d) & 5 e).

**This charge is found proved on the basis of Charge 5d only.**

The panel had regard to the definition of bullying within the NMC Guidance FTP-2a:

*‘Bullying can be described as unwanted behaviour from a person or a group of people that is either offensive, intimidating, malicious or insulting. It can be an abuse or misuse of power that undermines, humiliates, or causes physical or emotional harm to someone.’*

The panel considered each of the proven sub charges in turn.

With regards to Charge 5d, in her witness statement Colleague B described how she had felt '*chastised*' and that her answers were '*ignored*' by you. Colleague B said in her written statement that you made her feel that she "*was [PRIVATE] because she couldn't remember everything step by step. She basically told me I wasn't good enough*" and she stated that this made her '*[PRIVATE]*'. When it was suggested to Colleague B by Mr Harris that you had provided her with constructive criticism Colleague B responded '*I never got constructive criticism about it. It was unconstructive criticism that I got*'.

The panel accepted this evidence from Colleague B and considered in all the circumstances that it did amount to bullying on the grounds that this was intimidating, offensive and undermining to Colleague B.

With regards to Charge 5e(i), the panel determined that your request for a stool sample in accordance with policy did not amount to bullying.

The main witness relied on by the NMC for Charges 7, 8, 9, 17 and 18 is Colleague C. In the course of her evidence Colleague C provided the panel with copies of notes that she had made on her telephone. Having done so she confirmed that before presenting them to the panel she had inserted certain subheadings. In these circumstances a question arose as regards to the reliability of the notes. The panel determined that the notes would be admitted into evidence, but it would carefully consider what if any weight to give to them.

In her oral evidence, in answer to a question from Mr Harris as to whether she had made any contemporaneous notes on the matter on which she was giving evidence, Colleague C stated,

*"I started keeping a log on my phone from around June 2020, when my husband noticed how [PRIVATE] I was coming home from work. So prior to June 2020, I never used to keep a log of any of this."*

The panel accepted this account and determined that it would consider the notes as potentially supportive evidence where appropriate but not primary evidence of any of the charges.

In considering Colleague C's evidence the panel also bore in mind that this witness was 'born and bred' in Jersey and unlike other NMC witnesses she remains employed at the Hospital, the only hospital on the island. As such it is likely she would have been aware of the potential consequences of making false allegations against or embellishing her evidence in relation to a colleague at the hospital.

### **Charge 7a)**

In respect of Colleague C;

- a) On 23 June 2020, in front of at least one colleague, made a personal remark to the effect of '*Oh God, you're all [PRIVATE].*'

### **This charge is found proved.**

In her witness statement Colleague C stated that, '*on 23 June 2020 at approximately 11am [she recalls] an interaction with [you] and found [your] comment was inappropriate and made [her] feel [PRIVATE].*' She described how you had come up to her, placed your hand on her shoulder, grimaced and said '*oh God you're all [PRIVATE].* Colleague C further states that a physiotherapist was a witness to the incident as they were standing next to each other at the nursing station. Colleague C stated, '*he saw how [PRIVATE] I was and I believed he tried to console me by saying I'd take that as a compliment.*'

In her oral evidence, Colleague C maintained her account and told the panel that around that time, she had mentioned to you that she had lost some weight within those months due to a [PRIVATE]. Within Colleague C's phone notes there is a record in relation to this specific incident.

You said in your written statement '*I did not make this remark*' and moreover you would never make such a remark due to your personal exposure with [PRIVATE] within your social circle. However, you stated that Colleague C had previously approached you and discussed her [PRIVATE] on a one-to one basis, and you "*thereafter frequently checked in*

*on her subtly to ensure she was ok*". You also told the panel you are not an *'overly touchy person and appreciate [your] own personal space and therefore respect others*. You reiterated this in your oral evidence.

The panel considered the evidence of Colleague C. The panel found her to be clear in her recollections and was consistent about the incident in terms of the witness, the date, the location, and how she felt about it. The panel found her to be a credible witness and preferred her account of the incident to yours.

The panel also had before it, Colleague C's telephone notes, with dates and times next to the entries, describing relevant encounters she had with you. The panel deemed this to be a contemporaneous record. The panel also noted that the first entry was regarding this particular charge, hence it must have left an impact on Colleague C, if she decided to start a record.

Regarding your evidence that you would never have used the words alleged because of your personal exposure with [PRIVATE], within your social circle, it is correct that the panel had considered the same explanation in relation to Charge 13 and found it to be persuasive. However, the panel did not consider that this incident had anything to do with [PRIVATE], and that you were aware of this from the one-to-one discussion you had had with Colleague C. The panel considered that your attempt to introduce [PRIVATE] in your written statement and oral evidence in relation to this charge was an attempt to mislead the panel.

The panel was satisfied that this was a thoughtless remark made in front of a male colleague that clearly had an effect on Colleague C.

The panel, on balance of probabilities, found Colleague C's account more credible and therefore found this charge proved.

### **Charge 7b)**

In respect of Colleague C;

b) On 30 July 2020 during a discussion about a handover sheet;

i) Spoke about Colleague C using words to the effect of '*I wish the world would swallow her up.*'

ii) After Colleague C attempted to correct you, used words to the effect of '*that's rubbish.*'

### **This charge is found proved**

It is common ground that towards the end of July 2020, you and Colleague C attended a meeting with the staff of [PRIVATE]. You, Colleague C and two others had been seconded to [PRIVATE] while it was developed into an emergency surgical ward. It is also common ground that during that meeting Colleague C raised that improvements could be made to the [PRIVATE] handover sheet.

In your oral evidence, you stated that having asked if there was any other business, Colleague C "*basically criticised [PRIVATE] handover sheet excessively*". You stated that "*what was a very positive meeting with huge positivity and great morale...just flipped on its head very very quickly*".

In response to panel questions about how Colleague C's actions made you feel, you told the panel that you "*felt [PRIVATE]*", but that you "*had no ill feelings towards*" Colleague C. You stated that you had relayed "*constructive learning*" to Colleague C immediately post the event in the corridor outside the lecture theatre.

In her evidence, Colleague C stated that on 3 July 2020, she was having lunch in the canteen with you and Colleague M. Colleague C stated that you were describing the [PRIVATE] meeting to Colleague M and in telling her about what she, Colleague C, had said at the meeting, used words to the effect of "*I wished the world would swallow [me]*

up". Colleague C stated that she tried to correct the account you were giving to Colleague M but in response, you said "*that's rubbish*" or words to that effect.

Colleague C in her telephone notes recorded this incident.

You denied that there had been any discussions about the [PRIVATE] meeting in the canteen subsequently. Asked by the panel, whether there had been any "*office gossip*" about the meeting, you stated "*It was a memorable meeting so there might have been but [you] never heard anything*".

The panel considered both your written and oral evidence to be implausible. It was of the view that it would be a natural reaction for you to be upset with the situation given the importance of the meeting and the magnitude of staff emotions as you described, especially as you told the panel that you regarded the comments made by Colleague C as "*derogatory*" and that staff in the meeting "*erupted*" and that you had to ask everybody to "*remember our values. We are all here respectfully*".

The panel also found it implausible that you would not have discussed the meeting with others subsequently.

The panel did consider the statement of Colleague M in relation to this charge. However, as she stated she had no recollection of this event, the panel concluded that it did not assist the panel in its decision making.

The panel accept the evidence from Colleague C backed up by her telephone notes.

The panel, on balance of probabilities, found this charge proved.

### **Charge 7c)**

In respect of Colleague C;

c) On an unknown date after Colleague C had assisted a Doctor with an audit to streamline the working process;

i) Spoke to Colleague C using words to the effect of '*You should not be getting involved, especially without talking to me first.*'

ii) Threatened to put Colleague C on a performance improvement plan, without any justification

**This charge is found proved.**

This charge concerns the involvement of Colleague C in the introduction of nurse led assessments and administration of drugs via Patient Group Directives (PGD) on admission to a day ward for women in early pregnancy. Whilst Colleague C and you are in disagreement as to whether this change was instigated by a junior doctor or Colleague C, there is common ground that the change had been instigated without the following of the correct governance process.

In your evidence you told the panel that the clinical lead had come to your office about this change. You stated that "*he was [PRIVATE]... he was really really concerned with regards to clinical practice being changed overnight without his acknowledgement or willingness or involvement*".

In oral evidence, you told the panel that the clinical lead "*knew that [you] would follow it through*". After your meeting with the clinical lead, you said you sought HR and lead nurse advice. You said that you went "*into the meeting with Colleague C very prepared about what I was going to say to her*".

As such, there is no dispute that you did meet Colleague C to discuss her not following the proper process for instigating changes to clinical practice. In your oral evidence you said that you would not have said "*without speaking to me first*". However, you went on to say, "*It is about going through appropriate channels which would be myself or [clinical lead]*".

Charge 7c(i) alleges that you used words to the effect of “*you should not be getting involved especially without talking to me first*”. The panel is satisfied on your own evidence this charge is proved.

With regard to Charge 7c(ii), at the meeting, Colleague C considered that you were reprimanding her over this incident, and you suggested that you should put Colleague C on a performance improvement plan (PIP).

In your evidence you stated that you were not reprimanding Colleague C and that you needed to understand what Colleague C’s thought process was. You stated, “*I tried to channel her enthusiasm appropriately. I did not squash her enthusiasm at all. I just tried to appropriately direct her*”.

As a matter of fact, Colleague C was placed on a PIP on 2 July 2018 and one of the objectives was to ‘*use appropriate channels for implementing change*’. The panel is satisfied that this objective arose due to this incident.

You confirmed that this “*was the only incident where [Colleague C] tried to change clinical practice... without any support or involvement*”.

In your evidence you said,

*“I did not threaten to put [Colleague C] on a performance improvement plan. Due to various objectives not being met, [Colleague C] was placed on a performance improvement plan, jointly agreed between her, myself and her mentor within her first year as a preceptor. This was a supportive measure to ensure we could support [Colleague A] ...”.*

In Mr Harris’ closing submissions, he submitted that,

*“Charge 7c(ii) should not be found proved in large part because the NMC cannot prove that there was no justification for putting [Colleague C] on a performance improvement plan”.*

The panel rejects this submission because the stem of Charge 7c makes it clear that it concerns the meeting that took place in respect of the change. Neither you nor Colleague C have stated that there was a discussion about other matters at that meeting that might have merited Colleague C being placed on a performance improvement plan.

The panel concluded that following the discussion with the clinical lead, you had predetermined that you would be taking action in respect of Colleague C despite this being a one-off incident, which did not merit Colleague C being placed on a performance improvement plan. The panel accepts the evidence of Colleague C that you did suggest placing her on a performance improvement plan and it is further satisfied that to make such a suggestion effectively amounted to a threat. Accordingly, the panel is satisfied, on a balance of probabilities, that Charge 7c(ii) is proved.

#### **Charge 7d)**

In respect of Colleague C;

d) On 31 July 2020 at the morning handover, after Colleague C disclosed information about her health condition/that she wasn't feeling well, spoke words to the effect of '[PRIVATE]'

#### **This charge is found proved.**

On 31 July 2020, at approximately 8:30am Colleague C said you made an inappropriate comment about her [PRIVATE] in front of Colleague E and a junior sister after the morning handover. Colleague E said that Colleague C “[PRIVATE]” and asked if she was okay. Colleague C said: *“I was not quite feeling myself and was [PRIVATE]”* which is part of Colleague C's [PRIVATE]. Colleague C states that you said,

“[PRIVATE]”.

In her oral evidence, Colleague C maintained that the incident happened.

You denied this, having no recollection of the incident in its entirety. However, you acknowledged that by July 2020 you were aware of Colleague C’s [PRIVATE].

The panel considered that Colleague C’s account of this incident was clear, very detailed and was able to recall the time, place and the identity of the colleagues who were present at the time. In addition, she was able to express her feelings as to how the incident made her feel.

The panel accepted that the telephone note that Colleague C made was consistent with her witness statement. As already stated, the panel do not regard this note to have been fabricated or exaggerated.

On balance of probabilities, the panel found this charge proved.

### **Charge 7e)**

In respect of Colleague C;

e) On 9 September 2020 on one or more occasions spoke over/interrupted Colleague C in an inappropriate manner.

**This charge is found proved.**

Colleague C recalls that on the morning of 9 September 2020 at approximately 8:00am Colleague C was running a morning handover and states that you abruptly interrupted her

and said you could not find a patient's notes because the ward was in an "*absolute mess*". Colleague C tried to explain that the patient notes hadn't arrived on the ward yet, however you kept interrupting her, would not listen and continue to speak over the top of her in front of work colleagues. In oral evidence, Colleague C recalls that you were "*getting a bit irate about the ward*". In cross-examination, Colleague C accepted that whilst that there may have been an urgent need for the patient notes, she confirmed that the notes had been requested and had not arrived yet.

The panel noted your response to this in that you could not recall this incident. You also told the panel that you never interrupt people as that it was not in your nature, although you would apologise if that happened.

The panel also noted Colleague C's evidence in which she recalled the details, time, date and what she was doing at the time.

The panel acknowledged the circumstances of this incident. The panel accept that seeking or requesting patient notes was likely to be a regular occurrence and therefore accept that with the passage of time you may not recall this incident.

However, the panel has noted that during this period, Colleague C was concerned about the tidiness of the ward as is demonstrated by the telephone note she made in relation to 25 August 2020. Furthermore, she stated that she had spent "*a lot of the nightshift [of 8/9 September 2020] cleaning the nurses' station, medicines room and doctor's office*". In these circumstances, the panel considered it likely that Colleague C would have a clear recollection of this incident and a reason to note it on her telephone. The panel found that Colleague C was consistent in her oral and written evidence. As such, the panel accept Colleague C's account of this incident.

On balance of probabilities, the panel found this charge proved.

## Charge 7f)

In respect of Colleague C;

f) On 26 November 2020 spoke to Colleague V, about Colleague C using words to the effect of *'I feel sorry for you having to work with her.'*

### **This charge is found proved.**

In Colleague C's written evidence, she described how she had just finished a nightshift which would have been difficult for all staff. One of the nightshifts staff, said to you that chocolates that patients had given them had helped them get through the shift. Colleague C says that you then made a comment "*I feel sorry for you having to work with her*" and this was a reference to her, Colleague C.

During cross-examination, Colleague C rejected the suggestion that you did not say those words and that you "*never said anything to that effect at all*". She also rejected the suggestion that she may have "*misremembered or...misheard something [you] said*".

In your witness statement, you stated that on 23 November 2020, there were messages within the [PRIVATE] group chat between colleagues about chocolates being left for the night shift. You stated that one colleague jokingly said to Colleague C that she would need chocolates working with her and Colleague C jokingly responded with a laughing face emoji. You stated that the following morning, staff members were stood together following the handover and, referring to the group chat, you said you were glad to see they had made it through the night.

In your oral evidence, you repeated this account and added that you "*wish [you] never said anything now because it has clearly been taken completely out of context and twisted*". You went on to say that "*there were jokes and laughs. Nobody left the ward upset or unhappy in any way*".

The panel has noted that the first reference to the [PRIVATE] WhatsApp group was in your witness statement dated 5 June 2025. The panel has also noted that in Colleague C's cross-examination no mention of this WhatsApp group was made to her. In these circumstances, the panel can only conclude that your account regarding this incident has been prepared in light of the evidence that Colleague C gave in November 2024.

The panel accepted the evidence of Colleague C and rejected your account.

On balance of probabilities, the panel found this charge proved.

### **Charge 7h)**

In respect of Colleague C;

h) After Colleague C informed you that she was unsuccessful with an Emergency Assessment Unit (EAU) vacancy, laughed at Colleague C.

### **This charge is found not proved.**

Colleague C described a conversation that took place between you and her following Colleague C not being successful in her first application for a post with EAU. She stated that you told her that you had told the senior charge nurse in the EAU that she (Colleague C) *'wasn't a good enough employee and [you] started laughing'* Colleague C stated that at the time she thought you were joking. Colleague C stated that it was following a subsequent reference that you had provided when she was applying for a post in the day surgery unit that she *'felt that perhaps [you] weren't joking as [she] had initially thought'*

In your statement you denied laughing at Colleague C and stated that you recalled fully supporting colleague C following her unsuccessful interview and recommended that she reach out to the ward manager for EAU for post interview advice.

The panel noted that the NMC had no questions regarding this charge during the cross-examination.

The panel noted that there was a difference between what Colleague C perceived at the time and what she perceived subsequently.

The panel noted the wording of the charge which states '*laughed at Colleague C*'. It is apparent from Colleague C's own evidence that at the time of the remark she thought you were making a joke, and therefore she did not consider that you were laughing at her. On Colleague C's evidence it was only after her subsequent unsuccessful application that she thought you might not have been joking. On this evidence the panel cannot find this charge proved.

### **Charge 7(i)**

In respect of Colleague C;

i) After Colleague C obtained an X-Ray for a [PRIVATE], spoke to Colleague C using words to the effect of '*You couldn't have waited until you finished on [PEIVATE] to go and have your X-Ray.*'

### **This charge is found proved**

In her witness statement, Colleague C said that she successfully applied for a role in the day surgery unit. She advised that following an injury three weeks prior, she had an X-Ray on her foot which found a [PRIVATE] and she was signed off [PRIVATE] for her final ten days on [PRIVATE]. Colleague C said that she attended her leaving event on 5 March 2021 and at the event you said to her "*you could not have waited until you finished on [PRIVATE] to go and have your X-Ray*".

Colleague C also noted the incident in her telephone notes.

In her oral evidence, Colleague C rejected the suggestion that the comment was not made or that she misheard something to the effect of *"it is such a shame you have to finish your time at [PRIVATE] in this way"*.

In your evidence, you said that you briefly attended the leaving event. You said you presented Colleague C and another colleague who was also leaving with gifts, *"did a little speech, thanked them both for all their hard work and wished them well... [You] got given a cupcake and then [you] left"*. You said you were there for *"5,10 minutes maximum"*. You told the panel that you *"absolutely did not make that comment to [Colleague C]"* and that *"there was no opportunity to make that comment"*.

The panel noted that there was evidence before it to show that you had sent several supportive text messages regarding the injury to Colleague C prior to the leaving event. However, the panel does not consider that this is inconsistent with you having made the alleged remark.

The panel considered that in the circumstances, leading to Colleague C being signed off, a comment referring to it was something that a manager might say in a good-natured way, at a leaving event, particularly following the well-meaning text messages. Indeed, it noted that the suggestion made in cross-examination was consistent with you having made some remark about Colleague C's injury.

The panel also considered that a manager would reference Colleague C's injury when seeing her in person and therefore the panel thought it very unlikely that you did not refer to it at all.

The panel found your account implausible and accepted the evidence of Colleague C.

The panel found this charge proved on balance of probabilities.

### **Charge 8**

Acted in a bullying manner towards Colleague C, in one or more of charges 7 a), 7 b), 7 c)ii) only, 7 d), 7 e), 7 f),... & 7i).

**This charge is found proved in respect of 7a, 7b, 7c(ii), 7d and 7f only.**

The panel had regard to the definition of bullying within the NMC Guidance FTP-2a:

*'Bullying can be described as unwanted behaviour from a person or a group of people that is either offensive, intimidating, malicious or insulting. It can be an abuse or misuse of power that undermines, humiliates, or causes physical or emotional harm to someone.'*

The panel considered each of the proven charges in Charge 7 individually and then accumulatively.

In respect of Charge 7a, in her statement, Colleague C stated that she found the comment to be *'inappropriate and made [her] [PRIVATE]'*. In her oral evidence Colleague C said, *'I felt extremely [PRIVATE] and ... [PRIVATE]'*. In a note on her telephone Colleague C stated, *'I felt really [PRIVATE]'*. The panel accepted this evidence and, in the circumstances, found your conduct to be bullying.

In respect of Charges 7b(i) and 7b(ii), the panel noted that Colleague C found this to be humiliating, likely because she was spoken about in front of her colleague. In her oral evidence, Colleague C said: *"I sat there and I did not say anything else after that because there was no point in answering or saying anything to her because she just clearly wasn't listening to me. It was making me feel very [PRIVATE]"*. The panel accepted this evidence and, in the circumstances, found your conduct to be bullying.

With regard to Charge 7c(i), the panel found that this did not amount to bullying. As a manager, you would be required to investigate a complaint about non-adherence to governance policies and procedures. In these circumstances, the panel found the comment made to be appropriate, in line with your managerial duties and reflective of the policy that was in existence at the time.

With regards to Charge 7c(ii), the panel was of the view that this amounted to bullying.

It was your account that a performance improvement plan was a supportive tool. The panel does not accept this.

The panel has already stated that the reference to the objective “*use appropriate channels for implementing change*” was put in place as a consequence of this one-off incident. The panel was of the view that placing Colleague C on a PIP in relation to a one-off incident was disproportionate and punitive. A learning objective in relation to management of changing processes could have been added as an objective into Colleague C’s preceptorship programme.

In her written statement Colleague C stated that she considered your “*management of the situation was extreme. I left the office [PRIVATE]*”. In her oral evidence, she stated that she felt “[PRIVATE]” into signing the PIP and further stated “*I felt [PRIVATE], but I felt I had to go along with it because I was being [PRIVATE]. It was not being used as a support process; it was being used more as a way to punish me and reprimand me*”. The panel noted she was visibly upset in her testimony and shaken by this incident. The panel accepted the evidence of Colleague C and found your conduct to be bullying.

In respect of Charge 7d, the panel noted that this incident related to Colleague C’s [PRIVATE], of which you were aware. Furthermore, the comment was made in front of other staff members, which was inappropriate and unprofessional. You referred to Colleague C “*moaning*” which she was not. Colleague C was responding to an inquiry of her [PRIVATE] by Colleague E. The panel therefore determined that this could only be described as humiliating and offensive to Colleague C and therefore amounted to bullying.

Regarding Charge 7e, the panel noted that Colleague C did not give oral or written evidence about how this incident impacted her. This is in contrast to the impact that other incidents had upon her. In these circumstances, the panel considers that there is insufficient evidence on which it can properly find that this conduct amounted to bullying.

In regard to Charge 7f, the panel considered that in her oral evidence, Colleague C said that she was “*really really [PRIVATE]*” by your comment. She said: “*I was completely [PRIVATE] that comment, [PRIVATE], I think about it all the time*”. In her written evidence,

Colleague C stated: “*When I heard [your] comment, I felt [PRIVATE] and began [PRIVATE]...I collected my belongings and walked out of Jersey hospital in [PRIVATE] and [PRIVATE] for the 20-minute walk home*”. The panel accepted the evidence of Colleague C and found your conduct to be bullying.

Regarding Charge 7(i), given the circumstances in which this comment was made, the panel cannot rule out the possibility that this was a good-natured joke and therefore did not amount to bullying.

The panel found this charge proved on the basis set out above.

### **Charge 9**

On 2 September 2020, after informing Colleague C that you would cover the ward during her break, left the ward short staffed.

### **This charge is found not proved.**

The panel heard from Colleague C that she believed the shift was short staffed and that only four nurses were present. Colleague C accepted that she was relying on what she was told from another nurse as to your whereabouts. When asked in cross-examination about the possibility of the information from the other nurse not being correct, Colleague C said “*absolutely, but I am just relying on what was said to me*”.

The panel took into account your evidence in your witness statement and the fact that you were covering three wards at that time. The panel also noted that you have been praised by other witnesses for staying late. The panel noted that there was a potential for you to have been on another ward at the time, given how busy you must have been.

The panel had not heard any evidence from the other nurse in question and therefore has no evidence before it to confirm that you did leave the ward short staffed.

Accordingly, the panel found this charge not proved.

## Charge 17

On an unknown date in 2020 used words to the effect of '*Scottish and Irish nurses are superior.*'

### **This charge is found not proved.**

In her witness statement, Colleague C said that she attended a work social event and overheard you make an inappropriate comment in front of numerous members of [PRIVATE] staff. Colleague C stated that you said, "*Scottish and Irish nurses are superior*".

In her oral evidence, under cross-examination, Colleague C said that there was not enough room for her to sit down and join in the conversation. Colleague C said that the nurses were just talking about where they had trained. She was just listening and overheard the alleged comment.

In response to panel questions, Colleague C could not provide details of the exact conversation or specific comments by any other participant. She described her account as a "*rough*" description. Colleague C also appeared to contradict herself when she told the panel, when asked if she had contributed to the conversation, stated: "*I remember mentioning I trained in the UK and about where I trained but that was about it*".

The panel also noted that this conversation did not form part of her telephone notes where Colleague C documented her interactions with you.

You denied this allegation.

In your oral evidence you confirmed that the topic of where people trained did not come up in the conversations. You also told the panel that you did not like talking about work at

social events. The panel also noted that your description of the party was different to that of Colleague C's.

The panel was mindful of the fact that the evidence of Colleague C related to a fragment of a wider conversation such that the panel was inhibited in terms of forming a clear view of the interaction. Furthermore, the panel has already noted that Colleague C's evidence was to an extent contradictory on this matter.

In these circumstances, the panel cannot be satisfied on the balance of probabilities that you did make the alleged comment. Accordingly, this charge is found not proved.

### **Charge 18**

Your actions in charge 17) above were racially motivated.

**This charge is found not proved.**

Following the panel's findings regarding Charge 17, this charge is also found not proved.

### **Charge 15**

Around August 2020, shouted/raised your voice at Patient U, without justification, using words to the effect of '*Don't you dare speak to me like that.*'

**This charge is found not proved.**

Patient U in her evidence said that she was an inpatient for nine days on [PRIVATE] in August 2020. She said she was very [PRIVATE] at the time and [PRIVATE] and only able to move with [PRIVATE]. Patient U said that when she told you that she was "*not great*", you shouted back at her, "*Don't you dare speak to me like that*".

In your witness statement, you stated that you did not speak with Patient U face to face whilst she was an inpatient. You said that there were “*multiple messages exchanged*”, however, during the relevant period, when Patient U was making complaints about her treatment on the ward, you were on leave as it was the Bank Holiday weekend. You did not raise with Patient U that staff had complained about her but were aware that this had been raised by another nurse who was in charge of the ward at the time.

The panel did not find Patient U to be credible or consistent in her evidence. For example, having first stated that your alleged comment and you telling her that staff had complained about her had happened while she was walking to the bathroom. She stated in her oral evidence, that the alleged comment had been made when she was walking to the bathroom but you telling her that staff had complained about her had occurred when she was back in bed. The panel also noted that in her oral evidence, Patient U accepted that she had incorrectly stated that she had been a patient on [PRIVATE], when in fact it was [PRIVATE].

Furthermore, the panel had sight of the messages that Patient U did exchange with you on 29 and 30 August 2020. They are entirely consistent with your version of events and demonstrate that far from being in any way critical of Patient U, you were empathetic and trying to assist her despite being on leave. The panel has also noted that on 22 November 2020, Patient U again contacted you by text and said,

*“I am finally off this horrid roller-coaster they call [PRIVATE], I would not wish that on anyone. Such awful drugs too. I turned into another person! So please accept my apologies if I was ever rude”.*

The panel regard this message as also confirming your account as to what happened on 29 and 30 August 2020.

The panel further noted that Patient U did not put a complaint in about you.

The panel found this charge not 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 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 safely and effectively without restriction.

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.

### **Evidence**

The panel heard evidence from you under affirmation.

You told the panel about your employment history since the allegations and confirmed that you had been working unrestricted. After being promoted to a Ward sister position in 2018 you were seconded to the Quality and Safety Team in 2021. You were then appointed the lead nurse for medical services, which involved you managing 13 areas in the acute hospital and outlying units. You started your current role as Head of Patient Experience in December 2024.

You confirmed that you respected the panel's earlier findings and decisions. You also stated that whilst you respected the findings, you did not agree with everything that was said against you.

You explained that you were only 25 years old in your first leadership role and that there was no formal training available at the organisation at the time. You said that you struggled with challenging situations and conversations. You told the panel about the courses you took to improve your leadership and advance your career, some of which you funded yourself.

You told the panel about the culture at the Hospital and how it has improved since the allegations.

You told the panel about what you had learnt from the CPD courses you had undertaken since the allegations. You also spoke to the support and mentorship you now have as a manager, including from an external mentor, and how you would approach similar situations differently now. While you still follow policy, you now have the experience to know when you can be flexible in their application. You have benefited from being exposed to and experiencing differing leadership styles. You maintain boundaries between those you manage and yourself as you realise that work friendship can complicate leadership.

You told the panel that it was a huge responsibility to manage a ward and that you did not fully understand the gravity of your responsibilities at the time. You said that you did not have emotional intelligence then. You said that you were now very aware of how your communication lands and that you now take time to communicate in a much more structured way. You explained that you really reflected, watched back various team meetings you had and looked at how you have spoken and your body language.

You explained to the panel that you are a nurse through and through and that you live and breathe it. You said that you want to be the best possible nurse.

When questioned by Mr Harris with regards to the reference for Colleague A, you told the panel that you should have phoned Colleague A up and told her that you had received a reference request for her and that you would have to document her sickness and performance and ask her whether you should still proceed. You explained that you should have given her an opportunity to choose someone else as a referee. You also explained that through this process you learned that you should just be open and honest with people from the start and that this could prevent a lot of issues. You told the panel that you should have been more mindful with the wording in the text box with regards to Colleague A not finishing her notice period.

You told the panel that following the complaint, the organisation decided to stop managers providing references.

You explained that you had a great deal of reflective insight and thought about this daily.

You told the panel that you hate the fact that you have been seen as a bully. You said that you were genuinely distraught at the impact you had caused.

In answering the panel's questions, you explained that through your EDI training you learned that if you do not have experience or expertise to support staff through their mental health journey, you should refer them to internal support systems. You also explained that you learned a lot about active listening and reasonable adjustments.

You told the panel that whilst you understand that there is a huge responsibility on you in a leadership role, you learned that it is not all on you and that you can lean on people and colleagues.

You gave an example to the panel about how you had recently dealt with staff members being bullied by someone at work.

## Submissions on misconduct and impairment

In his submissions, Mr D'Alton referred the panel 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 D'Alton referred the panel to the judgments in *R (Calhaem) v General Medical Council [2007] EWHC 2606 (Admin)* and *Nandi v General Medical Council [2004] EWHC 2317 (Admin)* and submitted that misconduct connotes a serious breach of the NMC's Code of Conduct, and that the adjective serious must be given its proper weight.

Mr D'Alton referred the panel to the charges, which in NMC's submissions, may not amount to misconduct:

- Charge 1a. He referred the panel to its earlier findings on fact and that it considered likely this had been a light-hearted comment which did not amount to bullying.
- Charge 1b. He referred the panel to its earlier findings on fact and that it found this to be a sharp comment in a three-way conversation but that it did not amount to bullying.
- Charge 5e(i). He submitted that the panel found this to be in line with the Trust's policy and that it did not amount to bullying.
- Charge 7c(i). He submitted that whilst the panel found that you used these words or words to that effect, it was in line with your managerial duty.
- Charge 7i. He referred the panel to its earlier findings that it was likely to be a good-natured remark made at a leaving event and that it did not amount to bullying.

Mr D'Alton submitted that the remaining charges clearly amount to serious misconduct. He made reference to specific, relevant standards of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code) where your actions amounted to misconduct

- Charge 1f and the associated part of Charge 2. He submitted that your actions breached provisions 1.1, 8.2, 20.1, 20.2, 20.3, 20.5. Mr D’Alton invited the panel to consider the effect it had on Colleague A and submitted that your conduct humiliated and undermined her. She had had to pull over on her way home and burst into tears. She then consulted her GP.
- Charges 1i(i) and 1i(ii) and the associated part of Charge 2. Mr D’Alton submitted that these comments were made at a time when you were fully aware of Colleague A’s mental health conditions and that your actions were not only unsympathetic, but also undermining, humiliating and caused Colleague A emotional harm. He referred the panel to provisions 1.1, 8.2, 8.7, 16.5, 16.6, 20.1, 20.2, 20.3 and 20.5 of the Code.
- Charge 3b and the associated part of Charge 4. Mr D’Alton submitted that your actions, as per the panel’s findings, lacked integrity and referred the panel to provisions 10.3, 20.1, 20.2 of the Code. He submitted that you were fully aware of Colleague A’s situation and were under a duty to give accurate information as you were aware of the potential adverse consequences of saying she was not suitable for the post she was applying for. Your actions had serious consequences on Colleague A’s life and career.
- Charges 5d(i) and 5d(ii) and the associated part of Charge 6. Mr D’Alton referred the panel to provisions 1.1, 8.1, 8.2, 9.1, 9.3, 9.4, 20.1, 20.2, 20.3, 20.5, 20.7 and 20.8 of the Code. He submitted that in no way can referring to someone as “*incompetent*” ever be considered respectful of that colleague’s skills and expertise or considered constructive communication, but rather, destructive. He further submitted that your actions were not supportive of Colleague B’s learning.
- Charge 7a and the associated part of Charge 8. Mr D’Alton referred the panel to provisions 1.1, 8.2, 8.7, 20.1, 20.2, 20.3, 20.5 and 20.7 of the Code. He submitted that you were aware of Colleague C’s personal health circumstances and why she had lost weight. Your conduct was thoughtless and humiliating particularly because this was in the presence of a male colleague and left Colleague C feeling embarrassed and upset.

- Charges 7b(i) and 7b(ii) and the associated part of Charge 8. He submitted that this breaches provisions 1.1, 9.3, 9.4, 16.5, 16.6, 20.1, 20.2, 20.3, 20.5 and 20.7 of the Code.
- Charge 7c(ii) and the associated part of Charge 8. Mr D'Alton referred the panel to its earlier finding that placing Colleague C on a performance improvement plan was a pre-determined action for a one-off incident that did not merit such a plan. It had been a disproportionate and punitive action. He submitted that this breaches provisions 1.1, 8.1, 8.2, 8.7, 9.3, 20.1, 20.2 and 20.5 of the Code.
- Charge 7d and the associated part of Charge 8. Mr D'Alton submitted that you made the humiliating and offensive comment in front of another colleague and this breaches provisions 1.1, 8.7, 9.3, 16, 20.1, 20.2, 20.3 and 20.5 of the Code.
- Charge 7e. Mr D'Alton submitted that this breaches provisions 1.1, 8.1, 8.2, 16.5, 20.1, 20.2, 20.3 and 20.5 of the Code. He submitted that, while the panel had found that your conduct did not amount to bullying, speaking over and interrupting a colleague, should be considered serious, particularly from a managerial perspective and when considered together with the other body of charges proven in respect of Colleague C.
- Charge 7f and the associated part of Charge 8. Mr D'Alton submitted that it was clear that your actions had a significant emotional effect on Colleague C, especially when she left the hospital and cried for the 20-minute walk home. He submitted that this breaches provisions 1.1, 8.7, 20.1, 20.2, 20.3, 20.5 and 20.7 of the Code.
- Charge 12 and the associated Charge 16. Mr D'Alton reminded the panel of its earlier findings that this conduct did have the effect of violating Colleague Y's dignity and of creating a humiliating and offensive environment. The charge related to comments by a manager in relation to protected characteristics. They were inappropriate and unwanted. He submitted that this breaches provisions 1.1, 20.1, 20.5 and 20.7 of the Code.

Mr D'Alton submitted that your conduct, when looked at as a whole, also breaches provision 20.8 of the Code. You had been in a management position and had set a poor example for other colleagues.

Mr D'Alton submitted that your actions in this case fall significantly far short of the standards expected of a registered nurse. He submitted that the NMC guidance on misconduct makes it clear that no form of bullying or harassment is acceptable and that bullying, and harassment can have an extremely negative effect on the work environment.

Mr D'Alton submitted that your actions were inappropriate and amounted to bullying of three different colleagues, in respect of one of whom you provided a misleading reference which may have seriously damaged her future employment prospects. He furthermore submitted that you inappropriately commented on another colleague's sexual orientation and submitted that all these actions clearly amount to serious professional misconduct.

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

Mr D'Alton referred the panel to the NMC's guidance on impairment DMA-1.

Mr D'Alton submitted that the first three limbs of Grant test are engaged in this case.

Referring to public protection, Mr D'Alton submitted that it is important not just to consider patient harm, but also the potential risk of harm to professional colleagues. Considering patient harm, he submitted that whilst it is acknowledged that no actual patient harm has been evidenced in this case, referring to the NMC guidance, he submitted that bullying and harassment of colleagues can have an extremely negative effect on the work environment, which includes performance and attendance. He submitted that this could have an effect on the delivery of care and if not dealt with, can affect the trust and confidence in the profession.

Mr D'Alton submitted that, referring to the impact on colleagues, the panel heard from a number of your colleagues who spoke to the emotional impact that you had on them. He submitted that in addition to bullying and harassment, your actions have been found to go further in that you abused your managerial position in respect of your colleagues. He submitted that you threatened and then placed Colleague C on performance improvement plan as a result of a single incident, and you also provided Colleague A with a misleading reference which had the potential to undermine and affect her future employment prospects.

Referring to the risk of repetition and remediation, Mr D'Alton submitted that the allegations of bullying demonstrate underlying attitudinal concerns, which are difficult to remediate. He further submitted that this was not a single or isolated incident, but rather a conduct that took place over the course of four years towards numerous colleagues which caused them significant hardship.

Mr D'Alton acknowledged that you have taken significant steps to undertake training relevant to the conduct in issue, but submitted that simply undertaking relevant courses is not sufficient to fully address any risk of repetition, if they have not allowed you to learn from your past mistakes and show insight into your past misconduct.

Mr D'Alton submitted that your insight is still developing, and you have shown a distinct lack of insight into any potential fault of your actions and the potential impact of your conduct. He submitted that whilst you have done significant work on your general leadership, you do not have sufficient insight into how and where you went wrong to fully address the significant risk of these matters being repeated. He submitted that your focus at this time still appears to be on the effect of these matters on you and how being perceived as a bully made you feel. He noted that your understanding of the issues was largely surface level and insufficiently focused on the impact on others.

Mr D'Alton submitted that at this time there is still a real risk of repetition of similar misconduct and therefore a finding of impairment is needed to protect the public.

Addressing the public interest, Mr D'Alton submitted there have been significant breaches of the Code of conduct relating to fundamental tenets of the profession. He submitted that through your actions you undermined and are at risk of undermining in the future the reputation of the profession. He further submitted that both members of the public and other healthcare practitioners aware that a registered nurse had repeatedly acted so inappropriately towards colleagues, could lose faith in the profession as a whole, particularly if no finding of impairment were made.

Mr D'Alton invited the panel to find that you are currently impaired on public interest grounds.

The panel had regard to Mr Harris' written submissions on misconduct and impairment.

Mr Harris agreed with Mr D'Alton's submissions that Charges 1a, 1b, 5e(i), 7c(i) and 7i do not amount to misconduct.

He submitted that the following Charges also did not amount to misconduct and outlined the reasons why:

- Charge 1f. Mr Harris submitted that the conduct proven, whilst unnecessary and upsetting, does not meet the threshold of 'deplorable' by the standards of other professionals.
- Charge 5d. He submitted that whilst the remarks are clearly made in a highly blunt and direct manner, an honest statement of competence by a manager cannot properly be said to amount to conduct that falls so seriously short of what is proper as to amount to professional misconduct. No reasonable fellow practitioner could properly describe such comments as 'deplorable' even if they are overly direct.
- Charges 7b(i) and 7b(ii). Mr Harris submitted these statements represent someone

expressing their professional frustrations to colleagues in a context that was private. He submitted that these statements are misjudged, injudicious but not deplorable. They were at the time an example of your inexperience regarding professional boundaries. (*Mr Harris submitted incorrectly that Colleague C had not been present at the time.*)

- Charge 7e. Mr Harris referring the panel to the case of *Roylance*, submitted that whilst unnecessary and discourteous, these interruptions are not so serious as to amount to professional misconduct. They were made in circumstances where Colleague C had accepted in cross-examination there may have been an urgent need for the patient notes.

Mr Harris submitted that just because the panel have found that charges above form part of the “bullying charges”, that does not mean that individually construed they must amount to misconduct, he submitted that this would be circular and unfair.

Regarding the remaining charges that had been found proved, Mr Harris did not formally concede that they amounted to misconduct but accepted that such a finding was likely.

With reference to impairment, Mr Harris reminded the panel that you have been practising without restriction since these charges arose and that there have been no subsequent disciplinary or regulatory findings. During this period, you have been promoted to Lead Nurse and subsequently to Head of Patient Experience. He further submitted that during this period, you have been practising safely, effectively and without restriction.

Addressing your remarks in your evidence that whilst you respect the panel’s findings, you continue to deny the allegations, Mr Harris referred the panel to the case of *GMC v Awan [2020] EWHC 1553 (Admin)* and submitted that the panel must not hold it against you that you continue to deny the allegations against you.

Mr Harris then went on to address the issue of impairment.

He submitted that it was accepted that bullying conduct can pose a risk to patient safety. He further submitted, however, that very many of the charges found proven arose in circumstances where you were clearly motivated by a strict adherence to internal policy and clinical standards, and by a desire to minimise risk to harm. Mr Harris invited the panel not to over ascribe risk to your actions when there were other causative factors for which you were not responsible.

With regards to the future risk, Mr Harris invited the panel to find that there is no realistic prospect of you acting in a way so as to put future patients at risk of unwarranted harm. He submitted that these were now very old charges and that there was no evidence of repetition.

Referring to the breach of fundamental tenets of the profession, Mr Harris submitted your breaches of duty of care towards your colleagues was in the context of misguided approach to patient care.

Mr Harris made specific reference to Charges 12 and 16. He submitted that the remark was not discriminatory and there was no evidence that you had treated Colleague Y less favourably within the meaning of the Equality Act 2010. As such, the panel should not find that you had been in breach of the fundamental tenet relating to discrimination.

With regard to the panel's finding in relation to Charge 3(b) and the associated finding in relation to Charge 4, Mr Harris submitted that this was a highly uncharacteristic breach and that you have reflected on it significantly. Furthermore, the matter arose in the context of an institution with exceptionally poor governance. He invited the panel not to place undue weight on the singular finding of a lack of integrity, which has not and will not be repeated.

Mr Harris addressed the panel on the contextual factors which were at the time relevant to your practice. He submitted that these charges occurred during your first management position, when you were 25 years of age, and stated that you have now gained insight

following many years of management subsequently. With reference to lack of leadership support, Mr Harris submitted that you did not have leadership mentorship from which you would have benefitted at the time of the charges. Finally, with regards to the lack of complaint systems, Mr Harris submitted that it was clear that the Hospital had very poor systems for managing grievances and that a subsequent formal external investigation had concluded that across the institution '*clinical governance was weak and risks were substantial*'.

Addressing the panel on the likelihood of repetition, Mr Harris submitted that it is highly unlikely that any conduct will be repeated. He submitted that these proceedings have had a significant impact on you. The punitive effect of having them hanging over your head for several years rendered it highly unlikely that the conduct would be repeated. He reminded the panel that there have been no further alleged misconduct by you and that the last five years are entirely indicative of a high unlikelihood of repetition.

Mr Harris invited the panel to look at your genuine and commendable efforts at insight and reflective practice as evidence of a practitioner who wants to develop into the best possible nurse. He submitted that you have taken many steps to become a better manager, attended and completed a wide variety of courses for a period of some years now. Mr Harris referred the panel to the two training certificates bundles.

With regards to your insight, Mr Harris submitted that you have a strong level of insight into the aspects of yourself and your managerial style that has led to these proceedings.

Mr Harris submitted that you were very clear that you understood and appreciated the impact on your colleagues, especially those with pre-existing mental health problems. You were genuinely remorseful of the impact your conduct had had on them.

Mr Harris referred the panel to your feedback bundle which included an extraordinary number of character references submitted on your behalf. He submitted that these documents speak to your skills as a manager, as a communicator, as a clinical

practitioner, and your ability to make people feel supported and valued. You had taken steps to improve the institution where you work, taking on a governance role and being a vocal and effective proponent for change.

Mr Harris further submitted that a right-thinking member of the public, abreast of all of the facts of this case and its procedural history, would not be shocked to hear that a finding of impairment was not made. Mr Harris referred the panel to a number of objective factors relevant in this case, namely:

- a) The age of the charges
- b) Your age and lack of management experience at the time
- c) The proven governance failings of the wider institution at the time
- d) Your subsequent lack of misconduct
- e) Your prior lack of misconduct
- f) Your extensive and relevant subsequent retraining
- g) Your profound insight and remorse
- h) Your exceptional references made by those aware of the allegations
- i) Your cooperation with the proceedings
- j) Your change in personal circumstances during the proceedings.

Mr Harris submitted that you are an exceptionally talented nurse and whilst the charges are serious, they are not so serious – taken everything into consideration – that a finding of impairment is necessary to maintain the public’s confidence and trust in the profession. He further submitted that a right-thinking member of the public would be aware of those objective factors that he has identified, and their confidence and trust in the profession would be maintained safe in the full knowledge that the conduct has not, and will not be repeated.

Mr Harris invited the panel to find that your fitness to practise is not currently impaired on any basis.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance, Johnson and Maggs v Nursing and Midwifery Council (No 2)* [2013] EWHC 2140 (Admin), *General Medical Council v Meadow* [2007] QB 462 (Admin), *Grant and 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 terms of the Code.

The panel first considered the charges that either Mr D'Alton or Mr Harris submitted did not amount to misconduct:

- Charge 1a. The panel reminded itself that in its earlier findings, it considered that this was likely to have been a thoughtless but light-hearted comment and it did not regard it to be bullying. In these circumstances, the panel determined that this did not amount to serious misconduct.
- Charge 1b. The panel reminded itself that in its earlier findings it did not regard this to be bullying, rather it was a sharp comment made during a three-way conversation. In these circumstances, the panel determined that this did not amount to serious misconduct.
- Charge 1f and the associated part of Charge 2. The panel reminded itself of its finding regarding the manner in which you had spoken to Colleague A in a raised voice and the effect this had had on them. Your conduct was also found to amount to bullying. The panel determined that your misconduct in this charge breached the following provisions of the Code: 1.1, 8.2, 20.1, 20.2, 20.3 and 20.5. In the circumstances the panel determined that your conduct did amount to serious professional misconduct.
- Charges 5d(i) and 5d(ii) and the associated part of Charge 6. The panel determined that your conduct in these charges was not the way to speak to colleagues, it was

not creating a supportive learning environment, particularly towards someone you would have been expected to have had more sensitivity. For the reasons already discussed when considering these charges, and contrary to Mr Harris' submissions, the panel determined that it would be deplorable to speak to a fellow nurse in this manner, particularly to one who was keen to learn but only had ever set up the hysteroscopy clinic once before. The panel determined that your misconduct in these charges breached provisions 1.1, 8.1, 9.1, 9.4, 20.1, 20.2, 20.3 and 20.5 of the Code. Accordingly, the panel found this to be serious professional misconduct.

- Charge 5e(i). The panel reminded itself of its earlier findings that requesting a stool sample from Colleague B when she was on sickness absence was in line with the Hospital policy and therefore determined that it could not amount to misconduct.
- Charges 7b(i) and 7b(ii) and the associated part of Charge 8. The panel reminded itself that the comments had been made to another colleague in the presence of Colleague C in the canteen. As a result, Colleague C had felt humiliated in front of the other colleague. The panel has determined that your conduct amounted to bullying. The panel determined that your conduct in these charges breached provisions 1.1, 20.1, 20.2, 20.3, 20.5 and 20.8 of the Code and, as such, has also determined it amounted to serious professional misconduct.
- Charge 7c(i). The panel reminded itself that no bullying was found in relation to this charge. The comment was consistent with your requirement, as a manager, to investigate a complaint about governance policies and procedures not being followed. As such it determined that this also did not amount to serious professional misconduct.
- Charge 7e. The panel reminded itself that no bullying was found in relation to this charge as there had been no evidence on how it had impacted upon Colleague C. The panel accepted the submission that there may well have been a need to urgently locate the patient's notes. Therefore, it determined that your conduct did not reach the threshold of serious misconduct.
- Charge 7i. The panel reminded itself that it had been unable to rule out the possibility that the remark was a good-natured joke and therefore no bullying was found in relation to this charge. For the same reason it determined that it did not

reach the threshold of serious misconduct.

The panel then considered the remaining charges:

- Charges 1i(i) and 1i(ii) and the associated part of Charge 2. The panel reminded itself that it has found that when you spoke to Colleague A you knew that she had a diagnosed mental health condition and had been referred for an occupational health assessment. You undermined and humiliated Colleague A, causing her emotional harm. In the circumstances the panel determined that your actions breached the Code, specifically provisions 1.1, 8.2, 8.7, 20.1, 20.2, 20.3 and 20.5 and therefore amounted to serious misconduct.
- Charge 3b and the associated part of Charge 4. The panel noted that actual harm was caused to Colleague A as she had her job offer withdrawn following the inaccurate reference provided by you. The panel also reminded itself of its earlier findings in that as Colleague A's former manager you were under a duty to provide accurate and factual information in the reference and that you would have been aware of the likely consequences of giving an inaccurate reference. The panel determined that your lack of integrity in providing an inaccurate reference was a serious breach of Code of conduct, specifically provisions 10.3, 20.1 and 20.2.
- Charge 12 and the associated Charge 16. The panel determined that this was a serious misconduct as, whilst being in a managerial role, you made an unsolicited comment about someone's sexual orientation in front of other people. The panel determined that this breached provisions 1.1, 1.3, 1.5, 20.1, 20.3 and 20.8.
- Charge 7a and the associated part of Charge 8. The panel reminded itself of its earlier findings and that it determined that this was a thoughtless comment that had embarrassed, belittled and disempowered Colleague C and amounted to bullying. The panel also noted Colleague C's reaction to this comment being made and the reaction of a male colleague who was present when this comment was made. The panel considered that as a manager, you should have been much more thoughtful, particularly because you had already had conversations with Colleague C about her health concerns, and should not have brought them into a public setting. The panel

determined that your conduct in this charge breached provisions 1.1, 8.2, 8.7, 20.2, 20.3, 20.5 and 20.8 of the Code and amounted to serious professional misconduct.

- Charge 7c(ii) and the associated part of Charge 8. The panel determined that your conduct in this charge was predetermined, unmerited, draconian, disproportionate and punitive and amounted to bullying. The panel determined that your actions breached provisions 1.1, 20.1, 20.2, 20.3, 20.5 and 20.8 of the Code and as such amounted to serious misconduct.
- Charge 7d and the associated part of Charge 8. The panel found that this comment you made in front of other staff was inappropriate, unprofessional and sought to minimise well-being concerns of which you were aware. At the time you made the comment, you were in a management role. The panel determined that your actions breached provisions 1.1, 8.7, 20.1, 20.2, 20.3, 20.5 and 20.8 of the Code and amounted to serious misconduct.
- Charge 7f and the associated part of Charge 8. The panel determined that as a supervisor, you should not have been making such deeply insensitive jokes. It noted that Colleague C was deeply emotionally affected by this, to such an extent that she walked home for 20 minutes in distress. The panel determined that your conduct breached provisions 1.1, 8.7, 20.1, 20.2, 20.3, 20.5 and 20.8 of the Code and amounted to serious misconduct.

In conclusion, the panel was of the view that in respect of those proven charges it has determined amount to serious misconduct, your actions did breach the Code and did fall significantly short of the standards expected of a registered nurse. Specifically:

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

*To achieve this, you must:*

*1.1 treat people with kindness, respect and compassion*

*1.3 avoid making assumptions and recognise diversity and individual choice*

*1.5 respect and uphold people's human rights.*

**8 Work co-operatively**

*To achieve this, you must:*

8.2 *maintain effective communication with colleagues*

8.7 *be supportive of colleagues who are encountering health or performance problems. However, this support must never compromise or be at the expense of patient or public safety.*

**9 Share your skills, knowledge and experience for the benefit of people receiving care and your colleagues**

*To achieve this, you must:*

9.1 *provide honest, accurate and constructive feedback to colleagues*

9.4 *support students' and colleagues' learning to help them develop their professional competence and confidence*

**10 Keep clear and accurate records relevant to your practice**

*This applies to the records that are relevant to your scope of practice. It includes but is not limited to patient records. To achieve this, you must:*

10.3 *complete records accurately...*

**20 Uphold the reputation of your profession at all times**

*To achieve this, you must:*

20.1 *maintain effective communication with colleagues*

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

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

20.5 *treat people in a way that does not ..... cause them upset or distress*

20.8 *act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to.'*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that your actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

### **Decision and reasons on impairment**

The panel next 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 NMC Guidance on ‘*Impairment*’ (Reference: DMA-1 Last Updated:28/01/2026) in which the following is stated:

*‘Being fit to practise is not defined in our legislation but for us it means that a professional on our register can practise as a nurse midwife or nursing associate safely and effectively without restriction.’*

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 act with integrity. They must make sure that their conduct at all times justifies both their patients’ and the public’s trust in the profession.

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

*‘In determining whether a practitioner’s fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be*

*undermined if a finding of impairment were not made in the particular circumstances.'*

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

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

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

The panel began by considering the first limb of *Grant* test. It determined that patient safety and policy were your top priorities and driving forces. It determined that there was no evidence regarding any of the proven charges to show that your actions had an actual impact on patient care and safety. It also determined that whilst there had been the potential for impact upon patient safety, if staff were going off sick and wards were not covered due to your misconduct towards colleagues, there was again no evidence of any actual patient harm. The panel acknowledged that you are a good nurse who prioritises patient safety and care and that you have not in the past acted and/or are not liable in the

future to act so as to put a patient or patients at unwarranted risk of harm. Consequently, the panel determined that the first limb of *Grant* test was not engaged.

The panel then decided that it was appropriate to consider the second and third limbs of *Grant* test together.

The panel noted that the proven charges arose not from a single episode, but rather several episodes over a prolonged period of time and affected a number of people, some of whom you knew to have mental health issues. You engaged in bullying behaviour towards some of those you managed who had vulnerabilities and known health conditions. The panel also noted that the victims of your bullying were those whom you found difficult to manage and did not conform with your management style. The panel cannot overlook the fact that the NMC rightly takes concerns about bullying and victimisation very seriously.

The panel has already listed the numerous provisions of the Code that your conduct breached. In these circumstances a finding that your misconduct has breached the fundamental tenets of the nursing profession is inevitable.

By the same token a finding that your misconduct has brought the profession into disrepute is also inevitable. Your misconduct was the antithesis of how the public expects a registered nurse, particularly one in a management position, to act.

The panel next considered whether:

- The concerns evidence by your misconduct can be addressed by taking steps to strengthen your practice
- Whether those concerns have been addressed
- Whether it is highly unlikely that your misconduct will be repeated.

Your misconduct involved disrespect for others, unfair treatment of colleagues, a lack of integrity and a lack of compassion. At the outset, the panel considered it is right to state

that some of your misconduct may demonstrate an underlying attitudinal issue that is incapable of being remediated.

The panel considered that your misconduct could properly be regarded as falling into a number of different “categories”. It therefore considered your insight and the risk of repetition in relation to each of those different categories according to the themes of the misconduct found proved.

- Inappropriate personal comments to colleagues (Charges 7a, 7d, 7f and 12). The panel noted that at the time of these particular allegations, you were a young manager who did not have appropriate support or training. It also noted the information on the culture and lack of governance at the Hospital at the time. The panel considered the blurred boundaries between you and those whom you managed who were of a similar age to you at the time. The panel had regard to the significant programmes of learning you have undertaken to improve your management skills. You also now recognise the need to maintain boundaries between yourself and those you manage. The panel determined that it was unlikely that you would repeat the matters found proved in relation to this.
- Failing to support the development and improvement of the clinical skills of those you managed (Charge 5d). The panel noted that there was only one proven charge in relation to which misconduct was found. It noted that this dated back to 2017. It accepted that you have reflected on your failings and have taken considerable steps to improve the manner in which you support the development and improvement of the clinical skills of others. This is evidenced by the significant number of positive character references provided to the panel. The panel determined that it was unlikely that you would repeat the matters found proved in relation to this.
- Reactions to the perceived failings/deficiencies of those managed by you (Charges 1i, 7b and 7c(ii)). The panel identified that these charges had a common denominator that they all involved a staff member perceived to have not complied with procedure or accepted practice which resulted in negative consequences for

you. Whilst you suggested that you can now adopt a flexible approach when implementing policies, the panel did not consider that you had been able to provide any examples of when you had put this approach into practice in similar circumstances or how you would go about this in the future. As such, the panel is not convinced that your insight has developed sufficiently enough to convince it that you would not repeat the matters found proved in the future.

- Reference (Charge 3b and an associated Charge 4). When asked what you would do in similar circumstances, your response was that you would contact the individual and advise them that you would be submitting a negative reference and would they wish to seek an alternative referee. The panel felt that this response did not recognise the inaccuracy of the information you provided. The panel also felt that your proposed response demonstrated no insight into how such action could impact Colleague A who had been the victim of your bullying behaviour under your management. In the circumstances, the panel did not consider you had developed any real insight into this particular failing.
- Failing to support colleagues/staff members, especially those with particular needs and/or vulnerabilities (charges amounting to bullying). The panel was not satisfied that you had full insight into these concerns. It determined that whilst you have taken some steps to address these concerns, your insight here was still developing. Although you expressed remorse, the panel was not convinced that you fully understand how your conduct amounts to bullying. It also determined that you do not recognise the severity of the impact on all those colleagues/staff members affected by your misconduct. The panel was of the view that your insight was self-focused, rather than focusing on the impact on others. While you have undertaken a significant amount of relevant training, the panel did not consider that it has seen sufficient evidence of your putting that training into practice. When asked by the panel what your understanding of how as a manager you would recognise vulnerabilities in staff and how you would respond now, your response was surface level and did not demonstrate significant insight or application to practice. It therefore determined that there is a likelihood of repetition in regard to this theme of misconduct.

In conclusion, the panel is of the view that there is a risk of repetition based on you not having developed full insight regarding your failings.

The panel therefore decided that a finding of impairment is necessary on the grounds of public protection, specifically your colleagues/staff members.

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 determined that a finding of impairment on public interest grounds is also required. A reasonable, fair-minded and knowledgeable person would be shocked to learn that a nurse in a management position, who was found to have bullied colleagues and who had failed to develop full insight into how they had conducted themselves was not found to be impaired at this time.

The panel concluded that public confidence in the profession and the NMC as its regulator would be undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise impaired on the grounds 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 suspension order for a period of six months with a review. The effect of this order is that the NMC register will show that your 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 regard to the NMC Guidance on '*The sanctions available*' (Reference: SAN-2 Last Updated: 28/01/2026).

The panel accepted the advice of the legal assessor.

### **NMC submissions on sanction**

Mr D'Alton submitted that the following were the aggravating factors in your case: limited insight into misconduct over a significant period of time, actual and significant harm to colleagues, misconduct which may demonstrate an underlying deep-seated attitudinal issue that is incapable of being remediated. He then submitted that the mitigating factors in this case were: significant amount of remediative work and some insight into some of the areas of misconduct.

Mr D'Alton submitted that given the extremely serious nature of the conduct found proved, a striking-off order is the only appropriate order.

Mr D'Alton submitted that with regards to three areas of your misconduct, referred to by the panel, specifically reactions to perceived failings and deficiencies of those you managed, the reference provided to a colleague containing inaccurate information and failing to support colleagues or staff members, especially those with particular needs and vulnerabilities, there remained a risk of repetition. Mr D'Alton submitted that these areas of concern are extremely serious and that they show evidence of serious deep-seated attitudinal issues which would be difficult or impossible to remediate. For these reasons, Mr D'Alton invited the panel to impose a striking-off order.

Mr D'Alton then addressed the panel on the lesser sanctions. With regards to imposing no order or a caution order, he submitted that these sanctions are for misconduct at the lower end of spectrum of seriousness and submitted that this was not the case here. He submitted that neither the protection of the public nor the public interest would be satisfied by imposing no order or imposing a caution order in these circumstances.

Mr D'Alton submitted, with regards to the conditions of practice order, that conditions could not be drafted that would fully address and reflect the concerns in your case. He submitted that the NMC guidance sets out that conditions are appropriate, among other matters, where there is no evidence of harmful, deep-seated personality or attitudinal problems. He submitted that this case is not about your competence as a nurse but rather your conduct and attitude towards colleagues. Mr D'Alton acknowledged that you have shown you are willing to respond to retraining, but submitted that despite that, you were not able to address the underlying cause of the issues and risk of repetition as the panel has found. In summary, Mr D'Alton submitted that conditions would be wholly inappropriate and insufficient to address the concerns, and that in any event, these concerns are so serious that they necessitate a more serious order.

Mr D'Alton then addressed the panel on suspension order. He referred the panel to the NMC guidance on suspension order and the relevant factors of when a suspension order would be appropriate. He submitted that the charges found proved are at the most serious end of the spectrum and do bring public confidence in the profession in question and that a suspension order would be an insufficient order to address it. He submitted that your conduct is so serious, stemming from bullying and harassment over several years in respect of multiple colleagues, that it is fundamentally incompatible with your continued registration. Mr D'Alton invited the panel to take into account the length of time since the allegations and the fact that your insight is still significantly lacking in various areas. He submitted that there is no realistic prospect of your insight fully developing after a period of suspension. Mr D'Alton submitted that a striking-off order is the only appropriate order in this case.

Referring to your training certificates, Mr D'Alton invited the panel to consider, given that this matter has not been addressed in the five years since the incidents, what purpose would a suspension order serve.

Mr D'Alton addressed the panel on a striking-off order and referred it to the NMC guidance. He submitted that the charges found proved raise fundamental questions about your professionalism in that the panel found there were a number of breaches of the Code. He submitted that you breached the fundamental tenets of the profession on numerous occasions and that it had serious consequences for your colleagues. He further submitted that you bullied multiple colleagues, caused them significant distress and in respect of one colleague, significantly hampered her future career prospects because a job was withdrawn from that colleague as a direct result of the inaccurate reference provided by you. He submitted that these actions clearly raise fundamental questions about your professionalism.

Mr D'Alton submitted that a member of the public, aware of the scope of your actions and the impact of those actions on various colleagues, would be deeply troubled to know that you were allowed to continue practising. He submitted that no order less than a striking-off order would be appropriate in this case.

### **Application for you to give further evidence**

Mr Harris requested that the panel allow you to give further evidence on three further issues that arose following the panel's earlier findings on impairment.

Mr D'Alton did not object to this application with a caveat that he would be given an opportunity to respond.

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

The panel determined, taking into account the overall fairness, to allow you to give further evidence at this stage.

### **Your evidence**

The panel heard your evidence under oath.

You told the panel about your current personal circumstances and the difficulties you have recently faced in your private family life.

You explained to the panel that you had not thought you had needed to give examples of how you have become more flexible in the manner in which you follow policy and could give multiple examples. Mr Harris asked you to provide a specific example and you did so.

You also explained that in your earlier evidence you had given a broad overview of how you were able to recognise vulnerabilities in colleagues/staff-members and had not known you should have provided the panel with examples. You told the panel you have supported staff through capability and performance issues. Asked by Mr Harris to provide a specific example, you did so.

### **Submissions on sanction on your behalf**

The panel had regard to Mr Harris' oral and written submissions on sanction.

Mr Harris set out a list of relevant charges along with the date of the misconduct. He accepted that as a matter of fact, the panel's findings show misconduct spread out over a period of years, however, he invited the panel to exercise some caution when considering this as an aggravating factor. He submitted that there was a lack of meaningful regularity or any real pattern of misconduct.

Mr Harris submitted that both the NMC and the panel have undervalued your insight and have overstated the question of attitudinal concern. He submitted that since you became

aware of the allegations, you identified the root of the problem, took steps to organise and complete relevant training as a consequence of which, there have been no further issues arising out of your practice as a nurse. If there were irremediable attitudinal concerns, there might have been some further “flare ups” in this period.

Mr Harris identified the following mitigating factors in your case: apologies to anyone affected, efforts to prevent similar things happening again, evidence that you have worked safely and professionally in the same or similar role since the events causing concern, relevant training courses, reflective accounts about what happened, insight and strengthened practice, level of experience at the time in question and level of support in the workplace.

Mr Harris then made specific submissions regarding sanction.

Mr Harris accepted that your case did not fall within the “exceptional circumstances” test laid out in SAN-2a and therefore agreed that taking no further action would not be appropriate in your case.

Addressing the panel on caution order, Mr Harris submitted that it was appropriate in circumstances where the panel has decided there is no risk to the public or to people using services. He submitted that a lengthy caution order is a proportionate disposal of this case. He further submitted that the three factors identified by the NMC guidance are present in your case, specifically:

- a. Significant evidence of re-training and reflection*
- b. Significant insight which makes repetition highly unlikely*
- c. Where a sanction is necessary but the professional is able to practise safely and a more restrictive sanction would be disproportionate.*

Mr Harris addressed the panel on the significant evidence of your re-training. He referred the panel to your training bundle submitted for this hearing and made specific references

to various certificates. He submitted that during your evidence you were able to speak about your continued professional development with a high level of detail.

With reference to your reflection, Mr Harris submitted that repetition was highly unlikely. He submitted that the fact that you have been practising unrestricted since the misconduct is of very high relevance to the question of the likelihood of repeated misconduct. Mr Harris invited the panel to find that there is significant insight that makes repetition of the incidents (specifically with reference to Charges 1f, 1i, 3b, 7b and 7c) highly unlikely. He made specific reference to your insight, references and feedback relating to these charges.

Mr Harris submitted that a more restrictive sanction would be disproportionate. He submitted that there are good, properly evidenced reasons for the panel to conclude that the overarching objective would be properly managed by a caution order for a robust length of time. Taking everything into consideration, including the age of these incidents, he submitted that this is a case where the impairment at present is towards the lower end of the spectrum of impaired fitness to practice. Mr Harris submitted that a caution order would be a serious black mark on your record, there for all to see and for potential employers to read and will weigh heavily over you in your practice during the next years. It is, in no way, an insignificant sanction. It is, also, a proportionate one that does not seek unduly to punish you.

With reference to a conditions of practice order, Mr Harris submitted that in this case, such sanction would be unnecessary and thereby disproportionate, particularly given the fact that you have been unrestricted in the last five years. He further submitted that a conditions of practice order is also often better suited to cases that have a clinical competency aspect. That is not a feature of this case, which is better characterised as a case about management experience, boundaries, and flexibility.

Mr Harris then addressed the panel on a suspension order and referred it to the NMC Guidance. He submitted that you have been practising unrestricted throughout

these proceedings and have been promoted on successive occasions from Lead Nurse to Head of Patient Experience. He told the panel that you are presently on maternity leave and plan to return to work in July 2026 into your role as Head of Patient Experience. Mr Harris submitted that there is nothing that could reasonably be gained from your temporary removal from the register that could not also be achieved by keeping you in practice, whether on a caution order or subject to conditions.

Mr Harris submitted that a period of suspension – even if only for six months – would have life changing consequences for you and your family. He told the panel about your personal and financial circumstances and the impact that the suspension order would have on you.

Mr Harris addressed the panel on a striking-off order. He invited the panel to review the NMC guidance on sanctions for the “highest risk cases” and to recognise that the misconduct it contemplates is of a different magnitude to that which you committed. He submitted that whilst the charges found to amount to misconduct are plainly serious, they are far from being towards the top end of the misconduct that this panel deals with and fall outside of the category of ‘highest risk cases’.

With reference to public confidence, Mr Harris submitted that a member of the public would be aware that these charges are now several years old and that in very many ways you are no longer the person you were at the time. He further submitted that a fully informed member of the public would also be aware of the vast number of informed character references placed before the panel which speak not only to your competence but to your excellence, much of which was further developed during the period of these proceedings. That member of the public would also know that you have no criminal convictions or cautions. Mr Harris further submitted that a member of the public would also appreciate that each of the bullying charges are overwhelmingly based upon scenarios of perceived incompetence. He submitted that the panel has heard further evidence from you of an example of your greater flexibility in matters of hospital policy. Consequently, he submitted, there is now evidence before the panel of the sort of way in which you are now able to assess a professional issue without an overly strict approach to the policy. As

such, he submitted, the member of the public would have a basis to conclude that the likelihood of further incompetence-based bullying is very low.

Mr Harris invited the panel to consider the many testimonials provided and questioned whether it is truly proportionate to strike you off from the register. He made specific references to:

- *A brilliant lead nurse and is a role model for all staff members*
- *Exemplar practice (sic.)*
- *I hope that Jenna continues to flourish and develop in her nursing career*
- *For the women (and I'm sure men but that is not my speciality) of Jersey care has improved in part thanks to service improvements initiated, developed and implemented by Jenna*
- *She goes over and above to support her areas and I would consider her to be a good role model and an excellent ambassador for the profession of nursing*
- *I am proud to work alongside her*
- *As Jenna demonstrated a high level of skills in knowledge, not only in her clinical skills but also in leadership and management, she quickly rose to become the Senior Sister in the department and subsequently became the Lead Nurse for the Medical Care Group*
- *The highest assurance I could give is that I would entrust my loved ones to Jenna's care*
- *In my 27 plus years as a registered nurse I am pleased to have Jenna as my Lead Nurse. I find her supportive and engaging, interested and kind to everyone she meets both personally and professionally'*
- *An amazing role model for anyone wishing to go into a career in Nursing*
- *Jenna is clearly the best and most supportive line manager I have had the pleasure to work with. She is a credit to the organisation. For these reasons she is most certainly a role model to me*
- *She is proactive in facilitating change to improve practice and patient*

*experience with initiatives such as PJ paralysis, Safety Huddles and Think Kidney, always acting as a patient advocate*

- *I am now proud to have Jenna as a Peer and watch her develop into a fantastic lead nurse who manages challenging situations with compassion and strength*
- *I am 30 years nursing and I have a few role models throughout my career and Jenna to me is definitely a role model for all nurses*
- *In my view Jenna is a dedicated professional, a positive role model and mentor and is a credit to our organisation*
- *I have observed that Jenna always deals with situations with compassion that really sets her apart from her peers.*

Mr Harris submitted that you are a deeply proud and committed nurse for whom your profession is a central tenet of your identity. He submitted that a caution order would meet the justice of this case and that it would remain a dark cloud on an otherwise wholly unblemished career and a reminder of the importance of your continuing professional development.

### **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. 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 decision on sanction is a matter for the panel independently exercising its own judgement.

When considering bullying and harassment, it is important to recognise the deeper appreciation of the responsibilities that come with working alongside and supervising more junior and vulnerable colleagues.

Based on the information before the panel, there appears to be a lack of full understanding of the nature and impact of bullying behaviour. Junior staff members are inherently in a

more vulnerable position, and this vulnerability may be further heightened by personal circumstances and or individual factors.

In reaching this view, the panel gave consideration to your responses during the hearing. While you were able to describe certain actions you have taken, including attendance at some relevant courses, these did not sufficiently demonstrate deeper insight.

As an experienced nurse and senior leader, it would be expected that you could clearly articulate what constitutes bullying, how it may manifest in different forms, and the nuanced impact it can have on individuals. Your explanations remained largely superficial and did not evidence a developed understanding of these issues.

In particular, there was limited evidence of knowledge transfer from learning into practice. While you have undertaken training, there was insufficient indication that this had translated into practice or been adopted as a proactive approach.

During your oral evidence, it was noted that the example you provided was relatively straightforward and appeared to be approached in a process-driven manner. This differed materially from the more complex situations under consideration, involving junior staff members, some with additional vulnerabilities. This distinction is important, as it highlights the need for a more sophisticated understanding of interpersonal dynamics and the varied ways in which bullying can be experienced. Furthermore, the panel did not consider that the examples you gave in evidence demonstrated an understanding of how your own behaviour may be perceived as bullying or how you would recognise and understand the vulnerability of a colleague/staff-member without it being specifically brought to your attention.

A key component of remediation is the ability to demonstrate genuine insight. This includes understanding what constitutes bullying behaviour, recognising how such behaviour can manifest and appreciating the significant emotional and psychological impact it can have had on those affected, particularly individuals with additional vulnerabilities who may experience these impacts more acutely. In addition, understanding the impact of bullying behaviour for the organisation and the wider profession.

Developing this genuine insight is essential. In the absence of a clear understanding of both the nature of the behaviour and its impact in sufficient detail, it was not evidenced that meaningful change has taken place.

Nor did the panel consider that you had understood the impact and the serious consequences of giving an inaccurate reference. The fact that the Hospital presently no longer permits managers to provide references is not a relevant consideration nor a guarantee that you will never be in a position in the future where you are requested to provide a reference. The panel determined that it is necessary for you to take further meaningful steps by way of in-depth reflection on the inaccurate contents of the reference, the lack of integrity and the very real consequences of your actions.

The panel took into account the following aggravating features:

- Limited insight into the specific concerns
- Multiple incidents over a period of over four years (The panel did not accept Mr Harris' submission that the incidents effectively should be regarded as isolated, individual incidents rather than a pattern of continuing conduct)
- Health, well-being and safety of colleagues/staff-members were affected
- Lack of integrity in relation to the reference provided to Colleague A
- Bullying of more junior colleagues/staff-members who were vulnerable due to their mental health, health and/or personal circumstances
- Abuse of power when in a managerial position

The panel also took into account the following mitigating features:

- Significant amount of retraining, some of which is relevant to the areas of concern
- Worked for five years without further concern
- Full engagement with the NMC proceedings, especially during difficult personal times
- Level of experience at the time of the allegations
- Culture at the Hospital at the time of the allegations
- Your clinical practice is of a high-standard

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

The panel next considered a caution order and had regard to the NMC Guidance on ‘*Caution order*’ (Reference: SAN-2b Last Updated: 28/01/2026) in which the following is stated:

*‘A caution is only appropriate if the Committee has decided there’s no risk to the public or to people using services that requires the professional’s practice to be restricted. This means the case is at the lower end of the spectrum of impaired fitness to practise, but the Committee wants to mark that what happened was unacceptable and must not happen again.’*

The panel considered that your actions were not at the lower end of the spectrum, and it found that there is a risk to public (colleagues/staff-members) safety. It also noted that there was insufficient retraining/strengthening of practice in the areas of concern upon which you were found to be impaired. The panel therefore determined that a sanction that does not restrict your practice would not protect the public. The panel also determined that it would be neither proportionate nor in the public interest to impose a caution order nor mark the seriousness of the concerns.

The panel next considered whether placing conditions of practice on your registration would be appropriate. The panel is mindful that any conditions imposed must be relevant, proportionate, workable and measurable. The panel had regard to the NMC Guidance on ‘*Conditions of practice order*’ (Reference: SAN-2c Last Updated: 28/01/2026) and had regard to the following factors:

- ‘...’
- *identifiable areas of the professional’s practice in need of assessment and/or retraining*

- ...
- *potential and willingness to respond positively to retraining (this should be based on specific evidence provided by the professional)*
- ...
- ...
- ....’

Given the nature of the charges in this case, specifically in terms of you still not recognising what bullying is and the impact bullying has on colleagues/staff-members, particularly those with vulnerabilities, the panel is of the view that there are no relevant, proportionate, workable or measurable conditions that could be formulated. The panel also noted that the misconduct in your case did not relate to your clinical practice.

Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public/members of staff.

The panel went on to consider whether a suspension order is appropriate in this case. The panel had regard to the NMC Guidance on ‘*Suspension order*’ (Reference: SAN-2d Last Updated: 28/01/2026) in which the following factors on when a suspension order may be appropriate are set out:

- *‘the impairment is very serious but not fundamentally incompatible with continuing to be a registered professional*
- *an outcome less severe than strike-off would still satisfy the over-arching objective.’*

The panel also had regard to the key considerations as set out in the NMC Guidance to weigh up before imposing a suspension. It noted the following list of circumstances that may make a suspension order an appropriate sanction:

- *‘the charges found proved are at the most serious end of the spectrum and call into question the professional’s suitability to continue practising, either currently or at all*
- *while it is possible that the professional could be fit to practise in future, only a period out of practice would be sufficient to allow them to fully strengthen their practice through reflection, the development of their professional skills and / or development of insight and remediation*
- ...
- *what went wrong is so serious that public confidence in the profession and professional standards could not be maintained if the professional were able to continue practising without stopping for a period of time*
- *despite the seriousness of what happened, the professional has engaged in the proceedings and has shown at least some meaningful insight which evidences a realistic possibility that they will continue to develop this insight, address their concerns and return to practice.’*

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with you remaining on the register.

The panel had carefully considered the information you had provided about your leadership training and experiences and your commitment to re-training. The panel also considered the bundle of positive testimonials you have provided, particularly from those working with you from 2021 onwards. The panel had concluded that you had been able to develop your management skills and develop meaningful insight in some areas. The panel was of the view that there is a realistic prospect of your insight fully developing into the remaining areas of concern. If you addressed these remaining areas of concern, the panel was of the view that you could return to unrestricted practice in the future.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. It also determined that it would not be in the public interest to strike-off a very competent nurse. Whilst the panel acknowledges that a

suspension may have a punitive effect, it would be unduly punitive in your case to impose a striking-off order.

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

The panel noted the hardship such an order will inevitably cause you. However, this is outweighed by the public interest in this case.

The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

In making this decision, the panel carefully considered the submissions of Mr D'Alton in relation to the sanction that the NMC was seeking in this case. However, the panel considered that a strike-off order would be a disproportionate measure in this case.

The panel determined that a suspension order for a period of six months with a review was appropriate in this case to mark the seriousness of the misconduct.

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:

- Evidence of specific training with regards to mental health and vulnerabilities, such as REACTMH training or the Mental Health First Aid training;
- Reflective piece specifically addressing the areas of concern identified by the panel in relation to bullying, vulnerabilities in colleagues/staff-members;

- Reflection on how as a manager you should/would meet the individual needs of colleagues/staff-members with vulnerabilities such as mental health, physical health concerns and safely and effectively manage such staff;
- Reflection on bullying in the workplace which demonstrates movement from knowledge acquisition to application to practice;
- Reflective piece on the role and the responsibilities of managers in providing accurate references and the impact of failing to do so.

This will be confirmed to you 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 your own interests until the suspension sanction takes effect.

### **Submissions on interim order**

The panel took account of the submissions made by Mr D'Alton. He invited the panel to impose an interim suspension order for a period of 18 months to cover any appeal period. He submitted that this order was necessary on public protection and public interest grounds, for the same reasons as the substantive order.

Mr Harris acknowledged the position of the NMC and did not make any representations on this.

The panel heard and 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 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 cover any appeal period.

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

That concludes this determination.