

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

**Substantive Hearing  
Tuesday 6 May 2025 – Wednesday 14 May 2025  
Monday 19 January 2026  
Monday 2 February 2026 – Tuesday 10 February 2026**

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

**Name of Registrant:** Cali Maxamuud

**NMC PIN:** 13H2425E

**Part(s) of the register:** Registered Nurse – Sub Part 1  
Mental Health – September 2017

**Relevant Location:** Bedfordshire

**Type of case:** Misconduct

**Panel members:** Konrad Chrzanowski (Chair, lay member)  
Melanie Lumbers (Registrant member)  
Chanelle Gibson-McGowan (Lay member)

**Legal Assessor:** John Moir (6-14 May 2025)  
Charlotte Mitchell-Dunn (19 January 2026)  
Robin Hay (2 – 10 February 2026)

**Hearings Coordinator:** Rene Aktar (6 - 14 May 2025, 19 January 2026)  
Max Buadi (2 – 10 February 2026)

**Nursing and Midwifery Council:** Represented by Giedrius Kabasinskas, Case  
Presenter, Counsel (6 -13 May 2025)

Represented by Richard Webb, Case Presenter,  
Counsel (14 May 2025)

Represented by Leeann Mohamed, Case  
Presenter (19 January 2026)

Represented by Vida Simpeh, Case Presenter,  
Counsel (2 – 10 February 2026)

<b>Mr Maxamuud:</b>	Present and represented by James Halliday, Counsel on behalf of Thompsons Solicitors
<b>Offer of no evidence:</b>	Charges 1a, 1b, 1c, 2a, 2b, 3
<b>Facts admitted:</b>	Charges 4a, 4b, 4c and 5
<b>Fact found proved:</b>	N/A
<b>Facts found not proved:</b>	N/A
<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	<b>Suspension order with review (6 months)</b>
<b>Interim order:</b>	<b>Interim Suspension Order (18 months)</b>

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

At the outset of the hearing, Mr Kabasinskas, on behalf of the Nursing and Midwifery Council (NMC), made a request that the application to postpone be held in private on the basis that proper exploration of your application involves reference to Patient A's health. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Halliday, on your behalf, supported this application.

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

Having heard that there will be reference to Patient A's health, the panel determined to hold the entirety of the application to be heard in private. The panel was satisfied that this would protect Patient A's right to privacy and confidentiality, which outweighed the public interest in those matters being heard in public.

## **Application to postpone under Rule 32 on day one**

Mr Halliday made an application to postpone the hearing to allow more time to receive further documents in relation to Patient A which had been requested. He submitted that this application relates to the disclosure in relation to Patient A's medical condition which may affect her credibility or reliability.

Mr Halliday submitted that various information was sought from, amongst others, the Police, which included video recorded interviews. Additionally, the following information was requested on 31 March 2025 from the NMC:

1. Medical records:
  - a. Confirmation of whether Patient A's full medical records have been obtained by the NMC;
  - b. If so, whether these have been reviewed for the purposes of disclosure;
  - c. If so, disclosure of the following:
    - i. Any medical condition, ailment or other prognosis which is capable of impacting the reliability and/or credibility of Patient A's account;
    - ii. Any previous instances of allegation of this nature or otherwise, in particular any allegation which were found to be probably false;
    - iii. Any past behaviour which has been detailed within the various statements of the clinicians in the case within Patient A's notes;
    - iv. Any previous allegations in which the police have become involved and the result of those investigations;
    - v. Confirmation of notes detailed by CM in which he refused to facilitate a "trade" or "payment" between Patient A and another patient.
2. Police Investigation:
  - a. Full video recordings of the Achieving Best Evidence (ABE) interviews conducted by the police;
  - b. Full verbatim transcripts of the ABE interviews conducted by the police;
  - c. Unredacted crime reports of this incident;
  - d. Unredacted crime reports of any previous allegations made by Patient A;
  - e. Full Police National Computer (PNC) print out and confirmation of any previous convictions of Patient A;
  - f. Confirmation as to the police's rationale for not charging Mr Maxamuud;
  - g. Any further witness statements taken during the course of the police investigation;
3. Documentation:
  - a. Full version of the notes produced at pg. 32 of 112 (main bundle);
  - b. Social worker records which document any behaviour which is capable of

- undermining Patient A's account;
- c. A full draft bundle to allow Defence to suggest redactions in full.
- d. Local investigation documents and statements taken

Mr Halliday invited the panel to consider that the NMC is under an obligation to investigate all reasonable lines of enquiry. Mr Halliday submitted that these issues relate to credibility and reliability, as there are no other direct witnesses relating to the alleged sexual assault. He submitted that there is also no independent evidence such as CCTV, which captures the alleged assault, nor is there any scientific evidence such as DNA.

Mr Halliday directed the panel to page 34 of Exhibit 5 and submitted that Patient A is said to have been struggling with auditory and visual hallucinations and that she had requested to be placed on an enhanced observation for support. He submitted that although there is no confirmation as to what psychiatric illness this is (in the redacted documents), there is evidence of the effect of both her condition and her medication.

Mr Halliday submitted that during the second interview with Patient A at which was shown the CCTV footage, Patient A also stated that she could not remember what occurred. He submitted that the CCTV footage does not show any offences.

Mr Halliday submitted that the panel must ensure that there is no injustice caused to the parties. He submitted these are extremely serious sexual assault allegations where you could potentially expect a custodial sentence in criminal proceedings. In any event, if proved, the allegations are likely to be career ending. Mr Halliday submitted that it would be unjust to proceed in today's hearing, and that there may be time for disclosure to be obtained.

Mr Halliday submitted that there will be an inconvenience caused to parties if the panel were to agree to an adjournment, but that the inconvenience compared to the public interests in expeditious disposal is potentially nuanced. He submitted that this is a dated

case with it being over six years old and a further delay would not adversely impact the memory of witnesses.

Mr Kabasinkas submitted that the NMC sent the case examiner's decision letter to you on 4 April 2024 and that the matter was scheduled for the hearing to take place on 20 September and 4 – 15 October 2024. He submitted that on 28 August 2024, the NMC received a request for postponement from your solicitor on the basis that all those dates were unsuitable as they were unable to find suitable counsel.

Mr Kabasinkas confirmed that the NMC evidence were sent to you on 26 February 2024 and further evidence was sent on 13 March 2025.

Mr Kabasinkas submitted that the allegations took place more than six years ago in February 2019. He submitted that there is a public interest in the expeditious proceeding of this case, given that this matter was already postponed and did not go ahead in 2024.

Mr Kabasinkas submitted that the matter will be further delayed significantly. He submitted that a witness in this case is a vulnerable witness and that there will be an application for special measures to be put in place for this witness.

Mr Kabasinkas submitted that further postponements will put the witnesses' engagement at risk. He submitted that memory of the witnesses' fade over time and that a further postponement will further affect the witnesses' memory. Mr Kabasinkas submitted that the panel will be at a significant inconvenience to the witnesses as there is a risk of losing the main witness in this case. When questioned, Mr Kabasinkas confirmed that there was no current evidence as to that witnesses' position on postponement at present.

Mr Kabasinkas submitted that the disclosure request came in late. He submitted that there is no guarantee that the request for further documents would be sufficient enough due to the limited information that can be provided in relation to those documents. Mr Kabasinkas submitted that there is no good reason that the matter should not proceed.

In response, Mr Halliday, on your behalf, denied that the disclosure request was late.

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

### **Update on application to postpone under Rule 32 on day two**

Mr Kabasinkas updated the panel that the ABE Transcripts and videos have been obtained and would be shared with your representatives. He submitted that the ABE transcripts are of significant importance. He submitted that the NMC cannot see why this matter should be delayed.

Mr Kabasinkas submitted that given that a professional witness was warned for day one and day two, an adjournment will have a further delay on the proceedings.

Mr Kabasinkas submitted that the ABE interviews are video recorded and that the panel will have access to these. He submitted that the panel would have access to the witness statements from members of staff, including a witness statement from Patient A, a consultant, and the ABE transcripts.

Mr Kabasinkas submitted that there is concern around the speculation surrounding Patient A. He submitted that in relation to the documents, if the panel were to feel that one document is essential to proceed, then the panel are entitled to this information.

Mr Halliday submitted that although the ABE interviews were a major concern, this was not the main issue that was raised. He submitted that an adjournment is necessary for proper presentation of your case.

Mr Halliday submitted that there is a reference to visual hallucinations on 24 February 2019. He submitted that there is no confirmation of a diagnosis and only a suspected diagnosis. Mr Halliday submitted that Patient A has a long protracted psychiatric illness history where they have spent majority of their teenage young adult life in secured units.

Mr Halliday submitted that it is extremely relevant and important as to why Patient A may honestly hold a belief that she had been sexually assaulted. He referred the panel to the incident that was reported on 24 February 2019 and a previous reported incident.

Mr Halliday submitted that the medical notes would show a diagnosis if there were still a current diagnosis or when it was diagnosed in the first place. He submitted that there is not enough information as to what is going on and it would confirm whether Patient A had a diagnosis of a psychotic illness at the time.

Mr Halliday submitted that this information would be extremely relevant as it would show if there were an active psychotic illness.

Mr Halliday submitted that he does not agree with Mr Kabasinkas' submissions as the requests for the medical information has been clear. He submitted that the disclosure request has not changed.

#### Update on request for further information

At the panel's request, Mr Kabasinkas provided unredacted copies of two Multi-disciplinary Team Meeting reports within the evidence bundle for 4 March 2019 and 29 April 2019.

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

#### Update on request for further information

Mr Kabasinkas submitted that there is an updated report on August 2019 which could be of assistance to Patient A's medical condition. He submitted that Patient A having schizophrenia is pure speculation.

Mr Kabasinskas submitted that whilst the NMC was told that all of the information had been disclosed, these disclosures should have been raised last year as it only became an issue earlier this year. Mr Kabasinskas submitted that that there is sufficient information to continue this case.

Mr Halliday submitted that the concern raised within the previous medication provided indicates that Patient A took a medication used to treat schizophrenia. He submitted that there is growing history that is demonstrated within the paperwork, including this new report.

Mr Halliday submitted that the information was redacted in the case examiner's bundle where Patient A continues to complain of psychotic symptoms in the form of hallucinatory voices. He submitted that the NMC have redacted information that is potentially relevant.

Mr Halliday referred the panel to the new report, in which is details a per-required need (PRN) medication on 4 March 2019. He submitted that this medication is used to manage symptoms such as hearing, seeing or feeling things.

Mr Halliday on your behalf indicated that as a result of the drip-fed nature of disclosures from the NMC. He stated that he had a proper basis to instruct an expert consideration of Patient A's records to consider whether her condition is capable of impairing her credibility and reliability. Following questions from the panel, he stated that he wanted time to consider instructing an expert witness. Mr Halliday invited the panel to allow the application to postpone the hearing.

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

### **Decision and reasons on Application to postpone under Rule 32**

The panel was directed to Rule 32(2) and 32(4) of the Rules. The panel considered Mr Halliday's submissions where he set out that these were serious allegations which could

be potentially career ending and that it would be unjust to proceed. The panel also considered PRE-5 of the NMC Fitness to Practise library.

The panel took into account the timeline of events including:

- You stating that you were first given Patient A's handwritten letter detailing the full allegations on 24 February 2019
- The WhatsApp messages discussing the allegations on 26 February 2019
- The panel noted in the Proof of Service that: *"We sent you copies of all the evidence we've collected on 26 February 2019. We also wrote to you on 25 March 2025 with some extra evidence."*
- Thompsons Solicitors' representing you since 4 April 2019
- There was a case management meeting held in April 2024
- Thompsons Solicitors' request to postpone the September 2024 hearing which was made in August 2024 which was noted on the unsigned Case Management Form (CMF)
- The above CMF document contained your request for daily notes for 17 February 2019
- The reference of an email dated 29 August 2024 from Ms 1 which stated: *"I have had this conversation with [Patient A], she would like to continue with the original date of September. She feels she has waited a long time for this to take place. As a ward we will be able to support [Patient A] with the trial in September. We believe it will have a detrimental impact on her mental health if this is postponed until February."*

The panel noted that it appeared that no further requests of disclosures were received until a request was made on 31 March 2025 once counsel had been instructed on your behalf in February 2025, which outlined a large number of disclosure requests which is outlined in the disclosure requests above. The panel noted that the NMC responded on 1 April 2024 and asked for further information.

The panel is of the view that Thompsons Solicitors had ample opportunity to make these requests earlier to allow the NMC to deal with these requests in a timely manner. The panel considered that the NMC have been supportive to a number of your requests, including the postponement of the hearing, which was originally set to be heard in September 2024. The panel considered that this should have put your solicitors on notice to put the disclosure request in earlier.

The NMC did not respond to your request made in August 2024 for daily notes of 17 February 2019 until it produced 200 pages of daily notes immediately prior to the commencement of the scheduled hearing. These notes cover the entirety of February 2019. At the same time, you were provided with a psychiatric report in relation to Patient A dated 31 July 2017. On the second scheduled day of the hearing, the NMC shared unredacted copies of the multi-disciplinary team (MDT) meetings of 4 March 2019 and 29 April 2019. At the end of that day, the NMC provided a further psychiatric discharge, now in an unredacted form, report in relation to 23 August 2019. The NMC have undertaken to share the ABE interview records (video and transcription) but these have not yet been made available.

The panel noted that you raised concerns that you did not have access to Patient A's past medical history, previous conviction, nor the background to Section 37/41 Order. The August 2019 document referenced above does supply this information.

The panel took into account the concerns in relation to the credibility of Patient A. The panel noted that Patient A is the only direct witness in relation to charges 1, 2 and 3, other than you. The panel are content that both the NMC and your counsel would have ample opportunity to question Patient A during her live evidence. The panel will also be able to question Patient A and it will be for the panel to determine the credibility and reliability of all witnesses. The panel will also hear from other witnesses who dealt with the care of Patient A.

Whilst the panel observed the concerns around the medication, which was disclosed in the psychiatric summary report, the panel noted that it has the opportunity to question the forensic doctor during witness evidence. The panel therefore does not feel that there would be an injustice to you in proceeding with this case.

The panel consulted the Fitness to Practise (FTP) Guidance on postponement and adjournment. In reference to fairness, it was clear that a decision can only be made to postpone and adjourn if no injustice is caused to the parties.

The panel recognised that there was a clear public interest in the expeditious disposal of this case. The panel noted that witnesses have been scheduled to attend and diarised their attendance for the hearing to attend at a later stage which would then impact their memory if the matter were to be delayed further. There would also inevitably be some inconvenience reconvening at a later date when all parties would be available to sit. This might cause considerable delay in the proceedings and prevent the hearing from carrying out its function expeditiously.

The panel was of the view that whilst further medical evidence regarding Patient A had been received in the past few days, it doesn't alter the information of the diagnosis. The panel noted from the papers that have been served that Patient A has numerous complex health issues. Additionally, you had nursed Patient A for approximately one year so you would have been fully aware of her conditions.

The panel has a duty to consider injustice to all parties. The panel noted the email dated 29 August 2024 referred to above which refers to your request to postpone your substantive hearing scheduled for September 2024. The panel acknowledges that disclosures have been provided late by the NMC and in some instances during day one and day two of this hearing. However, the panel is of the view that you will be able to question the forensic consultant psychiatrist who treated Patient A regarding her medical diagnosis and how that may affect her reliability and credibility. Additionally, other healthcare professionals who have cared for Patient A over a period of time will also be

giving live evidence and can also be questioned regarding her historical behaviours. The panel is of the view that the evidence that can be obtained from the psychiatrist and other health professionals potentially would enable you to gain a greater understanding of the credibility and reliability of Patient A. The panel considered that it would be disproportionate to delay this hearing to allow consideration to engage an expert. It noted that you will be entitled to call any relevant witnesses to your case.

On balance, the panel is of the view there is sufficient information before each party to commence the hearing.

Balancing all relevant considerations, the panel have determined not to grant the application. In the panel's judgment it would be fair and proportionate to proceed with the hearing as listed.

### **Decision and reasons on application to amend the charge**

The panel heard an application made by Mr Kabasinkas to amend the wording of the preamble to the charges.

The proposed amendment was to add more detail to the preamble of the charges. It was submitted by Mr Kabasinkas that the proposed amendment would provide clarity and more accurately reflect the evidence.

Mr Halliday did not oppose to this application.

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

The panel was of the view that the amendment was not specific enough and decided that the charges should read as follows.

**'That you a registered nurse whilst working at Cygnet Hospital between 2018 - 24 February 2019:**

In relation to Patient A

1. Made one or more of the following comments to them
  - a. "Look how hard you have got me" or words to that effect.
  - b. Told them that you loved them.
  - c. Told them that you wanted to have sex with them.
  
2. On 17 February 2019
  - a. Touched Patient A's vagina.
  - b. Inserted your fingers into Patient A's vagina.
  
3. Your actions at charges 1 and or 2 were sexually motivated in that you sought to pursue a future sexual relationship and /or sought sexual gratification.
  
4. **On 26 February 2019** made one or more of the following comments via WhatsApp in relation to Patient A to Colleague A
  - a. "She is a psychopath"
  - b. "She need to be put down like unhealthy animal"
  - c. "She should be allowed to die when she took Clozapine"
  
5. Your comments were at charges 4a, and/or 4b, and or 4c were derogatory.

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

The panel was of the view that such an amendment, as applied, 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. It was therefore appropriate to allow the amendment to ensure clarity and accuracy.

### Day 7 of the hearing

Mr Webb, on behalf of the NMC, made an application to adjourn the hearing for a future date. He submitted that a new date should be listed after 28 days to allow notice to be sent to you and if required, it would allow sufficient time for a new case presenter to read the transcripts and keep up to date with the case.

Mr Webb submitted that a new panel could take over as the panel are not seized of the case. He submitted that there is inconvenience to the parties involved, including you and the witnesses.

Mr Halliday did not oppose this application.

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

The panel accepted the application and decided that the hearing should be re-listed at a future date. Accordingly, the panel direct that the matter be adjourned.

This will be confirmed to you in writing.

That concludes this determination.

The hearing resumed on 19 January 2026.

### Application in relation to the disclosure document

The panel invited both the Nursing and Midwifery Council (NMC), and Mr Halliday, on behalf of Mr Maxamuud, to provide an update on disclosure and further case management.

Ms Mohamed, on behalf of the NMC, provided the panel with an update in relation to the disclosure document sought from the police. Ms Mohamed submitted that the NMC have been in contact with the Police and acknowledged that any previous statements made by Patient A to the Police in respect of this case ought to be disclosed out of fairness to all parties.

Further, Ms Mohamed addressed the panel in relation to disclosure of Patient A's medical records. She acknowledged that the records ought to be disclosed. It was noted that the records had been secured by Cygnet, however, they required further review and redaction. Ms Mohamed submitted that the estimated timeframe for this was unclear at this stage and the documentation was likely to have a significant page count.

Ms Mohamed submitted that in relation to the substantive hearing that is due to take place on 2 February 2026 that, at present, the panel did not have all the material it required to proceed with the case. She submitted that this might jeopardise the hearing date and that the panel may wish to consider postponing the hearing.

Mr Halliday set out a full history of his contact with the NMC since the previous hearing was adjourned on the 14 May 2025. He referred the panel to a table within his note prepared for the procedural hearing which sets out a number of attempts to contact the NMC in relation to disclosure requests.

Mr Halliday submitted that this case had not moved forward since the adjournment. He submitted that the NMC has changed its position in respect of disclosure. He noted that the NMC now accepts that it has disclosure obligation in respect of the material sought, despite previously stating that the disclosure requests made by Mr Maxamuud were a 'fishing expedition'.

Mr Halliday stated that he accepts that the initial disclosure request made by Mr Maxamuud in March/April 2025 was close to the previous hearing date. However, since the adjournment in May 2025 the NMC have had ample time to make the necessary disclosure requests.

Mr Halliday submitted that the hearing ought not to be postponed as Mr Maxamuud had taken time off work to attend the hearing and he noted that the case had been on-going since 2019.

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

Before reaching its decision, the panel recalled the parties and asked for clarification in respect of the timeline of Patient A's medical records. The panel asked Mr Halliday if he would consider a condensed timeframe for the medical history in respect of Patient A, on the basis that the panel assumed that not all of her medical history would be relevant to the case. Mr Halliday submitted that he was unable to suggest a condensed timeline as he was not aware of what medical history may be disclosed and how that might affect his examination of witnesses.

The NMC submitted that if the panel made a direction for the disclosure of Patient A's full medical history, the volume of the documentation would be so significant that it would be unlikely that the hearing could proceed on 2 February 2026. Ms Mohamed therefore repeated that the panel may wish to consider postponing the case. However, Ms Mohamed did not make a formal application for the postponement of the hearing at this stage.

The panel considered the representations of all parties and noted that at today's hearing, both parties are in agreement that the following disclosure is required.

- Patient A's relevant medical notes
- Confirmation of whether there have been any previous allegations of this nature made by Patient A
- Patient A's convictions, cautions and reprimands
- All accounts given by Patient A to the police in the course of the investigation.

The panel went on to consider what would be a reasonable time period for disclosure of Patient A's medical history relevant to the present case. On the basis of the issues raised the panel considered Patient A's full medical history should be limited to 1 January 2015 until 31 December 2020. The panel considered that this encompassed a previous allegation of abuse in 2016 (unrelated to these proceedings) and the current 2019 allegations and also allowed time for any further potential diagnosis pertinent to this case.

On this basis, the panel direct that the NMC should provide the above disclosure to Mr Maxamuud prior to 2 February 2026.

- Patient A's relevant medical notes between 1 January 2015 to 31 December 2020
- Confirmation of whether there have been any previous allegations of this nature made by Patient A
- Patient A's convictions, cautions and reprimands
- All accounts given by Patient A to the police in the course of the investigation.

The panel considered the issue of postponement raised by the NMC but noted that no formal application had been raised at this stage.

The panel noted that there are a number of case management issues which are outstanding and which may adversely impact the timetabling of the hearing. However, at this stage the panel is not aware of whether or not disclosure could be completed by 2 February 2026 and has not been given a realistic timeframe of when the preliminary matters raised at this hearing today may be resolved. The panel determined that it would be pre-emptive, to postpone the hearing at this stage, without a formal application and in the absence of information as to whether disclosure could be achieved by 2 February 2026.

Notwithstanding this and noting the significant case management issues, which remain unresolved, the panel determined that the first day of the hearing ought to be listed as a case management hearing. On that date the parties will be able to make any applications that they may wish to make in respect of postponement, adjournment or abuse of process.

The panel note that there is a small amount of time between now and 2 February 2026 and the panel directs that the NMC take all reasonable endeavours to expedite matters in the interests of fairness to all.

The hearing resumed on 2 February 2026.

### **Application to admit hearsay evidence of Patient A into evidence**

The panel heard an application from Ms Simpeh, on behalf of the Nursing and Midwifery Council (NMC) to admit Patient A's NMC witness statement, dated 7 July 2023, her supplementary NMC witness statement, dated 6 August 2024, an undated handwritten note from Patient A provided and exhibited by a member of staff, and notes from Patient A's police interviews on 14 March 2019 and 22 May 2019 as hearsay evidence.

Ms Simpeh submitted that the evidence of Patient A is relevant and fair. With regard to relevancy, Ms Simpeh said that the evidence of Patient A was directly relevant to the charges. She said that Patient A provided an account outlining the incident and what was done.

With regard to fairness, Ms Simpeh referred the panel to the guidance in the case of *Thorneycroft v Nursing and Midwifery Council [2014] EWHC 1565 (Admin)*.

Ms Simpeh said that it is accepted that the evidence of Patient A is sole and decisive evidence. She submitted that the fact that it is the sole and decisive evidence, does not mean that the panel should not admit it into evidence. She referred the panel to the case of *Mansaray v Nursing and Midwifery Council [2023] EWHC 730 (Admin)*. She informed the panel of the similarities this case has with yours.

Ms Simpeh said that in the case of *Mansaray* a registrant had been accused of inappropriate misconduct in that he sought to form a relationship of sexual nature with a patient who suffered mental health issues. She said that a witness statement had not been obtained from the witness who subsequently passed away. She said that the NMC relied on notes from an interview conducted by the NMC Investigator where the patient had provided an account of the allegations. She informed the panel that the hearsay was admissible because, notwithstanding the mental health problems of the patient, there was

nothing to suggest that the patient was lying or giving an inaccurate account of what happened.

Ms Simpeh submitted that Patient A's evidence is demonstrably reliable and is capable of being tested by other evidence. She said that Patient A provided her account to a staff member in written form and provided an account to the police, in a formal setting, on two occasions. She also said that Patient A provided a signed NMC witness statement. Ms Simpeh also said that Patient A contacted a telephone helpline. Ms Simpeh submitted that Patient A had demonstrated a consistent account from the beginning. She submitted that Patient A was therefore aware of the seriousness of the procedures she was involved in, aware of the process and importance of telling the truth. She submitted that Patient A's evidence is demonstrably reliable and that Patient A was aware of the gravity of the information she had provided. Ms Simpeh said that there is nothing to suggest Patient A is lying or providing an inaccurate account.

Ms Simpeh said that there is corroborative evidence available to the panel. She referred the panel to the statement you provided to your employers. Ms Simpeh drew the panel's attention to where you accepted, within your statement, to being in the multi-faith room with Patient A who turned the light off, went to the toilet together, returned to the multi-faith room where you stated that Patient A made suggestive comments towards you. Ms Simpeh said that in these circumstances there is corroboration with this statement and with Patient A's NMC witness statement.

With regards to the nature and extent of the challenge, Ms Simpeh said that you denied the charges. She submitted that just because you deny the allegations does not mean that the panel could not admit the evidence of Patient A. She reminded the panel that there is some corroboration between your statement and Patient A's NMC witness statement. She submitted that the panel can take into account both Patient A's evidence and your account and determine what weight it will attach to Patient A's evidence in light of all the other evidence including those from witnesses.

Ms Simpeh said that you have indicated that you have reason to believe that Patient A has fabricated the allegations. She drew the panel's attention to your statement that on a date in February 2019, where you stated that you refused the exchange of money to take place between Patient A and another patient for some ear studs. She said that another reason was because you refused to give her a "fizzy drink" as a result of her refusing her medication. Ms Simpeh said that you believe Patient A is "getting back" at you and submitted that there is no evidence to support this. She reminded the panel that Patient A provided a written statement to a member of staff and, due to her mental health deterioration, contacted a helpline. She submitted that Patient A's provided a consistent account in all the statements she provided.

Ms Simpeh referred the panel to the statement of Witness 3, a doctor who cared for Patient A, who stated that Patient A's usual behaviour is to engage in a lot of violence, non-compliance in taking her medication and self-harm. Ms Simpeh said that there is no suggestion from Witness 3 that Patient A's mental health issues result in a history of fabrication or making an allegation of a sexual nature.

Ms Simpeh said that the panel would have to consider the impact an adverse finding may have on your career. She reminded the panel that the charges are serious and, if found proved, would have a detrimental impact on your career. She submitted the panel have an overriding duty to protect the public and consider the evidence of Patient A to ensure instances such as these are not repeated.

Ms Simpeh said that there is good reason for the non-attendance of Patient A. She said that Patient A suffers from mental health issues, is very vulnerable and is currently an inpatient at a mental health unit albeit due to be released back into the community due to the progress she has made.

Ms Simpeh submitted that it had been indicated to the NMC that Patient A was upset due to the adjournment in May 2025 and has been consistent in refusing to attend, despite the NMC and public support service trying persuade her to re-engage. Ms Simpeh drew the

panel's attention to an email dated 27 January 2026 between the NMC and the ward manager where Patient A resides. The Ward Manager stated that due to the continued adjournments, the anxiety it had caused, and the period of time this had gone on for, Patient A felt the need to move on and "*put his behind her to continue her recovery.*" Ms Simpeh submitted that there is good reason for Patient A's non-attendance and further submitted that the progress Patient A has made would effectively be derailed if she was forced to attend the hearing against her wishes.

Ms Simpeh submitted that the NMC had taken all reasonable steps to secure the attendance of Patient A. She drew the panel's attention to email correspondence between the NMC and public support services. She also referred the panel to the efforts of Patient A's support worker to secure her attendance. Ms Simpeh said that the NMC did not consider it to be appropriate for a court summons in these circumstances.

Mr Halliday opposed the application. He accepted that Patient A's evidence is clearly relevant, however he asked the panel to consider whether it would be fair to admit this evidence. He referred the panel to the case of *R (Bonhoeffer) v GMC [2011] EWHC 1585 (Admin)* which concluded that the reluctance of the witness is not a ground for admitting their evidence without calling the witness. Mr Halliday submitted that if evidence is challenged, that person should come to court, give evidence and be challenged. He said that you would not have the opportunity to do this.

Mr Halliday referred to the submissions of Ms Simpeh and her reference to the case of *Mansaray*. He submitted that the reason for the non-attendance of the patient was because of death and not because of reluctance or unavailability. He said that the person who had made the allegation had died which changes the complexion when considering fairness. He also said that while the charges in *Mansaray* were similar to the charges in this case, the registrant in the case of *Mansaray* did not dispute the majority of the charges which included sexual interactions with a patient some of which occurred outside the clinical setting. Mr Halliday informed the panel that there is no accepted romantic

relationship between yourself and Patient A which is important when it comes to reliability and credibility.

Mr Halliday submitted that there is no doubt that Patient A's evidence is the sole and decisive evidence. He said that Patient A is the only person who is party and witness to the alleged acts, the words and what you are alleged to have done.

With regards to the nature and extent of the challenge, Mr Halliday submitted that there is a "wholesale challenge" to the charges. He said you will give oral evidence, if you chose to do so, and say that this did not happen. Mr Halliday said that this is a difficult position to be in when you do not have any other supporting documentation. He said that it is of paramount importance that a proper and robust challenge is made to the content of Patient A's evidence. He said that this would be impossible if Patient A's evidence is admitted as hearsay.

With regard to fabrication, Mr Halliday said that while consistency is important it is not the defining character as to whether someone should be believed. He said that someone could consistently lie. He said that there are significant concerns about the reliability of Patient A. He referred the panel to Patient A's diagnosis which indicated that she suffers from a disorder which creates a situation of wanting greater attention. He said that the panel could consider that such a diagnosis may lead to a situation where someone could be considered unreliable.

Mr Halliday also said that there is consistent evidence to demonstrate that Patient A is suffering from hallucinations. He said that this does not necessarily mean that Patient A is lying but whether she might believe it happened or are they rather hallucinations. He said that if you have someone who is consistently reporting both visual and auditory hallucinations, then her evidence may not be entirely accurate.

Mr Halliday said that in dealing with the issue of fabrication, Ms Simpeh referred the panel to Witness 3's evidence to support the idea that Patient A wouldn't make this up. Mr

Halliday submitted that, while he understood the submission, this was speculative. He said, with respect to Patient A, that based on the material before the panel Patient A was “volatile”. He said based on the patient notes, Patient A’s behaviour and actions on the ward were considerably volatile as it would be unclear how she would cope in stressful situations. He reminded the panel that Patient A was moved on from the ward shortly after the allegations were made. He invited the panel to exercise extreme caution in extrapolating any pathology from Witness 3’s witness statement into how Patient A is acting.

Mr Halliday submitted that the allegations are serious and if proved are career ending. He said that he is not inviting the panel or conceding anything but taking the charge at its highest level, strike off may be the outcome. He said that given the gravity of the potential outcome in this case, he invited the panel to exercise extreme caution.

With regard to whether there is a good reason for the non-attendance of Patient A, Mr Halliday reminded the panel of the case of *Bonhoeffer* which concluded that the reluctance of the witness is not a ground for admitting their evidence without calling them. He said that he is sympathetic to Patient A with regards to the circumstances surrounding her mental health and said that it is a good thing that she is improving and she may be released back into the community.

Mr Halliday said that the position with respect to her mental health has not changed at all since the allegation was made. He said that her reluctance to attend the hearing is a choice made by her. He said that it is not as if she is currently going through a mental health crisis to the point that she cannot attend. He reminded the panel of the aforementioned email dated 27 January 2026 where Patient A had made an informed decision that she no longer wishes to take part in these proceedings.

Mr Halliday said that, in fairness to you, that Patient A’s decision should not have an adverse impact on you because you cannot challenge what she has said in her witness statements.

Mr Halliday also said that you had been given two days notice, namely one working day, that Patient A's statements were going to be read due to Patient A's non-attendance.

Mr Halliday invited the panel to draw the distinction between the case of *Mansaray* and *Bonhoeffer* and dismiss the NMC's application.

The panel accepted the legal assessor's advice, during which he referred the panel to the case of *Thorneycroft v Nursing and Midwifery Council [2014] EWHC 1565 (Admin)* which pertains to the admissibility of hearsay evidence.

### **The panel requests more information in its consideration of the hearsay application**

During deliberations, the panel reminded itself that for hearsay evidence to be admitted on medical grounds there would need to be independent medical evidence. It bore in mind that it did not have any medical evidence to demonstrate how these proceedings would affect Patient A's mental health and her ongoing recovery. The panel only had information from the Ward Manager recording Patient A's position in that she had said that she was concerned that attending the hearing would adversely impact on her recovery.

The panel resumed the hearing in the presence of Ms Simpeh, Mr Halliday and yourself. It requested a written assessment, from a qualified registered mental health professional, of how Patient A's attendance at today's hearing would affect her ongoing recovery.

The panel also requested, albeit unrelated to the hearsay application, an update regarding the outcome of its direction disclosure request, namely Patient A's medical records.

Ms Simpeh informed the panel that the person who deals with the redaction of the medical records at the Hospital is currently on annual leave. She said that she could make further enquires with the NMC Case Officer about this. She requested an adjournment until 11:00 on 3 February 2026 where she would be able to provide the panel with an update.

Mr Halliday did not object to the request for an adjournment.

The hearing resumed at 11:00 on 3 February 2026.

Ms Simpeh informed the panel that the NMC had spoken to Cygnet who have agreed to send Patient A's medical records however the person responsible for this is absent from work. She said that Cygent are still applying redactions and trying to find a way to send the records securely. She said that there is a belief that some progress can be made this week.

With regards to the report in respect of how Patient A attending the hearing may affect her recovery, Ms Simpeh informed the panel that there is no specific update, but enquiries are being made.

Mr Halliday said that the problem is that the NMC made this hearsay application on the basis that Patient A no longer wished to attend and they have not sought to obtain any further medical evidence.

Mr Halliday said that the NMC had always been of the view that, notwithstanding Patient A's mental health status, that they would be requiring Patient A to give evidence knowing the effect it could have on her. He said that anybody giving evidence would experience anxiety or stress.

Mr Halliday referred the panel to section 116 of the Criminal Justice Act 2003 and whether someone is unfit to be a witness because of his bodily or mental condition. He referred the panel to the case of *McEwan v DPP [2007] EWHC 740 (Admin)* which stated that evidence indicating a medical condition made worse by stress but not indicating clearly that the witness is unfit is not sufficient.

Mr Halliday said that there has never been a suggestion, despite Patient A's medical condition, that she is unfit to give evidence at any stage of these proceedings. He invited the panel to consider that her reasons for not attending, while understandable, are not sufficient to constitute a good reason for non-attendance.

The panel decided to adjourn the hearing until 15:00 to give Ms Simpeh time to obtain the written assessment regarding Patient A.

Ms Simpeh informed the panel that the NMC are still unable to obtain the written assessment as their point of contact (the Ward Manager) is currently on leave with no information as to when they will return at this stage. She said that they are trying to obtain the contact details of another person at Cygent but, despite several attempts, the NMC have not been successful. Attempts are ongoing.

Ms Simpeh said that it is a matter for the panel to decide whether to proceed with its consideration of the hearsay application or adjourn in order for the written assessment to be obtained.

Ms Simpeh informed the panel that the NMC have obtained Patient A's medical information from Cygnet, however this information needs to be reviewed, and redactions need to be applied.

Mr Halliday said that he was concerned by the timelines provided. He acknowledged that the NMC are making efforts to comply with the panel's directions but you are keen to proceed with the hearing.

The panel decided to adjourn the hearing until 09:30 on 4 February 2026 to give Ms Simpeh time to provide the panel with an update written assessment regarding Patient A.

The hearing resumed at 09:30 on 4 February 2026.

Ms Simpeh informed the panel that the NMC were able to obtain a written assessment from Patient A's Consultant Forensic Psychiatrist who has been caring her since 2007. She informed the panel that the assessment concluded that if Patient A was compelled to attend the hearing, it would effectively amount to psychological harm. She reminded the panel that she made such submissions earlier.

Ms Simpeh also drew the panel's attention to a 2018 report which formed part of first year tribunal proceedings where Patient A was sectioned. She said this report comes from the disclosure of Patient A's medical records. She said that the report did raise matters in relation to the panel's consideration of Patient A's credibility, namely that Patient A had made previous allegations against other individuals.

Mr Halliday highlighted to the panel that within the written assessment it is stated that Patient A declined to speak to her Consultant Forensic Psychiatrist in preparation for the assessment. He highlighted that the letter provided an up to date diagnosis of Patient A, stating that there had been an improvement in her mental health and she is likely to be discharged into the community soon.

Mr Halliday highlighted that Patient A's Consultant Forensic Psychiatrist confirmed that she is fit and able to give evidence. He also highlighted, from the assessment, that Patient A has the capacity to make decisions on her choice to give evidence but we know that she has decided not to.

Mr Halliday highlighted several areas of the 2018 report regarding a consistent history of Patient A's hallucinations. He also highlighted that in 2005 Patient A had made false allegations which led to arrests only for Patient A to retract the allegations. Mr Halliday submitted that it was not beyond the realm of possibility for Patient A to make allegations of a similar nature and then retract them.

Mr Halliday referred the panel to the case of *R (Ogbonna) v Nursing & Midwifery Council [2010] EWCA Civ 1216* which stated that in the circumstances of fairness, the statement

should only be admitted if the registrant had the opportunity to cross examine the statement maker. He submitted that the panel should consider this, when looking at the criteria in the case of *Thorneycroft* and whether the seriousness of the charges would have an adverse impact on your career.

### **Decisions and reasons on application to admit hearsay evidence of Patient A into evidence**

The panel had in mind that this application is made under Rule 31 of the Rules and that it may admit any evidence subject to the requirements of relevance and fairness. In reaching its decision, the panel considered the evidence before it together with the submissions of both counsel. It accepted the advice of the legal assessor.

The panel reminded itself that the charges you face are very serious and, if found proved, would have a serious impact on your career and personal life.

The panel bore in mind that it must consider fairness to both parties as well as the seriousness of the charges. It referred to the case of *Bonhoeffer* where the judge summarised his conclusions stating:

*“The more serious the allegation, the greater the importance of ensuring that the accused doctor is afforded fair and proper procedural safeguards. There is no public interest in a wrong result”*

The panel bore this in mind when it considered the criteria in *Thorneycroft*. In considering whether the evidence is sole and decisive in relation to charges 1 to 3, the panel bore in mind that both Ms Simpeh and Mr Halliday accept that it was. The panel finds this to be the case.

The panel considered the evidence before it in relation to this application:

- Patient A's handwritten notes given to a Witness 4, who at the time was a healthcare assistant at Cygnet Hospital Stevenage ('the Hospital'), on 24 February 2019;
- A Datix entry made by Witness 4 regarding Patient A dated 23 February 2019;
- Notes from Patient A's ABE Interview, dated 14 March 2019;
- Notes from Patient A's ABE Interview, dated 22 May 2019;
- Patient A's statements dated 7 July 2023 and 6 August 2024; and
- The NMC Witness Statement bundle and their supporting exhibits.

The panel were not making a finding on whether Patient A's hearsay evidence is accurate or inaccurate, rather the panel is considering fairness to both sides bearing in mind the seriousness of the allegations.

Although the contents of the above documents are mostly consistent with each other, they emanate only from Patient A. There was no independent evidence which corroborates the evidence of Patient A. The CCTV evidence demonstrates only the agreed facts that you and Patient A were in the multi-faith room and that Patient A went to the toilet at the Hospital. It does not substantiate the allegations made by Patient A. The panel reminded itself of the principle of the *Mansaray* case. This confirmed that the lack of corroboration, from a witness, does not automatically render evidence true or false. However, here the panel is considering admissibility rather than truth or otherwise.

The panel also took account the guidance it had received, with regards to the ABE interviews. It reminded itself that while these interviews could be admitted for evidential purposes, there is still a requirement to subject the interviewee, namely Patient A, to cross examination. It also bore in mind that Patient A was not under oath when participating in these interviews.

The panel took account of the statement you provided, dated 24 February 2019, which was a wholesale challenge to the content of Patient A's account. It bore in mind that this is

not a matter involving the question of consent because you deny the allegations made by Patient A took place at all.

The panel then considered whether there was a good reason for the non-attendance of Patient A. It bore in mind that throughout the NMC documentation the Interim Ward Manager, at the hospital where Patient A is residing, had repeatedly reiterated Patient A's stance, namely that due to the *"continued adjournments and the anxiety this had caused"* and the *"period of time this has gone on for, Patient A feels that she needs to move on and put this behind her to continue in her recovery."*

The panel also took account of the letter provided by Patient A's Consultant Forensic Psychiatrist, dated 4 February 2026. He stated that measures could be put in place to support Patient A's attendance and reduce any impact including, giving evidence via video link, avoiding contact with you, having staff support, taking regular breaks and adapting the cross examination to reflect her vulnerability.

However, the panel also considered that Patient A's Consultant Forensic Psychiatrist also stated that when issues relating to the NMC hearing have arisen, he has observed that this has been destabilising for Patient A. He also stated that, in his opinion, compelling Patient A to give evidence would be associated with psychological harm. The panel noted that the NMC were not inclined to summons Patient A and in light of the opinion of the Consultant Forensic Psychiatrist, the panel itself also did not wish to potentially inflict psychological harm to Patient A by requiring her attendance. The panel was therefore satisfied that there was a good reason for the non-attendance of Patient A.

The panel accepted that, under the circumstances, the NMC had taken reasonable steps to secure the attendance of Patient A. However, it bore in mind that Patient A had repeatedly stated that she believes giving evidence would impact her recovery. Further, Patient A's Consultant Forensic Psychiatrist's assessment supports this position.

The panel also acknowledged that you only received notification of this hearsay application one working day before it was made. It therefore concluded that you did not have an opportunity to prepare a counter argument.

The panel then considered whether there was any suggestion that Patient A had reason to fabricate her allegations. The panel considered the fact that it had no evidence that Patient A had reason to fabricate the allegations or that any other false allegation had been made by Patient A. However, the panel bore in mind that its primary consideration with regards to this application was fairness to both yourself and the NMC. In the light of the seriousness nature of the allegations against you, it determined that you should be afforded the opportunity to cross examine Patient A. Because this is not possible, due to Patient A absenting herself from these proceedings, the panel has determined that it would not be fair to you to admit Patient A's evidence.

The panel therefore decided to reject the NMC's application to admit the hearsay evidence of Patient A.

### **Details of Charge**

'That you a registered nurse whilst working at Cygnet Hospital between 2018 - 24 February 2019:

In relation to Patient A

1. Made one or more of the following comments to them
  - a. "Look how hard you have got me" or words to that effect.
  - b. Told them that you loved them.
  - c. Told them that you wanted to have sex with them.
  
2. On 17 February 2019
  - a. Touched Patient A's vagina.

- b. Inserted your fingers into Patient A's vagina.
3. Your actions at charges 1 and or 2 were sexually motivated in that you sought to pursue a future sexual relationship and /or sought sexual gratification.
4. On 26 February 2019 made one or more of the following comments via WhatsApp in relation to Patient A to Colleague A
  - a. "She is a psychopath"
  - b. "She need to be put down like unhealthy animal"
  - c. "She should be allowed to die when she took Clozapine"
5. Your comments were at charges 4a, and/or 4b, and or 4c were derogatory.

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

### **Decision and reasons on application to offer no evidence**

The panel heard an application from Ms Simpeh to offer no evidence to charges 1, 2 and 3.

Ms Simpeh reminded the panel that it had determined that the evidence of Patient A should not be admitted as hearsay evidence. She said that as a result, there is currently no evidence that speak directly to charges 1, 2 and 3.

Ms Simpeh reminded the panel of its powers under rule 22 (5) of the Rules to obtain further evidence or compel the witness to attend the hearing if it considered that it would assist. She further reminded the panel that Patient A had refused to attend the hearing and it was the NMC's position that it would not be suitable to compel her to attend in light of the report provided by her Consultant Forensic Psychiatrist.

Ms Simpeh submitted that in these circumstances, and in the absence of any evidence which goes directly to charges 1, 2 and 3, the application from the NMC is one of no evidence.

Mr Halliday supported the application.

The panel accepted the advice of the legal assessor and referred to the case of *PSA v NMC & X [2018] EWHC 70 (Admin)*.

In considering the application to offer no evidence, the panel took account of rule 22 (5) of the Rules, the NMC guidance entitled “Offering no evidence” (reference DMA-3) and the case *PSA v NMC & X [2018] EWHC 70 (Admin)*.

The panel considered that the application from the NMC was that it was no longer in a position to offer any further evidence in the case in relation to charges 1 to 3. The panel referred to the aforementioned NMC guidance which stated that the NMC would only make an application, “*When there is no longer a realistic prospect of some or all of the factual allegation being proved.*”

The panel bore in mind that charges 1 to 3 relied on the evidence of a witness who will not attend the hearing and the application to admit their evidence had been rejected. The panel considered that it did have the power to under the rules to compel a witness to attend and offer further evidence. However, it had determined in its decision to reject the hearsay application that doing so would have an adverse effect on Patient A’s mental health and her recovery.

Additionally, the panel considered the steps that the NMC had taken to obtain the evidence and were satisfied that there are no other avenues open to the NMC to secure any further evidence.

Therefore, in light of the above, the panel accepted the NMC application to offer no evidence with regard to charges 1 to 3.

## **Background**

The charges arose whilst you were employed as a registered mental health nurse by Cygnet Hospital as an ad hoc agency nurse.

Patient A made allegations against you, that you had sexually assaulted her. Following the allegations being made the registrant was suspended from his role.

You texted your colleague Witness 2, the Nurse in Charge at the relevant time, discussing with him that Patient A had made allegations of sexual assault against you. During this conversation, you made derogatory comments about Patient A.

In your text message exchange with Witness 2, a colleague on the same unit as yourself, you called Patient A a psychopath, said she needed to be put down like an unhealthy animal and that she should be allowed to die when she took Clozapine.

## **Decision and reasons on facts**

Mr Halliday informed the panel that you made full admissions to charges 4a, 4b, 4c and 5.

The panel therefore finds charges 4a, 4b, 4c and 5 proved in their entirety, by way of your admissions.

## **Fitness to practise**

Having reached its determination on the facts, the panel then considered, whether the facts found admitted and found proved amount to misconduct and, if so, whether your fitness to practise is currently impaired. There is no statutory definition of fitness to

practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

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

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

You gave evidence and referred to your bundle. You expressed remorse regarding the comments you made. You stated that you had undertaken a course in professional boundaries and had read many articles. You said that the comments were wrong and that it would not happen again.

### **Submissions on misconduct**

Ms Simpeh submitted that the facts admitted amount to misconduct. She also reminded the panel that you accepted that your conduct amounted to misconduct.

Ms Simpeh referred the panel to the case of *Nandi v General Medical Council [2004] EWHC 2317 (Admin)* where professional misconduct was described as '*a falling short by omission or commission of the standards of conduct expected among medical practitioners, and such falling short must be serious*'. She directed the panel to specific paragraphs within 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code) and identified where, in the NMC's view, your actions amounted to misconduct.

Ms Simpeh submitted that your comments were derogatory and demonstrated a failure to treat people with kindness, respect and compassion. She said that you cared for Patient A and as such were aware of her significant mental health difficulties. She said that it is not accepted by the NMC that the allegations were false, rather the point is taken that it is your view that the allegations caused you to become angry. Ms Simpeh said that this view is not accepted by the NMC. She reminded the panel that you had provided evidence of Patient A allegedly having a history of making false allegations against other members of staff. She submitted that as a result, it should not have been a shock to you that Patient A might make similar allegations against you. She further reminded the panel that you had stated within your statement that Patient A was upset with you because you had refused the exchange of money to take place and, in a separate incident, refused to give her a “fizzy drink”.

Ms Simpeh submitted that the comments you made in the text messages were views you held about Patient A and not just an angry reaction to the allegations against you. Therefore, your conduct would be viewed as serious by members of the profession and falls far short of what is expected of a registered mental health nurse.

Mr Halliday submitted that no issue was taken that facts admitted amounted to misconduct. He said that you had accepted this throughout the hearing.

In response to the submission made by Ms Simpeh, Mr Halliday said that allegations of a serious sexual nature were made against you rather than someone else, in these circumstances, the shock was an entirely human and reasonable reaction. However, he accepted that the comments that followed were not acceptable.

Mr Halliday said that there is no evidence to suggest that the comments you made were the views you held about Patient A. He submitted that the comments were a reaction to the allegations made against you.

## Submissions on impairment

Ms Simpeh next addressed the issue of impairment and the need to have regard 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 the regulatory body. Ms Simpeh directed the panel to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin), *R (on the application of Cohen) v General Medical Council* [2008] EWHC 581 (Admin) and *Fopma v GMC* [2018] EWHC 714 (Admin).

Ms Simpeh referred the panel to the NMC Guidance entitled “Impairment” (reference DMA-1). She submitted that you had in the past breached fundamental tenets of the profession. Also, in failing to treat Patient A with kindness, respect and compassion you failed to prioritise her.

Ms Simpeh said that even if you were of the view that Patient A had made false allegations, it was troubling for you to refer to her in the way described in charge 4. She submitted that the comments are reflective of deep-seated attitudinal problems. She said that as you were aware of Patient A conditions and vulnerability, to make such comments was in breach of a fundamental tenet of the nursing profession, which is to prioritise people by treating them with kindness, respect and compassion.

Ms Simpeh submitted that you failed to promote professionalism within the profession. She reminded the panel that you were communicating with a colleague, who was still working with Patient A, when you made those comments. She said that you risked influencing your colleague about Patient A which may have created a risk in relation to the care which would be provided to her.

Ms Simpeh submitted that you are liable in the future to breach fundamental tenets of the profession and there remains a risk of repetition as you have not fully remedied your conduct.

Ms Simpeh invited the panel to find your fitness to practise currently impaired on the grounds of public protection and public interest.

Mr Halliday submitted that there was no doubt that the comments you made are capable of bringing the profession into disrepute. He asked the panel to bear in mind that the comments were sent to a personal contact and not made on social media. He said that the comments were not intended for members of the public or Patient A to see. He said however that this was not an excuse.

Mr Halliday said that the comments were never meant to be relayed to Patient A and there is no evidence within Witness 2's statement to suggest that. He submitted that this would have been deeply unprofessional and would have resulted in further NMC allegations had this been the case. He submitted that there is no evidence to suggest that the messages sent heightened the risk of harm to Patient A.

Mr Halliday said that there is no evidence of a deep-seated attitudinal problem. The messages occurred within a short space of time, and there is no evidence that they have been repeated. Further you have expressed regret at the content of the messages and understand the effect on the public's impression of the nursing profession and the potential abuse of trust placed in him.

With regard to risk to patients, Mr Halliday submitted that this was an isolated incident arising from a deeply stressful situation. He said that the risk of harm has been "extinguished" given the fact that you have had seven years to reflect on the comments, and the situation which led to this. He said that you have created mechanisms and reflect on how in future you would deal with things differently.

Mr Halliday said that there is no evidence of a risk of repetition. There is no attitudinal indication that you would repeat the mistakes of the past. He submitted that you are not a risk to patient safety.

Mr Halliday submitted that you have expressed deep remorse and regret for what you have done. He reminded the panel that this was a private conversation which came to light during a police investigation. He said that Patient A, as far as we know, is not aware of the comments made and so there has been no actual harm caused.

Mr Halliday reminded the panel that the comments were made in “hyper stressful” circumstances and your anger and upset may be understood. He said that this does not justify the comments made but it helps understand that these were not comments made casually. He reminded the panel that you have not made comments like this before and have not repeated the mistakes made.

Mr Halliday invited the panel to find no impairment.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments.

### **Decision and reasons on misconduct**

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

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

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

*To achieve this, you must:*

*1.1 treat people with kindness, respect and compassion*

*1.2 make sure you deliver the fundamentals of care effectively*

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

*To achieve this, you must:*

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

*20.7 make sure you do not express your personal beliefs (including political, religious or moral beliefs) to people in an inappropriate way*

*20.10 use all forms of spoken, written and digital communication (including social media and networking sites) responsibly, respecting the right to privacy of others at all times*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the comments you made were serious, unacceptable, derogatory in nature and breached multiple aspects of the code. The terminology you used was wholly unacceptable. Your actions amounted to conduct unworthy of a registered nurse and particularly of a mental health nurse and would be considered deplorable by fellow practitioners.

In light of the above, the panel found 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 considered whether, if as a result of your 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. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

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

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

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

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

The panel began by considering whether these limbs were engaged with regard to the past. The panel determined that limbs b and c were engaged by your misconduct with regard to the past.

The panel considered that your actions, in making derogatory comments, brought the profession into disrepute. It was of the view that your conduct had breached the fundamental tenets of the nursing profession, namely to *"Treat people as individuals and uphold their dignity"* and to *"Uphold the reputation of your profession at all times"*.

The panel recognised that it must make an assessment of your fitness to practise as of today. This involves not only taking account of past misconduct but also what has happened since the misconduct came to light and whether you would pose a risk of repeating the misconduct in the future.

The panel had regard to the principles set out in the case of *Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin) and considered whether the concerns identified in your nursing practice were capable of remediation, whether they have been remedied and whether there was a risk of repetition of a similar kind at some point in the future. In considering those issues the panel had regard to the nature and extent of the misconduct and considered whether you had provided evidence of insight and remorse.

The panel took account of your evidence. It noted that while you expressed remorse and stated, continuously, that you had learned a lot from the incident, you were unable to state specifically what you had learned. Further, in the panel's view, you were not able to grasp and understand the impact your conduct would have had on Patient A, her family, colleagues or the nursing profession had the comments come to light in the public domain.

The panel also found that you could not provide specific examples of your coping mechanisms if you found yourself in a similar position in the future. You merely stated that you would escalate it to a manager and that you would not let it happen. The panel found these to be insufficient coping mechanisms and was not satisfied that you would not repeat similar conduct in similar circumstances.

In light of the above, the panel determined that you had an insufficient level of insight in relation to your misconduct.

The panel was satisfied that the misconduct in this case is capable of being remedied. Therefore, the panel considered the evidence before it in determining whether you have taken steps to strengthen your practice.

The panel took account of the "Professional Boundaries" course you completed in April 2025. It also considered that in your oral evidence you stated that you had read many articles. However, when questioned by the panel, you could not name the specific articles you had read, or even the journals you had accessed these articles.

The panel considered the testimonials you had provided, which were authored by colleagues in a healthcare setting who commended your clinical skills. However, it noted that the charges did not concern your clinical competence, but rather derogatory comments made about Patient A. It also considered the fact that you had not worked in a healthcare setting since 2019 meant that these testimonials were not current.

The panel bore in mind that you have had ample time, namely six years, to undertake training and provide detailed insight into the concerns. However, there was insufficient evidence that you had taken steps to strengthen your practice. Given the lack of insight and strengthened practice the panel was not satisfied that the concerns had been remedied sufficiently.

The panel bore in mind that it had no evidence of similar conduct before or since the incident to demonstrate that this was common for you. However, it was of the view that in the absence of sufficient insight and evidence that you had strengthened your practice there was a risk that you might repeat your actions in the future. The panel considered that the comments you made risked influencing Witness 2 and therefore potentially impacting on Patient A's care. Further, it considered that Patient A could read the determination and see the derogatory comments made and therefore there was a risk of harm to Patient A in the future. It followed that the panel determined that limbs a, b and c of *Grant* were engaged with regard to the future.

The panel therefore decided that a finding of impairment is necessary on the grounds of public protection. The panel bore in mind that the overarching objectives of the NMC are 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 was satisfied that, having regard to the nature of the misconduct, *“the need to uphold proper professional standards and public confidence in the profession would be*

*undermined*” if a finding of current impairment were not made. It had in mind that you are a mental health nurse caring for a very vulnerable patient and made damaging comments in a text message. Additionally, members of the nursing profession would find such comments deplorable. Further a reasonable, informed member of the public would be very concerned if your fitness to practise were not found to be impaired and therefore public confidence in the nursing profession would be undermined if you were allowed to practise unrestricted.

For all the above reasons the panel concluded that your fitness to practise is currently impaired by reason of misconduct on both public protection and public interest grounds.

### **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 careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

### **Submissions on sanction**

Ms Simpeh took the panel through the aggravating factors she submitted were engaged in this case.

Ms Simpeh submitted that the most appropriate and proportionate sanction in this case is a suspension order for six months with a review. She informed the panel that you are currently subject to a Disclosure and Barring Service (DBS) barring decision which means you cannot work.

Ms Simpeh referred the panel to the NMC Guidance titled “Decisions of the Disclosure and Barring Service (DBS) and Disclosure Scotland” (reference FTP-14), “The sanctions available” (reference SAN-2), “Conditions of practice order” (reference SAN-2c) and “Suspension order” (reference SAN-2d).

Ms Simpeh submitted that taking no further action or imposing a caution order would not be appropriate. She said that this was due to the seriousness of the charges and the panel’s finding of impairment on both public protection and public interest grounds. She also said that it would not be appropriate because of your lack of insight into your conduct.

Ms Simpeh submitted that imposing a conditions of practice order would not be sufficient to address the seriousness of the charges and the concerns around public safety. She also said that the effect of the DBS barring decision means that you cannot work as a registered nurse. She said that any conditions would be limited to training and would effectively be a return to practice course. She said that you would not be able to comply with a conditions of practice order until the barring decision has been lifted.

Ms Simpeh submitted that a suspension order is the appropriate and proportionate sanction. She said that the risk posed to members of the public due to your lack of insight and remediation does warrant a temporary removal from the NMC Register. She said that a suspension order would provide you time to undertake training required, reflect and demonstrate adequate insight before you are permitted to return to practice.

Mr Halliday said that you would engage with any conditions or directions the panel impose. He reminded the panel that you are still engaged with the process after seven years and said that your it was your goal to return to the nursing profession.

Mr Halliday submitted that you accept the panel’s findings that your conduct was a reckless act in putting Patient A at a potential risk of harm. He said that it was not deliberate and it was never intended for Patient A to see the messages.

Mr Halliday addressed the panel regarding what the panel may see as a lack of aggravating factors and highlighted mitigating factors he submitted were engaged in this case.

With regards to the imposition of a suspension order, Mr Halliday submitted that the panel may consider that a suspension of seven years prior to these proceedings are a factor in assessing whether a suspension order can be the only adequate sanction to remove the risk to the public.

Mr Halliday submitted that a condition of a return to practice course will ensure that your clinical skills are up to date and you can only return to practice when the condition is met. He said that you and the NMC are in agreement that there is a realistic possibility that you could return to unrestricted practice.

Mr Halliday said that conditions could assist with your reflection and the development of your practical and professional skills. He also said that safeguards could be put in place with conditions.

Mr Halliday said that the DBS Barring decision will be appealed and is not a matter the panel should concern themselves with in its consideration of imposing a conditions of practice order.

### **Decision and reasons on sanction**

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

The panel took into account the following aggravating features:

- Conduct which recklessly put a vulnerable patient receiving care at a potential risk of suffering harm;
- Very limited insight into your actions;
- Very limited remediation.

The panel also took into account the following mitigating features:

- Early admissions to charges 4 and 5;
- An apology with a focus on the words used in the message;

The panel was aware that you are currently subject to a DBS Barring decision and considered the NMC guidance “Decisions of the Disclosure and Barring Service (DBS) and Disclosure Scotland” (reference FTP-14). The panel then considered sanction.

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

The panel then considered the imposition of a caution. It bore in mind that the guidance refers to evidence of retraining and insight. However, it had identified a risk of repetition due to the lack of insight and strengthened practice. It determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *‘the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.’* The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel bore in mind that Mr Halliday's submissions with regards to conditions almost exclusively revolved around clinical practice. It had not found your clinical practice to be in question.

The panel was also mindful that you are presently unable to undertake any clinical practice due to the DBS Barring decision against you. You would therefore be unable to take any employment as a registered nurse and engage with any conditions imposed.

The panel also considered Mr Halliday's submissions in regard to a return to practice course. The course includes clinical work which you are currently barred from therefore, in light of your inability to currently practice, the panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the facts found proved in this case.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG (updated 28/01/26) states that suspension order may be appropriate where some of the following factors are apparent:

- ...
- *will suspension be sufficient to protect people using services, public confidence in the profession, or professional standards?*
- *is it realistic that the professional could return to unrestricted practice in the future, even if it is not appropriate for them to do so now?*
- *what would the registrant need to do in order to be fit to practise in the future? Is it realistic that they will be able to do this?*

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register. It was of the view that a period of suspension would allow you to fully strengthen your practice through retraining, reflection, develop your professional skills and develop your insight.

The panel was satisfied that a period of suspension would satisfy the overarching objective of public protection and maintaining confidence in the profession.

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. 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.

The panel determined that a suspension order for a period of six months with 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:

- Your attendance in person, via video link or telephone at the review hearing;
- A comprehensive reflective piece addressing the facts admitted and found proved detailing your understanding of the potential impact your conduct had on patients, colleagues and members of the public.
- A demonstration of your understanding of local and national policies around the use of social media and the potential associated dangers;
- Evidence of any training undertaken; including relevant training focusing on communication, professionalism and interacting with patients;
- Evidence of any work undertaken whether it be paid or unpaid;
- Up to date references and testimonials from any work undertaken whether it be paid or unpaid;
- An update on your current DBS Barring status;
- An action plan on how you intend to return to full and unrestricted practice.

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 Ms Simpeh who referred the panel to the NMC Guidance titled “Interim orders after a sanction is imposed” (reference SAN-6).

She submitted that given the panel's findings in relation to sanction he submitted that only an interim suspension order for a period of 18 months would be appropriate on the grounds of public protection and otherwise in the public interest. She also submitted that an interim order should be made to allow for the possibility of an appeal to be lodged and determined.

Mr Halliday made no submissions.

The panel accepted the advice of the legal assessor.

### **Decision and reasons on interim order**

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

The panel concluded that 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.

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.