

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

**Substantive Hearing
Monday, 16 February 2026 – Monday, 23 February 2026**

Virtual Hearing

Name of Registrant:	Judith Margaret Nicholas
NMC PIN:	82I0076W
Part(s) of the register:	Registered Nurse – Adult RN1 – 22 October 1986
Relevant Location:	Bridgend
Type of case:	Misconduct
Panel members:	Patricia Richardson (Chair, Lay member) Alison Bielby (Registrant member) Kate Richards (Lay member)
Legal Assessor:	Alice Robertson Rickard
Hearings Coordinator:	Hamizah Sukiman
Nursing and Midwifery Council:	Represented by Selena Jones, Case Presenter
Mrs Nicholas:	Not present and unrepresented
Facts proved:	Charges 1, 2a, 2b, 2c, 3a, 3b, 4a, 5, 7, 8 and 9a
Facts not proved:	Charges 4b, 6 and 9b
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim order:	Interim suspension order (18 months)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Nicholas was not in attendance and that the Notice of Hearing letter had been sent to Mrs Nicholas' registered email address by secure email on 16 January 2026.

Ms Jones, on behalf of the Nursing and Midwifery Council ('NMC'), submitted that it had complied with the requirements of Rules 11 and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended ('the Rules').

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Nicholas' right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In light of all of the information available, the panel was satisfied that Mrs Nicholas has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mrs Nicholas

The panel next considered whether it should proceed in the absence of Mrs Nicholas, pursuant to Rule 21 of the Rules.

Ms Jones submitted that the Notice of Hearing has been properly served upon Mrs Nicholas, and she has indicated to the NMC, through email correspondence, that she will not be in attendance today. She referred the panel to Mrs Nicholas' email to the NMC, dated 7 January 2026, which stated:

'I will not be attending the hearing...'

Ms Jones further referred the panel to Mrs Nicholas' stated intention in respect of her nursing career, namely that she did not wish to return to nursing, as well as the reasons she gave for her non-attendance. She submitted that Mrs Nicholas is aware of the hearing taking place today and has voluntarily absented herself. She further submitted that no application for an adjournment has been made, and there is no evidence to suggest that adjourning today would secure Mrs Nicholas' attendance at a future date.

Ms Jones submitted that there is a strong public interest in the expeditious consideration of this matter, and she invited the panel to proceed in Mrs Nicholas' absence.

The panel accepted the advice of the legal assessor. She advised the panel that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 should be exercised with the utmost care and caution, pursuant to *R v Jones (Anthony William) (No.2)* [2002] UKHL 5. She reminded the panel that the consideration of fairness encompasses both fairness to Mrs Nicholas and to the NMC.

The panel decided to proceed in the absence of Mrs Nicholas. In reaching this decision, the panel has considered the submissions of Ms Jones, the email correspondence from Mrs Nicholas, and the advice of the legal assessor. It bore in mind the decisions in, and principles derived from, the cases of *Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162. The panel also had regard to the overall interests of justice and fairness to all parties. It noted that:

- Mrs Nicholas sent an email, dated 7 January 2026, stating she has no intention to attend this hearing;
- No application for an adjournment has been made by Mrs Nicholas;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- Five witnesses are due to give live evidence at this hearing, some of whom are registered nurses;

- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- Any further delay may affect witnesses' recollection of events, as these incidents date from between 2022 and 2023; and
- There is a strong public interest in the expeditious disposal of the case.

The panel considered that there is some disadvantage to Mrs Nicholas in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered address, she will not be able to challenge the evidence relied upon by the NMC and will not be able to give evidence on her own behalf.

However, the panel was of the view that the impact of this can be mitigated. The panel bore in mind that Mrs Nicholas has engaged with the NMC through email correspondence, and she has provided her position in respect of the charges. Accordingly, the panel determined that it could make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies.

Taking all the above into account, the panel decided that it is fair to proceed in the absence of Mrs Nicholas. The panel will draw no adverse inference from Mrs Nicholas' absence in its findings of fact.

Details of charge (as amended)

That you, a Registered nurse:

- 1) On an unknown date, uploaded a photograph of Resident A in a bush, to the Caredocs system as your signing in/profile picture.
- 2) On an unknown date between 30 September 2022 and May 2023, mimicked Resident I by:
 - a) Placing a post it note on your glasses;
 - b) Banging the table;

- c) Shouting “toilet toilet” repeatedly.
- 3) On 26 February 2023, before inserting a new catheter for Resident C, you failed to:
 - a) Clean the area of insertion;
 - b) Use a dressing pack.
- 4) On or around 10 March 2023, having been told by Colleague A, that Resident D had breathing difficulties:
 - a) Failed to attend Resident D
 - b) Said to Colleague A “what do you expect, she’s 103” or words to that effect.
- 5) On or around 15 May 2023, refused to dress Resident E’s pressure sore wound when requested to do so by Colleague B.
- 6) On one or more occasions on unknown dates between 30 September 2022 and May 2023, failed to administer diabetics checks and/or insulin injection checks to Resident F.
- 7) On one or more occasions on unknown dates between 30 September 2022 and May 2023, failed to ensure that Resident G received their medication for Parkinsons disease at the correct times.
- 8) On an unknown date between 30 September 2022 and May 2023 whilst feeding Resident H, were using your mobile telephone.
- 9) On unknown dates between 30 September 2022 and May 2023:
 - a) shouted at Resident I;
 - b) screamed at Resident J:
 - i. “who do you think you’re talking to” or words to that effect;
 - ii. “who do you think you are” or words to that effect.

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

Background

The allegations arose whilst Mrs Nicholas worked as the Deputy Manager at Duffryn Ffrwd Manor Nursing and Residential Home (‘the Home’), and relate to her clinical

practice as well as her treatment of residents. She was admitted to the nursing register in 1986 and was in post at the Home for seven years.

It is alleged by the Home that concerns were raised by other staff members in respect of Mrs Nicholas' standard of care for the residents between September 2022 and May 2023. It is alleged that she was on her mobile phone whilst feeding a resident (and not paying sufficient attention to them) and that she refused to dress a resident's pressure sore after being asked to do so by another registered nurse. It is also alleged that Mrs Nicholas failed to attend to a breathless resident and failed to use a dressing pack or clean the area of insertion when she was catheterising a resident.

It is further alleged that there were concerns in respect of Mrs Nicholas' medication practices, in that she failed to administer insulin injections when required and failed to ensure that a resident with Parkinson's disease received their medication at the correct times.

The Home further detailed that Mrs Nicholas failed to treat the people in her care with dignity, in that she allegedly uploaded a photograph taken of a resident who had fallen in a bush and made this her profile picture on the Home's Caredocs documentation system. It is also alleged that she mimicked a resident who had suffered a stroke, and that she allegedly shouted or screamed at residents in her care.

Mrs Nicholas was invited to attend the Home's investigatory meeting, but she went on sick leave at the relevant time. She resigned from the Home on 11 April 2024, prior to any formal investigation taking place.

The NMC received a referral on 6 March 2024.

Decision and reasons for the hearing to be held partially in private

During the live evidence from Witness 2, she made references to [PRIVATE]. The legal assessor reminded the panel that Rule 19(3) of the Rules states that the panel

may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel, of its own volition, considered holding the hearing partly in private in light of Witness 2's evidence. It invited submissions from Ms Jones.

Ms Jones made no observations.

Having heard references to [PRIVATE], the panel determined to go into private session as and when such issues are raised in order to protect her privacy.

Decision and reasons on application to amend charges 2, 9b and 9b)i)

At the conclusion of the NMC witnesses' evidence, following an inquiry by the panel, Ms Jones made an application to amend the wording of charge 2. She submitted that the oral evidence from the witnesses indicated that Resident B and Resident I is the same person. Accordingly, she applied for charge 2 to reflect the fact that these two incidents as charged related to the same resident, to better reflect the evidence before this panel. This application is made pursuant to Rule 28 of the Rules.

Ms Jones also sought to amend the wording of charge 9b. She submitted that the evidence before this panel from Witness 1 indicated that the incident as outlined in charge 9b related to Resident C, as opposed to Resident J as charged. She further submitted that this amendment would reflect the witness' oral evidence. She submitted that this does not change the case against Mrs Nicholas, and the amendments are procedural in nature.

Further, in respect of charge 9b)i), Ms Jones submitted that the amendment corrected a grammatical error, namely to change "too" into "to".

The proposed amendments were as follows:

'That you, a Registered Nurse:

2) *On an unknown date between 30 September 2022 and May 2023, mimicked ~~Resident B~~ Resident I by:*

- a) ...
- b) ...
- c) ...

[...]

9) *On unknown dates between 30 September 2022 and May 2023:*

- a) ...;
- b) *screamed at ~~Resident J~~ Resident C:*
 - i. *“who do you think you’re talking to” or words to that effect;*
 - ii. *“who do you think you are” or words to that effect.’*

Ms Jones submitted that the amendments would not cause prejudice or injustice to Mrs Nicholas, and that it would be fair to grant the application in these circumstances.

In relation to charge 8, the panel highlighted the inconsistency between the oral evidence from Witness 1, in that the resident shown in Exhibit [Witness 1]/03 was Resident H, but the labelling within the exhibits bundle indicated that the person shown was Resident I. Ms Jones submitted that no amendment is being sought for charge 8, and she indicated that any confusion in respect of this charge may have emerged from a mistake in the index of the NMC exhibits bundle, which mislabelled a photograph of Resident H as Resident I. She informed the panel that this mistake has been corrected, and a new and accurate index has now been produced.

The panel accepted the advice of the legal assessor.

In respect of charge 9b, the panel noted that Witness 1’s witness statement indicated that this charge related to a resident referred to as Resident J, and that the incident alleged at charge 3 related to a different resident, referred to as Resident C. The panel heard oral evidence from Witness 1 in relation to the incidents alleged in charges 3 and 9b, in which she stated that both incidents related to the same resident, namely the resident currently referred to as Resident C, who she knew well.

The panel considered that this amendment is being sought by the NMC having heard Witness 1's oral evidence. However, the panel expressed concern that there is an inconsistency in the evidence before it and sought clarification from Ms Jones as to the origin of the reference in the witness statement to the allegation that charge 9b related to Resident J. The panel requested Ms Jones obtain a non-anonymised copy of Witness 1's witness statement to confirm the name provided by the witness at the time of providing her written statement.

Further, the panel requested information from the NMC as to details of the concerns provided to Mrs Nicholas in their written communication to her, to which she had provided a written response as contained within the NMC exhibits bundle, it being important to have clarity as to the precise details of each of the concerns that she has responded to.

On Day 3 of the proceedings, the panel had sight of the non-anonymised witness statements of Witness 1 as well as the letter sent to Mrs Nicholas of the regulatory concerns she faces. The panel also had sight of the completed Case Management Form ('CMF'), which was completed and returned by Mrs Nicholas.

The panel reminded itself of the advice it received from the legal assessor. It then considered each of the proposed amendments in turn.

In respect of the proposed amendment to charge 2, the panel was satisfied that the proposed amendment reflected the evidence from the witnesses. The panel was of the view that the witnesses were clear that the incident alleged in charge 9a concerned the same resident as the incident alleged in charge 2, based on the description of the resident provided by the witnesses. Accordingly, the panel determined that no prejudice or injustice to Mrs Nicholas would be caused by allowing this amendment. The panel therefore allowed the amendment, as it better reflected the evidence before it.

In relation to the proposed amendment to charge 9b, the panel noted the non-anonymised witness statement from Witness 1, which indicated this charge related

to Resident J. It also noted Witness 1's oral evidence, which indicated that this charge related to Resident C.

It bore in mind that the amendment would change the identity of the resident in question, namely that Mrs Nicholas allegedly screamed at Resident C, as opposed to Resident J. The panel did not accept Ms Jones' submission that this amendment was procedural in nature. The panel considered that Mrs Nicholas would have responded to the charge on the basis that this alleged incident occurred against Resident J, albeit that it noted that, in her response to the concerns raised by the NMC, Mrs Nicholas made a blanket denial to any allegation of screaming at residents, stating she apologised if she did do so. However, the panel further noted that the CMF completed by Mrs Nicholas clearly stated that this charge related to Resident J, and therefore this would have been her understanding of the allegation being made by the NMC.

The panel considered the merits of the case and decided that, even if it were to allow the amendment, the panel would be faced with inconsistent evidence between the written and the oral account of Witness 1 as to the identity of the resident in charge 9b. Given that Witness 1 was the only witness to this incident, and the incident is denied by Mrs Nicholas, the NMC would be unlikely to discharge the burden of proof in relation to this charge even with the amendment.

The panel considered the fairness of the proceedings, and it determined that it would be unfair to Mrs Nicholas to allow this amendment. The panel was of the view that Mrs Nicholas responded to the allegations as they were charged, and consequently, her response to this charge would have related to Resident J. The panel concluded that to allow this amendment would cause injustice to her, particularly given the late stage at which it is being sought. It therefore concluded that this amendment could not be made without injustice.

On charge 9b)i), the panel was satisfied that this was a grammatical error, which did not materially alter the nature of the charge. The panel therefore determined that no prejudice or injustice to Mrs Nicholas would be caused by allowing this amendment. The panel therefore allowed the amendment to correct this grammatical error.

Accordingly, the panel accepted Ms Jones' application in respect of charge 2 and charge 9b)i), but rejected her application in respect of charge 9b.

Decision and reasons on facts

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Ms Jones. The panel has drawn no adverse inference from the non-attendance of Mrs Nicholas.

The panel heard oral evidence from the following witnesses called on behalf of the NMC:

- Witness 1: Registered Nurse at the Home
(at the time of the
incident)/Colleague B

- Witness 2: Registered Nurse and Manager
of the Home

- Witness 3: Co-director of the Home

- Witness 4: Senior Carer/Activities
Coordinator at the Home (at
the time of the incident)

- Witness 5: Carer at the Home/Colleague A

Before making any findings on the facts, the panel accepted the advice of the legal assessor. She advised the panel that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This

means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The legal assessor further advised the panel that its decision is made based on the evidence before it, and it should not speculate on evidence which might have been available to it. However, the panel is entitled to draw reasonable inferences from the evidence that it accepts into deciding whether the allegations or some of them have been proved, pursuant to the decision in, and principles derived from, the decision of *Soni v General Medical Council* [2015] EWHC 364 (Admin).

Further, in determining witness credibility, the panel must not do so exclusively on the demeanour of a witness in giving evidence, per *R (on the application of Dutta) v General Medical Council* [2020] EWHC 1974 (Admin) and reliability of a witness should not be considered in isolation. She further advised the panel that it should make a rounded assessment of a witness' credibility, including the consideration of factors present which should lead it to view the evidence given by any particular witness with circumspection. Pursuant to *Hindle v the Nursing and Midwifery Council* [2025] EWHC 373 (Admin), she advised the panel that it should not assess the charges in isolation, without considering broader patterns or relevant contextual information underpinning the charges.

She further advised the panel that hearsay evidence cannot be tested, and may consequently carry less evidential weight.

She drew the panel's attention to the decision in, and principles derived from, *Wisson v Health Professions Council* (2013) EWHC 1036 in relation to Mrs Nicholas' good character.

In the charges which allege a failure, the legal assessor advised the panel that it must be satisfied both that a duty arose for Mrs Nicholas to do the act alleged, and that she subsequently did not do so.

On charges which allege "words to that effect", she advised the panel that the substantive content of such words must be unmistakably the same as the words

alleged, pursuant to *Altemimi v General Medical Council* [2024] EWHC 1731 (Admin).

The panel considered the legal advice it received above, and made the following general observations in respect of the witness' credibility and reliability.

Witness 1

The panel noted that Witness 1 is the sole witness for many of the charges and it is Mrs Nicholas' case that Witness 1 wanted her role.

Witness 2's also described Witness 1 as wanting Mrs Nicholas' role as Deputy Manager, and that Witness 2 herself felt "*threatened*" in her own role based on Witness 1's frequent complaints.

The panel also heard from Witness 3, who corroborated Witness 2's evidence that Witness 1 wanted Mrs Nicholas' role, as she felt that she could perform the role better. He described Witness 1 as a hardworking individual who had "*frustrations*" about the running of the Home, and often highlighted concerns regarding the care of the residents and the behaviours of some of the staff, for which she produced evidence to the Home's directors.

Both witnesses told the panel that Witness 1 and Mrs Nicholas did not communicate effectively with each other.

Taking all the above into account, the panel considered that there appeared to be some professional conflict between Witness 1 and Mrs Nicholas. The panel noted that the witnesses confirm a general lack of organisation at the Home, such as no specific allocation of duties or patients between registered nurses. However, the panel determined that there is no evidence to suggest Witness 1 fabricated her account in order to obtain the role as Deputy Manager. The panel was of the view that Witness 1's frustration could be inferred in some parts of her documentary and oral evidence, but that this frustration did not lead to her giving a dishonest account.

It concluded that, whilst Witness 1 may have had an ulterior motive for collating and pursuing her complaints, it did not follow that her complaints were untrue.

Accordingly, the panel was satisfied that she is a credible witness, albeit it noted the potential memory lapses given the passage of time, which will be considered in its decision-making process on each charge.

Witness 2

Whilst Witness 2 was able to assist with context, she gave very little direct evidence relating to the charges.

Witness 3

Whilst Witness 3 was able to assist with context, he gave very little direct evidence relating to the charges.

Witness 4

The panel considered that Witness 4's oral evidence was balanced and fair. She was open about her expectations of Witness 2 in response to the incident involving alleged shouting at Resident I, which were not met. The panel determined that Witness 4 gave an overall account of Mrs Nicholas' professionalism, but acknowledged that, over time, her professionalism declined. She told the panel that this was due to [PRIVATE], and that she recommended Mrs Nicholas to take time off work. The impact of [PRIVATE] on her work was accepted by her in her response to the NMC.

Accordingly, the panel was satisfied that Witness 4 was a credible witness, albeit it noted the potential memory lapses given the passage of time, which will be considered in its decision-making process on each charge.

Witness 5

The panel found the evidence of Witness 5 to be balanced, fair and consistent.

Having considered these observations in respect of the witnesses, the panel considered each of the charges and made the following findings.

Charge 1

'That you, a Registered nurse:

- 1) On an unknown date, uploaded a photograph of Resident A in a bush, to the Caredocs system as your signing in/profile picture.'*

This charge is found proved.

In reaching this decision, the panel considered Witness 1's witness statement, which stated:

'... I mentioned her CareDocs photograph which appeared to be a random picture of a bush. When I asked why the photo was of a bush, she told me to look closely, saying there was a man lying in it. She then shared a story from before I joined the Home, where a mobile resident had managed to leave the building and was found lying in a bush outside. Staff went to search for him, and while he was still in the bush, Judith took a photo of him which she found amusing. She later set that photo as her CareDocs image. ... As she told me the story, she was laughing and found it hilarious.'

The panel bore in mind the observations it made in respect of Witness 1 above. The panel heard, in Witness 1's oral evidence, that Mrs Nicholas had a photograph of a resident in a bush as her profile picture on the Caredocs system. Witness 1 indicated to the panel that Resident A's head was visible on the left-hand side of the image, and that, whilst the image before this panel was pixelated, Resident A's head was clear in the profile picture. She told the panel that all staff members could access Caredocs, and she perceived Mrs Nicholas' actions as inappropriate. The panel

determined that Witness 1's evidence is clear and consistent in respect of this charge.

Further, the panel also had sight of Witness 2's witness statement, which stated:

'I was aware of the incident in which a resident had attempted to escape several years ago and was later found in a bush in the garden. However, I was not aware of the photograph of this resident in the bush until [Witness 1] (now my current deputy) brought it to my attention on the Caredocs computer system. [Witness 1] asked if I was aware of the photo, and I told her I hadn't seen it until she showed me. I was understandably horrified to learn what the photograph depicted and that it had been used as Judith's profile picture on the Caredocs system.'

The panel also heard from Witness 3, who confirmed that this matter was reported to him as part of the concerns raised regarding Mrs Nicholas' behaviour at the Home.

The panel also considered the CMF, in which Mrs Nicholas ticked 'Yes' to a question asking whether she admitted the facts alleged in this charge. Further, within her application for Agreed Removal, she stated:

'The patient was not identifiable in the photo of the gentleman who had hidden – NOT FALLEN – into the bush in June of 2021. The photo was still on the office laptop and I changed it to my profile picture. I accept in hindsight that this was disrespectful' [emphasis by Mrs Nicholas]

Taking all the above into account, the panel was satisfied that, based on Witness 1's clear and consistent evidence as well as Mrs Nicholas' admissions, she did upload a photograph of Resident A in a bush to the Caredocs system as her profile picture, as alleged.

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

Charges 2a, 2b and 2c

'That you, a Registered nurse:

2) On an unknown date between 30 September 2022 and May 2023, mimicked Resident I by:

- a) Placing a post it note on your glasses;*
- b) Banging the table;*
- c) Shouting "toilet toilet" repeatedly.'*

These charges are found proved.

Whilst the panel considered charges 2a, 2b and 2c separately, its reasoning is the same in respect of all three charges.

In reaching this decision, the panel considered Witness 1's witness statement, which stated:

'On one occasion, I was sitting in the office with Judith while two care staff were standing by the doorway chatting. They mentioned a resident who had suffered a stroke, which had left her with a problem in her right eye. The resident's right lens was frosted to help rest her eye, and she would sometimes resist care or sit at the breakfast table, banging it and repeating herself. The care staff informed us that the resident was being resistive to care, and Judith proceeded to mock her by placing a post-it note on her own glasses to mimic the frosted lens, then started banging the table and shouting "toilet, toilet" repeatedly. I was shocked and reported this to the manager verbally...'

The panel bore in mind the observations it made in respect of Witness 1 above. The panel heard, in Witness 1's oral evidence, that Mrs Nicholas mocked Resident I, as charged. Witness 1 told the panel that she informed Witness 2 of this at the time. The panel bore in mind that Witness 1 was the only witness called on behalf of the NMC who was present at this incident.

The panel also heard from Witness 2, who told the panel that she did not recall receiving any complaints from Witness 1 in respect of this incident.

The panel noted Witness 3's oral evidence, who acknowledged that there was a "rumour" pertaining to this incident which was reported back to him. He accepted that he did not witness this incident first-hand. The panel noted that his witness statement indicated that *'[Witness 2], the manager, was present during this incident'*. However, the panel heard from Witness 2 that she was not present and had no recollection of this particular incident.

Whilst the panel bore in mind that Witness 1 was the only witness who saw the alleged incident first hand, it was satisfied that Witness 1's evidence was clear and consistent. The panel was of the view that Witness 2's and Witness 3's evidence did not undermine Witness 1's evidence in this regard.

The panel also considered the CMF, in which Mrs Nicholas denied this charge. Within her application for Agreed Removal, she stated:

'... I cannot recall a resident with a frosted lens.'

The panel considered that all witnesses recalled a resident within the Home with a covering on her glasses due to her condition. The panel noted that this was not always described as a "frosted lens", but is sometimes described as a "patch" (per Witness 3's oral evidence). However, all witnesses were clear in that Resident I had a covering on one lens of her glasses. The panel therefore determined that it was unlikely that Mrs Nicholas did not recall the relevant resident.

Taking all the above into account, the panel was satisfied that, based on Witness 1's clear and consistent evidence, Mrs Nicholas mimicked Resident I as charged.

Accordingly, the panel found charges 2a, 2b and 2c proved on the balance of probabilities.

Charge 3a

'That you, a Registered nurse:

3) On 26 February 2023, before inserting a new catheter for Resident C, you failed to:

a) Clean the area of insertion;

This charge is found proved.

In reaching this decision, the panel took into account that this charge alleges a failure. The panel reminded itself that, in order to find this charge proved, it must first be satisfied that Mrs Nicholas was under a duty to do what was alleged, and subsequently, that she did not do so.

The panel first considered whether Mrs Nicholas was under a duty to clean the area of insertion before inserting a new catheter for Resident C.

The panel accepted Witness 1's oral evidence that registered nurses should clean the area of insertion as to not introduce germs. The panel was of the view that this is consistent with accepted clinical practice. Further, within her application for Agreed Removal, Mrs Nicholas referred to her practice to '*routinely cleanse*' the area, indicating an acceptance that there is a duty to clean the area prior to insertion. Accordingly, the panel was satisfied that Mrs Nicholas had a duty as alleged.

The panel next considered whether Mrs Nicholas failed to clean the area of insertion before inserting a new catheter for Resident C.

In reaching this decision, the panel considered Witness 1's witness statement, which stated:

'I also witnessed Judith inserting a catheter without using a dressing pack. She did not cleanse the area beforehand and then told me, "Don't do as I do,"

which clearly indicated she knew her actions weren'tt [sic] following proper protocol...'

The panel bore in mind the observations it made in respect of Witness 1 above. The panel heard, in Witness 1's oral evidence, that Mrs Nicholas did not clean the area prior to inserting a new catheter for Resident C. The panel determined that Witness 1's evidence is clear and consistent in respect of this charge.

The panel also considered the CMF, in which Mrs Nicholas denied this charge. Within her application for Agreed Removal, she stated:

'We were sometimes issued with community catheterization packs which included sterile fields, sterile water for cleaning the patient and the sterile catheter. I do not recall the specific incident, but a dressing pack was not required when using a community catheterization pack. I would routinely cleanse the vulval area when catheterising a female patient and cannot recall ever not doing this.'

Whilst noting Mrs Nicholas' denial, the panel was satisfied that, based on Witness 1's clear and consistent evidence, Mrs Nicholas did fail to clean the area of insertion before inserting a new catheter for Resident C. The panel noted that Mrs Nicholas did not recall the incident, and it accepted the evidence provided by Witness 1.

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

Charge 3b

'That you, a Registered nurse:

3) On 26 February 2023, before inserting a new catheter for Resident C, you failed to:

b) Use a dressing pack.'

This charge is found proved.

In reaching this decision, the panel took into account that this charge alleges a failure. The panel reminded itself that, in order to find this charge proved, it must first be satisfied that Mrs Nicholas was under a duty to do what was alleged, and subsequently, that she did not do so.

The panel first considered whether Mrs Nicholas was under a duty to use a dressing pack.

The panel considered Mrs Nicholas' assertion in her application for Agreed Removal (outlined in full in charge 3a above) that:

'... a dressing pack was not required when using a community catheterization pack.'

However, the panel accepted Witness 1's oral evidence that, in this process, either a community catheterisation pack or a dressing pack should be used. Witness 1 told the panel that the two packs are similar and are used to create a sterile field, containing contents to aseptically insert the catheter. The panel determined that there was a duty on Mrs Nicholas to use a pack (either community catheterisation or dressing), to safely insert the catheter.

The panel next considered whether Mrs Nicholas failed to use a dressing pack before inserting a new catheter for Resident C.

In reaching this decision, the panel considered Witness 1's witness statement, which stated:

'I also witnessed Judith inserting a catheter without using a dressing pack. She did not cleanse the area beforehand and then told me, "Don't do as I do," which clearly indicated she knew her actions weren'tt [sic] following proper protocol...'

The panel bore in mind the observations it made in respect of Witness 1 above. The panel heard, in Witness 1's oral evidence, that Mrs Nicholas did not use a dressing pack or wear gloves prior to inserting a new catheter for Resident C. The panel determined that Witness 1's evidence is clear and consistent in respect of this charge.

The panel also considered the CMF, in which Mrs Nicholas denied this charge, and her response within her application for Agreed Removal, as outlined in full in charge 3a above.

Whilst the panel bore in mind Mrs Nicholas' denial of the charge, the panel was satisfied that, based on Witness 1's clear and consistent evidence, Mrs Nicholas did fail to use a dressing pack before inserting a new catheter for Resident C. The panel noted that Mrs Nicholas did not recall the incident, and it accepted the evidence provided by Witness 1.

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

Charge 4a

'That you, a Registered nurse:

4) On or around 10 March 2023, having been told by Colleague A, that Resident D had breathing difficulties:

a) Failed to attend Resident D'

This charge is found proved.

The panel noted that Colleague A is also identified as Witness 5 in these proceedings.

In reaching this decision, the panel took into account that this charge alleges a failure. The panel reminded itself that, in order to find this charge proved, it must first be satisfied that Mrs Nicholas was under a duty to do what was alleged, and subsequently, that she did not do so.

The panel first considered whether Mrs Nicholas was under a duty to attend to Resident D after she was told by Witness 5 that Resident D was having breathing difficulties.

The panel had sight of the CMF, in which Mrs Nicholas accepted this charge as alleged. The panel was satisfied that this indicated that Mrs Nicholas accepted there was a duty on her to attend to Resident D. The panel noted that Witness 5's evidence was that Mrs Nicholas responded with 'okay' when asked to check on Resident D, which implied that she understood the request and that she accepted a responsibility to do so.

Further, the panel accepted Witness 5's evidence that Mrs Nicholas was the nurse in charge, which informed her decision to tell Mrs Nicholas. The panel noted, based on various witnesses' evidence, that no formal allocation of duties took place. However, the panel determined that the duty on Mrs Nicholas can be inferred, as Witness 5 said she informed Mrs Nicholas as she was the most senior nurse on duty. Therefore, the panel determined that there was a duty on Mrs Nicholas to respond appropriately to Witness 5's report of Resident D's condition.

Accordingly, the panel was satisfied that Mrs Nicholas had a duty as alleged.

The panel next considered whether Mrs Nicholas failed to attend to Resident D after she was told by Witness 5 that Resident D was having breathing difficulties.

In determining this, the panel considered Witness 5's witness statement, which stated:

'On 10 March 2023, I worked a day shift and it was a very busy shift with some staff shortages. I went into Resident D room, who was an 103-year-old patient and she was intermittently coughing and appeared wheezy. Usually if a patient is having problems, we are meant to inform the nurse in charge; on that day Judith was the nurse in charge. I put Resident D into a comfortable,

upright position and went to find Judith to inform her the patient was coughing and wheezing and Judith's response was "okay."

[...]

I do not recall if Judith went to check on Resident D after I informed her of their condition, as I went to check on other residents to start their morning care.'

Further, the panel heard, in Witness 5's oral evidence, that she informed Mrs Nicholas of Resident D's symptoms, and Mrs Nicholas replied with 'okay'. She told the panel that she expected Mrs Nicholas to check on Resident D following this report, but that she did not see Mrs Nicholas attend to the patient and was not aware if Mrs Nicholas had done so, albeit she noted it was a busy shift.

The panel also had sight of the email correspondence between Witness 5 and the Home's Human Resources ('HR') department, dated 8 June 2023. Witness 5 stated:

'... Because of staff shortage, I was busy and I went other residents room to start their morning care' [sic]

Bearing all the above in mind, the panel determined that Witness 5's evidence is clear, consistent and supported by contemporaneous information in respect of this charge.

The panel further considered Witness 1's contemporaneous report, addressed to Witness 2, dated 11 March 2023. Witness 1 stated:

'... I get called to our 103 year old lady as she is very breathless. I decided to call the GP because she had been seen by the dr last Monday, a week ago almost now she is worse. Also [Witness 5] had asked Judith to come and see her yesterday and Judith's answer to that was "she is 103 years old what did you expect"...

The panel also had sight of Witness 1's witness statement, which stated:

'Resident D was diagnosed with a chest infection not pneumonia. A carer reported that she was breathless, sounded congested and was feeling unwell. The carer asked Judith to check on her but [...] She didn't go to assess her or take any action...'

The panel also noted Resident D's care notes, which indicated that the resident was seen by the out-of-hours GP and treated for coughing and wheezing on 11 March 2023, which is consistent with the charge.

The panel bore in mind the observations it made in respect of Witness 1 above. The panel heard, in Witness 1's oral evidence, that Witness 1 did not directly witness the incident in this charge. The panel noted that her evidence reported on what carers have told her, and it bore in mind the weight it would attach to this evidence based on this. However, the panel was satisfied that Witness 1's evidence is broadly consistent with Witness 5's.

The panel also considered the CMF, in which Mrs Nicholas ticked 'Yes' to a question asking whether she admitted the facts alleged in this charge.

Taking all the above into account, the panel was satisfied that, based on Witness 5's clear and consistent evidence as well as Mrs Nicholas' admission, she did fail to attend to Resident D after she was told by Witness 5 that Resident D was having breathing difficulties.

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

Charge 4b

'That you, a Registered nurse:

- 4) On or around 10 March 2023, having been told by Colleague A, that Resident D had breathing difficulties:*

b) *Said to Colleague A “what do you expect, she’s 103” or words to that effect.’*

This charge is found NOT proved.

The panel noted that Colleague A is also identified as Witness 5 in these proceedings.

In reaching this decision, the panel considered Witness 5’s witness statement and her oral evidence, that Mrs Nicholas was informed by Witness 5 that Resident D was coughing, and that she responded with “okay”. Witness 5 stated that Mrs Nicholas did not say anything other than this.

The panel also had sight of the email correspondence between Witness 5 and the Home’s Human Resources (‘HR’) department, dated 5 June 2023. The correspondence began with an email from HR, stating:

‘We have a resident who is 103 years old. Apparently, there was an incident a few weeks ago when you were concerned about the resident’s health and asked the deputy manager Judith Nicholas to go and see the resident and here reply was “what do you expect she is 103 years of age” and she didn’t examine the resident or go and visit her in her room.

Is this correct? Can you let me know what happened.’

On 8 June 2023, Witness 5 responded to HR but did not provide a response to the direct question on whether Mrs Nicholas said as alleged. In response to panel questions, Witness 5 stated that no such exchange took place between her and Mrs Nicholas, and that these words were not said.

The panel also had sight of Witness 1’s witness statement, which stated:

‘Resident D was diagnosed with a chest infection not pneumonia. A carer reported that she was breathless, sounded congested and was feeling unwell.

The carer asked Judith to check on her but her response was, "What do you expect? She's 103." She didn't go to assess her or take any action...'

The panel also bore in mind the contemporaneous report written by Witness 1, addressed to Witness 2, as outlined in charge 4a above.

The panel determined that Witness 5's evidence is clear consistent and supported by contemporaneous information in respect of Mrs Nicholas' response to her asking for Resident D to be attended to. The panel was satisfied that Witness 5 did not hear any other response but "okay" from Mrs Nicholas, and that Witness 5 did not support the allegation that Mrs Nicholas said the words as charged.

The panel noted the inconsistency between the evidence provided by Witness 5 and Witness 1 as to what Mrs Nicholas was alleged to have said in response. However, the panel preferred Witness 5's evidence to Witness 1's, as Witness 5 was the only witness who was present at the relevant incident, and this charge alleged that the words were said to her.

Taking all the above into account, the panel determined that the NMC has not discharged its burden of proof in relation to this charge.

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

Charge 5

'That you, a Registered nurse:

- 5) *On or around 15 May 2023, refused to dress Resident E's pressure sore wound when requested to do so by Colleague B.'*

This charge is found proved.

The panel noted that Colleague B is also identified as Witness 1 in these proceedings.

In reaching this decision, the panel took into account Witness 1's witness statement, which stated:

'Judith had a terrible attitude. One day, after I had been running around all morning, Judith had eaten two breakfasts and it was already 12:30. I still hadn't had a break or eaten anything, so I told her I was going to take a break. At that point, a carer came to the office and said that resident with a healing grade 4 pressure ulcer on his back needed his dressing changed as it had come off. The resident had previously been hospitalised with sepsis due to osteomyelitis in the wound. I turned to Judith and asked if she could do the dressing change as I really needed a break, but she refused, saying, "No, I'm not doing it." I had no choice but to put my food down and go do it myself.'

The panel considered that Witness 1's oral evidence was broadly consistent with her written statement. It was also broadly consistent with her contemporaneous complaint.

Further, the panel also considered the CMF, in which Mrs Nicholas denied this charge. Within her application for Agreed Removal, she stated:

'I did not refuse to change the dressing when a carer came to the office. Myself and another nurse [Witness 1] were in the office. [Witness 1] said she would do it before I had a chance to respond.'

Whilst the panel bore in mind that Mrs Nicholas denied this charge, it accepted the consistent and credible evidence of Witness 1 in relation to this.

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

Charge 6

'That you, a Registered nurse:

- 6) *On one or more occasions on unknown dates between 30 September 2022 and May 2023, failed to administer diabetics checks and/or insulin injection checks to Resident F.'*

This charge is found NOT proved.

In reaching this decision, the panel took into account that this charge alleges a failure. The panel reminded itself that, in order to find this charge proved, it must first be satisfied that Mrs Nicholas was under a duty to do what was alleged, and subsequently, that she did not do so.

The panel first considered whether Mrs Nicholas was under a duty to administer diabetics checks and/or insulin injection checks to Resident F on the occasions alleged.

In reaching this decision, the panel considered Witness 1's witness statement, which stated:

'On several occasions, Judith refused to do diabetic checks and insulin injections for Resident F. She would use that she didn't want to wake the patient. However, it was because simply couldn't be bothered. Had Judith been a lone worker and this was not done, there would have been significant risk to patient health as missed diabetic checks and insulin doses could lead to serious complications including hypoglycemic [sic] events.'

The panel also heard oral evidence from Witness 1. She told the panel that the allocation of tasks was not clearly set out, and it was a matter of discussion between the registered nurses on shift. This was confirmed in the oral evidence of both Witness 2 and Witness 3. In oral evidence, Witness 1 also told the panel that Mrs Nicholas should conduct the checks as a registered nurse, but she did not specify that she had been allocated to this task or assumed responsibility for administering

the checks on Resident F on any particular occasion, only that in general terms, she was supposed to do it.

The panel considered that this charge, as it is worded, does not specify any particular incidents or dates. The panel further considered that the evidence before it is generalised, commenting on Mrs Nicholas' alleged failure to take her turn in general terms as opposed to specific incidents or failings which occurred on specific shifts. Given the lack of allocation of tasks at the Home, the panel could not be satisfied that Mrs Nicholas was responsible for administering diabetics checks and/or insulin injection checks to Resident F at any given time. The panel also bore in mind that, based on Witness 3's evidence, Mrs Nicholas was also Deputy Manager at the Home. The panel inferred that this was likely to include some non-nursing or managerial responsibilities, and it could not be satisfied, on the balance of probabilities, that the duty as charged was on her to conduct the checks on Resident F (as the allocation of her nursing duty may differ given her managerial responsibilities).

Further, the panel also considered the CMF, in which Mrs Nicholas denied this charge. Within her application for Agreed Removal, she stated:

'I have never failed to administer insulin injections, but I do not agree with waking a patient at 07:30 to suit the staff. I have always preferred to wait for the resident to wake up before administering their insulin as they can then have their breakfast. I believe that waking someone to give them an injection and not allow them to wake naturally is wrong.'

The panel considered, based on oral evidence from Witness 1, Witness 2 and Witness 3, that there is no policy at the Home with regard to the management of patients with diabetes. Witness 2 explained a care plan would be developed in conjunction with the diabetic nurse when a resident requires insulin. The panel did not have sight of Resident F's care plan. Accordingly, the panel could not be satisfied, based on Mrs Nicholas' evidence, that her not waking the resident would amount to a failure, as charged.

The panel further noted that Resident F's medication chart has not been made available before this panel. Accordingly, it was unable to determine whether Mrs Nicholas failed to administer diabetics checks and/or insulin injection checks on any given shift.

Taking all the above into account, the panel determined that the NMC has not discharged its burden of proof in relation to this charge.

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

Charge 7

'That you, a Registered nurse:

- 7) *On one or more occasions on unknown dates between 30 September 2022 and May 2023, failed to ensure that Resident G received their medication for Parkinsons disease at the correct times.'*

This charge is found proved.

In reaching this decision, the panel took into account that this charge alleges a failure. The panel reminded itself that, in order to find this charge proved, it must first be satisfied that Mrs Nicholas was under a duty to do what was alleged, and subsequently, that she did not do so.

The panel first considered whether Mrs Nicholas was under a duty to ensure that Resident G received their medication for Parkinsons disease at the correct times.

The panel had sight of the CMF, in which Mrs Nicholas accepted this charge as alleged. The panel was satisfied that this indicated that Mrs Nicholas accepted there was a duty on her to ensure that Resident G received their medication at the correct time. Accordingly, the panel was satisfied that Mrs Nicholas had a duty as alleged.

The panel next considered whether Mrs Nicholas failed to ensure that Resident G received their medication for Parkinsons disease at the correct times.

In determining this, the panel considered Witness 1's witness statement, which stated:

'Resident G, who has Parkinson's, would have days when he was alert and active, and other days when he was tired and preferred to stay in bed. I had concerns that on the days Judith was responsible for his medications, if he didn't get up and go to the dining room, she wouldn't make the effort to bring his medications to his room. If he was asleep, she would not attempt to wake him either. I can't recall Judith frequently taking medications to residents' rooms [...] Res G's medications are time-sensitive and missing doses can worsen his symptoms potentially leading to a crisis within 24 hours. Fortunately, this never occurred. As his disease has progressed, he sometimes goes two days without his regular doses due to being more sleepy but we always try to wake him for them. Judith, however, wouldn't bother to make the effort. She often said there was no point in trying...'

The panel bore in mind the observations it made in respect of Witness 1 above. The panel heard, in Witness 1's oral evidence, that Mrs Nicholas would not check if Resident G's medications were given at the correct times.

The panel also had sight of the contemporaneous report made by Witness 1, addressed to Witness 2, which was undated but related to a shift on 15 May 2023. Witness 1 stated:

'We have one resident who has parkisons [sic] disease so he needs to take medication for this at 11am, 12pm and 7pm, Judith will never ever go and give these medications and she will never do the lunch time medications ...'

Bearing all the above in mind, the panel determined that Witness 1's evidence is clear and consistent in respect of this charge.

The panel also considered the CMF, in which Mrs Nicholas ticked 'Yes' to a question asking whether she admitted the facts alleged in this charge. Further, within her application for Agreed Removal, she stated:

'There were a couple of occasions where I forgot to give Parkinsons meds until past the prescribed time. This was an oversight on my part. I gave the medications late, but never omitted them. I realise the importance of time specific medications. I always apologise to the patient, as I was truly sorry.'

Taking all the above into account, the panel was satisfied that, based on Witness 1's clear and consistent evidence as well as Mrs Nicholas' admission, she did fail to ensure that Resident G received their medication for Parkinsons disease at the correct times, as alleged.

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

Charge 8

'That you, a Registered nurse:

- 8) *On an unknown date between 30 September 2022 and May 2023 whilst feeding Resident H, were using your mobile telephone.'*

This charge is found proved.

In reaching this decision, the panel considered Witness 1's witness statement, which stated:

'... I observed one incident whereby Judith was assisting a resident with his breakfast in the dining room. The resident had previously had a stroke and while he could usually swallow fine, he occasionally had trouble that could lead to coughing ... When feeding a resident, our full attention should be on them at all times. However, Judith was sitting in front of the resident, scrolling through her mobile phone, not paying attention to him or feeding him properly. ...

The resident was at risk while eating so I believe she should have focused entirely on feeding him safely...'

The panel bore in mind the observations it made in respect of Witness 1 above. The panel heard, in Witness 1's oral evidence, that Mrs Nicholas would scroll on her mobile phone, and she had been doing so for 15 minutes prior to when Witness 1 took the photograph of her. The panel determined that Witness 1's evidence is clear and consistent in respect of this charge.

The panel had sight of the photograph as referred to by Witness 1. The panel determined that the photograph showed Mrs Nicholas looking downwards on her mobile phone, whilst Resident H was to her left, slightly leaning in her direction, as if asleep. Food and utensils are in front of Resident H. The panel was satisfied that this photograph showed that Mrs Nicholas was on her mobile phone whilst feeding Resident H.

The panel also considered the CMF, in which Mrs Nicholas ticked 'Yes' to a question asking whether she admitted the facts alleged in this charge. Further, within her application for Agreed Removal, she stated:

'As [PRIVATE], I had a Tap camera set up in the living room, which alerted my phone when there was a sudden movement [PRIVATE]. In the photo [...] – the patient had fallen asleep mid-porridge, as he did frequently. I quickly checked my phone before waking the patient and carried on assisting him with his porridge.'

Taking all the above into account, the panel was satisfied that, based on the photographic evidence, on Witness 1's clear and consistent evidence as well as Mrs Nicholas' admission, she did use her mobile phone whilst feeding Resident H, as alleged.

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

Charge 9a

'That you, a Registered nurse:

9) *On unknown dates between 30 September 2022 and May 2023:*

a) *shouted at Resident I;'*

This charge is found proved.

In reaching this decision, the panel considered Witness 4's witness statement, which stated:

'Many years have passed, so I don't remember all the details but I do recall raising an issue with [Witness 2], the Home Manager after overhearing Judith shout Resident I at in the dining room. I can't recall another specific incident of Judith raising her voice in this way. While I can't remember the exact words, I do remember the shouting was loud and the tone was unprofessional and unpleasant. Res I was visibly upset, but beyond that, I can't recall what happened after nor if anyone else witnessed this.'

The panel bore in mind the observations it made in respect of Witness 4 above. The panel heard, in Witness 4's oral evidence, that Mrs Nicholas shouted at Resident I, and Resident I became upset and was crying. She remarked on how Mrs Nicholas became more unprofessional as time went on, that Mrs Nicholas had a "short fuse" and [PRIVATE]. The panel determined that Witness 4's evidence is clear and consistent in respect of this charge.

The panel bore in mind, within the CMF, Mrs Nicholas denied this charge. Further, within her application for Agreed Removal, she stated:

'I have no recollection of shouting loudly or angrily at any patient. If I did, I am ashamed and truly remorseful. There is not any circumstance where this is acceptable.'

However, given that Mrs Nicholas had no recollection of this incident, the panel preferred the evidence of Witness 4, who did recall it and gave consistent evidence about it.

Taking all the above into account, the panel was satisfied that, based on Witness 4's clear and consistent evidence, Mrs Nicholas did shout at Resident I, as alleged.

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

Charges 9b)i) and 9b)ii)

'That you, a Registered nurse:

9) *On unknown dates between 30 September 2022 and May 2023:*

b) *screamed at Resident J:*

- i. *"who do you think you're talking to" or words to that effect;*
- ii. *"who do you think you are" or words to that effect.'*

These charges are found NOT proved.

In reaching this decision, the panel took into account Witness 1's witness statement, which stated:

'I was in the dining room helping residents with breakfast, along with Judith and a Res J. Res J was a diagnosed Alzheimer's and, on occasion, could be abusive and demanding. Res J began shouting abuse at Judith, saying "What do you think you're doing." I was shocked when Judith turned to her and screamed in her face, "Who do you think you're talking to?" and "Don't you dare speak to me like that!" She went red with rage and completely lost her temper. It was extremely unprofessional.'

In her oral evidence, Witness 1 did not support this account. She stated that the resident in question was Resident C.

The panel determined that Witness 1's evidence is contradictory, in that she suggested in her oral evidence that this charge related to an entirely different resident to the one charged (Resident C, as opposed to Resident J). The panel noted that there is no contemporaneous account of this incident which could address the inconsistency, and only Witness 1 was present at the relevant time. The panel was therefore unable to establish the identity of the resident involved in these charges. The panel bore in mind that, despite its observations on Witness 1's general credibility, Witness 1 was inconsistent in respect of this charge.

Further, in respect of charge 9b)ii) specifically, the panel determined that there is no information before it, either in Witness 1's written or oral evidence, suggesting those words as charged were said by Mrs Nicholas. The panel bore in mind the advice it received, per *Altemimi*. The panel determined that there is no evidence before it suggesting that Mrs Nicholas said the words, or words in which its substantive content is unmistakably the same, as charged.

The panel also noted that, within the CMF, Mrs Nicholas denied these charges.

Taking all the above into account, the panel determined that the NMC has not discharged its burden of proof in relation to these charges.

Accordingly, the panel found these charges not proved on the balance of probabilities.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mrs Nicholas' 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 therefore exercised its own professional judgement.

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

Submissions on misconduct and impairment

Ms Jones invited the panel to take the view that the facts found proved amount to misconduct. She submitted that Mrs Nicholas' actions fell significantly short of the standards expected of a registered nurse. She further submitted that paragraphs 20.1 and 20.8 of The Code: Professional standards of practice and behaviour for nurses and midwives 2015 ('the Code') are engaged in this case.

In respect of impairment, Ms Jones submitted that Mrs Nicholas is liable to behave in the same way in future. She submitted that Mrs Nicholas has not engaged in any meaningful way with these proceedings, and has absented herself from this hearing. Further, she has not demonstrated any meaningful insight, remorse or strengthening of her practice. Ms Jones further submitted that, from the correspondence between the NMC and Mrs Nicholas, it is apparent that she does not wish to undertake any remediation and has expressed that she is not currently employed and will not return to nursing.

Ms Jones submitted that Mrs Nicholas' actions demonstrate an attitudinal concern, which is therefore more difficult to remediate. She submitted that Mrs Nicholas' misconduct related to multiple residents and demonstrated a pattern of conduct, thereby rendering it an attitudinal concern.

Ms Jones also submitted that a well-informed member of the public would be concerned if a finding of impairment was not made, given the charges which have

been found proved. She therefore invited the panel to find Mrs Nicholas' fitness to practise currently impaired.

The panel accepted the advice of the legal assessor. She reminded the panel that it should approach misconduct and impairment in two stages, namely it must first consider whether the facts found proved amount to misconduct, and if so, move on to consider impairment.

She referred the panel to the case of *Roylance v General Medical Council (No. 2)* [2000] 1 AC 311, which defines misconduct as '*a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. [...] Secondly, the misconduct is qualified by the word "serious". It is not any professional misconduct which will qualify. The professional misconduct must be serious*'. She further advised the panel to consider the decisions in, and principles derived from, the cases of *R (on the application of Calhaem) v General Medical Council* [2007] EWHC 2606 (Admin), *R (on the application of Remedy UK Ltd) v General Medical Council* [2010] EWHC 1245 (Admin), *Nandi v General Medical Council* [2004] EWHC 2317 (Admin) and *Benn v General Medical Council* [2025] EWHC 87 (Admin) in reaching its decision on misconduct.

She advised the panel that, whilst it is possible in some exceptional circumstances, it should not generally cumulate a collection of otherwise non-serious misconduct to find serious professional misconduct (per *Schodlock v GMC* [2015] EWCA Civ 769 and *Ahmedsowida v GMC* [2021] EWHC 3466 (Admin)).

In respect of impairment, she referred the panel to the decision in *Cheatle v General Medical Council* [2009] EWHC 645 (Admin), and advised the panel that impairment is a forward-thinking assessment. She outlined the four "limbs", pursuant to *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council and (2) Grant* [2011] EWHC 927 (Admin) and advised the panel to consider impairment in context of the principles outlined in *Cohen v GMC* (2008) EWHC 581 (Admin). She advised the panel to consider any relevant personal context and have regard to the working environment and culture of the Home in its decision-making.

Decision and reasons on misconduct

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

The panel was of the view that Mrs Nicholas' actions did fall significantly short of the standards expected of a registered nurse, and that her 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.*
- 1.4 *make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay.*
- 1.5 *respect and uphold people's human rights.*

2 Listen to people and respond to their preferences and concerns

To achieve this, you must:

- 2.1 *work in partnership with people to make sure you deliver care effectively.*
- 2.6 *recognise when people are anxious or in distress and respond compassionately and politely.*

8 Listen to people and respond to their preferences and concerns

To achieve this, you must:

- 8.2 *maintain effective communication with colleagues.*
- 8.5 *work with colleagues to preserve the safety of those receiving care.*

18 Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence,

the law, our guidance and other relevant policies, guidance and regulation

To achieve this, you must:

- 18.1 prescribe, advise on, or provide medicines or treatment, including repeat prescriptions (only if you are suitably qualified) if you have enough knowledge of that person's health and are satisfied that the medicines or treatment serve that person's health needs.*

20 Uphold the reputation of your profession at all times

To achieve this, you must:

- 20.1 keep to and uphold the standards and values set out in the Code.*
- 20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people.*
- 20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress.*
- 20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to.'*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. The panel therefore considered each of the charges in turn.

The panel noted the contextual information provided by Mrs Nicholas in both the CMF and in her application for Agreed Removal.

In respect of charge 1, the panel considered Witness 1's evidence that Mrs Nicholas found uploading the photograph of Resident A as "*hilarious*", despite this photograph showing the resident in a bush. The panel determined that this fell far below the standards expected of a registered nurse, and demonstrated that Mrs Nicholas had no regard for Resident A's dignity. The panel was therefore satisfied that this action was sufficiently serious to amount to misconduct.

In relation to charge 2, the panel considered that this charge related to Mrs Nicholas mimicking Resident I, who had suffered from a stroke. It bore in mind Witness 1's

evidence that this was “*deeply upsetting*”. The panel determined that this fell far below the standards expected of a registered nurse, and demonstrated that Mrs Nicholas had no compassion or regard for Resident I’s dignity. The panel was therefore satisfied that this action was sufficiently serious to amount to misconduct.

The panel next considered charge 3. The panel considered that this charge related to Mrs Nicholas failing to clean the area of insertion or use a dressing pack when catheterising a female resident, remarking to Witness 1, “*don’t do as I do*”, suggesting that she was aware that these are not standards expected of a registered nurse. The panel determined that this fell far below the standards expected of a registered nurse, and demonstrated that Mrs Nicholas was aware of, but chose not to abide by, accepted infection control and clinical practices. The panel also noted that Resident C was prone to urinary tract infections (‘UTI’), and Mrs Nicholas did not take due care to ensure that the area of insertion was cleaned before inserting a catheter to prevent further UTIs. The panel was therefore satisfied that this failure was sufficiently serious to amount to misconduct.

In respect of charge 4a, the panel considered that this charge related to Mrs Nicholas failing to attend to Resident D after being told of the resident’s breathing difficulties. The panel bore in mind that Resident D was suffering from a chest infection, and that Mrs Nicholas should have attended to the resident. The panel determined that her failure to do so this fell far below the standards expected of a registered nurse, and demonstrated that Mrs Nicholas did not deliver fundamental care to Resident D. The panel was therefore satisfied that this failure was sufficiently serious to amount to misconduct.

In relation to charge 5, the panel considered that this charge related to Mrs Nicholas refusing to dress Resident E’s pressure sore wound. The panel bore in mind that Resident E’s pressure sore was “*open and deep, exposing the bone*”, and Mrs Nicholas should have dressed the resident’s wound, particularly after being asked to do so. The panel determined that her refusal to do so this fell far below the standards expected of a registered nurse, and demonstrated that Mrs Nicholas did not deliver fundamental care to Resident E. The panel was therefore satisfied that this action was sufficiently serious to amount to misconduct.

In relation to charge 7, the panel considered that Mrs Nicholas did not ensure that Resident G, who had Parkinson's disease, received time-sensitive medication at the correct times. The panel noted that Mrs Nicholas had indicated that she understood that the medication was time-sensitive, but despite this, she failed to give it at the correct times. The panel determined that her failure fell far below the standards expected of a registered nurse, and demonstrated that Mrs Nicholas did not deliver fundamental care to Resident G. The panel was therefore satisfied that this failure was sufficiently serious to amount to misconduct.

The panel considered charge 8, which related to Mrs Nicholas using her mobile phone whilst she was feeding Resident H, as evidenced by a photograph. The panel bore in mind Witness 1's evidence that Mrs Nicholas was on her phone for approximately 15 minutes prior to the photograph of her being taken. The panel determined that, during this time, she was not attending to Resident H, which demonstrated Mrs Nicholas' lack of regard for him, given the possibility of choking and that he had yet to complete his meal. The panel determined that her actions fell far below the standards expected of a registered nurse, and it was satisfied that this action was sufficiently serious to amount to misconduct.

In respect of charge 9a, the panel considered Witness 4's evidence that Resident I was visibly upset by Mrs Nicholas shouting at her. The panel was of the view that this is very serious, and it bore in mind that Mrs Nicholas acknowledged that any such conduct was not acceptable in any circumstance. The panel determined that this demonstrated Mrs Nicholas' lack of care and compassion towards Resident I, and that her actions fell far below the standards expected of a registered nurse. It was therefore satisfied that this action was sufficiently serious to amount to misconduct.

Therefore, the panel found that Mrs Nicholas' actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct in respect of all the charges found proved.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mrs Nicholas' 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: 03/03/2025) in which the following is stated:

'The question that will help decide whether a professional's fitness to practise is impaired is:

"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"

If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.'

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

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

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

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

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

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

The panel considered each of the above limbs in turn.

In relation to limb (a), on whether patients were put at unwarranted risk of harm, in the past, as a result of Mrs Nicholas' misconduct, the panel considered that Witness 4's evidence suggested that Resident I was "*visibly upset*", suffering distress, when Mrs Nicholas shouted at her. Further, in respect of other residents, the panel determined that patients were placed at an unwarranted risk of harm. The panel considered that, by not attending to residents or being on her mobile phone whilst feeding Resident H, Mrs Nicholas placed those residents at a risk of suffering harm. Further, the panel determined that not giving time-sensitive medications at the correct times placed Resident G at risk of harm, as explained in Witness 1's evidence.

In relation to limbs (b) and (c), in respect of the past, the panel considered that medication management, correct clinical practices, treating patients with dignity (by not uploading photographs of them when they are vulnerable, mimicking them or shouting at them) and responding to patient care requests from colleagues are fundamental elements of nursing practice, and Mrs Nicholas' misconduct in these areas did bring the nursing profession into disrepute. The panel determined that Mrs Nicholas did not practise safely, kindly or professionally.

The panel was satisfied that limb (d), concerning dishonesty, did not apply in this case.

The panel took into account that impairment is a forward-looking exercise, and it should consider whether Mrs Nicholas' fitness to practise is currently impaired.

The panel next considered whether Mrs Nicholas' is liable, in the future, to place patients at unwarranted risk of harm, to bring the nursing profession into disrepute or breach one of the fundamental tenets of the nursing profession, pursuant to *Grant*. In reaching its decision, the panel also considered the principles derived from *Cohen*, namely:

- Whether the concern is easily remediable;
- Whether it has in fact been remedied; and
- Whether it is highly unlikely to be repeated.

On whether the concerns are easily remediable, the panel considered that some of Mrs Nicholas' misconduct concerned her clinical practice, but some of the concerns were also attitudinal in nature (such as mimicking or shouting at Resident I or uploading Resident A's photograph as a profile picture).

Whilst the panel was satisfied that clinical concerns are, in general, remediable, the panel considered that the clinical concerns demonstrated by Mrs Nicholas suggested the presence of attitudinal issues underpinning them. For example, in telling Witness 1 "*don't do as I do*" when inserting the catheter, she was acknowledging that not

undertaking appropriate cleaning was not in keeping with nursing practices, but she proceeded regardless. Similarly, her responses to the concerns indicated that she was aware of Resident G's time-sensitive medication, but simply "*forgot*" to give them on time. The panel was therefore of the view that Mrs Nicholas possessed the clinical knowledge in these scenarios but appeared to deliberately disregard the delivery of the fundamentals of care required for kind, safe and professional nursing practice. Other concerns were entirely attitudinal in nature, such as the uploading of the photograph of a resident, mimicking and shouting at residents.

Therefore, whilst the panel was satisfied that some of the concerns could be remediable, the panel determined that, in this case, they are difficult to remedy, as it is not a straightforward competence issue and the attitudinal issues permeate both the clinical concerns as well as charges involving her lack of compassion for residents. The panel was of the view that Mrs Nicholas would have to demonstrate a significant level of insight and remediation for a panel to be satisfied that her fitness to practise is not impaired.

In relation to whether the concerns have been remedied, the panel took into account that Mrs Nicholas has apologised in her response for some of the concerns, albeit she said she did not recall some of the incidents. For example, she stated:

'I have no recollection of shouting loudly and angrily at any patient – but it is not in my character to shout at patients. If I did, I am ashamed and truly remorseful. There is not any circumstance where this is acceptable.'

However, the panel determined that this apology is limited.

Further, the panel considered that she has not demonstrated any insight. For example, she has not reflected how she would address these concerns differently, prevent them from occurring in the future, or acknowledged the impact her actions had on residents, colleagues or the reputation of the nursing profession. The panel noted that Mrs Nicholas does not wish to continue nursing, and consequently, she has not demonstrated any strengthening of her practice or undertaken any relevant

training courses. The panel therefore concluded that the concerns have not been remediated.

The panel next considered whether the conduct is likely to be repeated. The panel bore in mind that the concerns demonstrate an attitudinal issue, involving not treating patients with dignity or compassion, as well as a disregard for patient care, including not following correct clinical processes, despite being an experienced nurse. The panel considered the context provided of Mrs Nicholas' working environment, in that the Home did not have an allocation of duties, leading to a lack of accountability. The panel was of the view that this facilitated her poor practice. The panel also considered [PRIVATE], and the impact it may have had on her work.

However, the panel determined that, in the absence of remediation or insight, the conduct is highly likely to be repeated. The panel was of the view that Mrs Nicholas has not demonstrated a full understanding of her actions, and their impact on vulnerable residents, colleagues and the reputation of the nursing profession.

Accordingly, the panel determined that Mrs Nicholas is liable to repeat her misconduct. The panel found that Mrs Nicholas' fitness to practise is currently impaired on public protection grounds.

The panel next considered whether a finding of impairment is also necessary on public interest grounds. The panel bore in mind that the overarching objectives of the NMC, namely to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a well-informed member of the public, appraised with the information before this panel, would be extremely concerned if a nurse, who has demonstrated both clinical and attitudinal concerns of this nature, was not found to be impaired. The panel bore in mind that the residents under Mrs Nicholas' care were particularly vulnerable, as some of them were unable to advocate for

themselves. The panel determined that a finding of impairment on public interest grounds is also necessary, to maintain public confidence in the nursing profession and uphold the proper professional standards for members of those professions.

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

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Mrs Nicholas off the register. The effect of this order is that the NMC register will show that Mrs Nicholas has been struck-off the register.

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

Submissions on sanction

Ms Jones submitted that the NMC seeks the imposition of a striking-off order. She reminded the panel to consider the principles of proportionality, but to also consider the public interest which outweighed Mrs Nicholas' interests in this case. She submitted that there are no conditions of practice which could be imposed which will maintain public confidence. She further submitted that there has been no reflection or strengthening of practice on Mrs Nicholas' part, despite her having ample time to do so in preparation for this hearing. She reminded the panel that Mrs Nicholas instead expressed an intention to not return to nursing. Ms Jones submitted that, consequently, public confidence in the nursing profession would be seriously diminished if Mrs Nicholas was permitted to remain on the register. In these circumstances, she invited the panel to impose a striking-off order.

In response to questions asked by the panel as to whether the NMC wished to comment upon aggravating and mitigating factors present in this case, Ms Jones

submitted that the aggravating factor is Mrs Nicholas' limited or lack of remediation. She submitted that the mitigating factor is Mrs Nicholas' lack of previous regulatory concerns.

The panel accepted the advice of the legal assessor.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Conduct which put residents at risk of suffering harm;
- A pattern of misconduct over a period of time;
- Lack of insight into failings;
- Misconduct involved residents who were particularly vulnerable;
- Failure to work collaboratively with colleagues.

The panel also took into account the following mitigating features:

- Early admissions to some of the charges;
- Qualified apologies made;
- Personal mitigation, namely [PRIVATE].

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

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Nicholas' practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mrs Nicholas' misconduct was not at the lower end of the spectrum and that a caution order 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 impose a caution order.

The panel next considered whether imposing a conditions of practice would be a sufficient and appropriate response, bearing in mind the NMC guidance, '*Conditions of practice order*' (SAN-2c). The panel did not find that Mrs Nicholas has identifiable training needs, as it determined that her failings were not as a result of lack of knowledge or competence, but as a result of a disregard for accepted clinical practice and attitudinal issues. The panel determined that the attitudinal concerns identified, some of which underpinned the clinical concerns (as found in its decision on impairment above), could not be addressed through the imposition of a conditions of practice order. Further, the panel noted that Mrs Nicholas has expressed that she will not return to nursing. Consequently, the panel could not be satisfied that she has the willingness to respond to any retraining imposed upon her to address these areas. Bearing all this in mind, the panel determined that a conditions of practice order would not be appropriate or workable in this case.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The panel bore in mind the NMC Guidance, '*Suspension order*' (SAN-2d), which outlined the factors indicating that a suspension order may be appropriate. These are:

- *the charges found proved are at the most serious end of the spectrum and call into question the professional's suitability to continue practising, either currently or at all*

- *while it is possible that the professional could be fit to practise in future, only a period out of practice would be sufficient to allow them to fully strengthen their practice through reflection, the development of their professional skills and / or development of insight and remediation*
- *there is a risk to the safety of people using services if the professional were allowed to continue to practise even with conditions*
- *what went wrong is so serious that public confidence in the profession and professional standards could not be maintained if the professional were able to continue practising without stopping for a period of time*
- *despite the seriousness of what happened, the professional has engaged in the proceedings and has shown at least some meaningful insight which evidences a realistic possibility that they will continue to develop this insight, address their concerns and return to practice.*

The panel considered the above factors in turn.

The panel was satisfied that the charges found proved are at the most serious end of the spectrum, involving lack of respect for residents' dignity, a disregard for accepted clinical practices and poor management of both medication and patient care.

The panel bore in mind that Mrs Nicholas does not wish to continue practising as a nurse. Accordingly, a temporary removal from the register during a period of suspension would be highly unlikely to lead to efforts by her to try to address the concerns by strengthening her practice or developing her insight.

The panel next considered whether there is a risk to patients if Mrs Nicholas was allowed to continue practising, even with conditions. The panel bore in mind the attitudinal concerns which underpin the charges, and it determined that Mrs Nicholas disregarded accepted clinical practices despite possessing the knowledge of them (for example, in charges involving Resident C or Resident G). Accordingly, the panel determined that there would be a risk to patients, even if Mrs Nicholas' practice was restricted by conditions, as the panel is not satisfied that she would abide by them.

The panel was satisfied that Mrs Nicholas' misconduct was so serious that public confidence in the nursing profession and professional standards could not be maintained if Mrs Nicholas was able to continue practising. The panel reminded itself of its findings on impairment, and it considered that Mrs Nicholas' misconduct spanned a period of several months, involving concerns which included not treating residents with dignity. The panel determined that public confidence could not be maintained unless Mrs Nicholas was stopped from practising.

The panel then considered Mrs Nicholas' engagement and insight. The panel found that Mrs Nicholas's engagement with the proceedings has been limited. Further, the panel reminded itself of its findings in respect of Mrs Nicholas' insight. The panel determined that Mrs Nicholas demonstrated no insight into her failings, and it could not be satisfied that there is a realistic possibility that Mrs Nicholas will develop this insight or address the concerns.

Further, the panel also bore in mind the NMC Guidance, '*Deciding between suspension and strike off*' (SAN-3) in its decision-making, which stated:

'Determining the proportionate sanction is often difficult when the Committee is deciding between a suspension or a striking-off order. In such cases, the Committee should:

- *consider all of the relevant aggravating and mitigating factors.*
- *consider that, unless the Committee directs otherwise, a suspension order will be reviewed before its expiry and may be extended. However, the Committee cannot direct that the suspension must be extended on review. As such the Committee should consider whether public confidence in the profession would be protected if the professional returned to practice after one year, or ever.*
- *Consider the professional's insight and attitude to addressing the concerns, and whether it is realistically possible that these will change positively during the suspension period. If it is unlikely the professional will try to address the concerns, there may not be*

appropriate for them to be suspended in the hopes that they will eventually return to practice.

- *Professionals are under an obligation to cooperate with their regulator. Where professionals have failed to engage with the fitness to practise process, it won't usually be appropriate to use a suspension order as a means of giving them a 'last chance' to engage, reflect or show insight.'*

Taking the factors outlined in the SG, as well as the guidance SAN-3 above, into account, the panel determined that it was unlikely that Mrs Nicholas would try to address the concerns, and so it would not be appropriate for her to be suspended in hopes she may eventually return to practice.

Accordingly, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction in this case.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the charges found proved raise fundamental questions about their professionalism?*
- *Can public confidence in the profession be maintained if the professional is not removed from the Register?*
- *Is there any amount of insight and reflection which could keep people receiving care and members of the public safe, maintain public confidence in the profession, and uphold professional standards?*
- *Is there a realistic prospect that, after suspension, the professional will have gained insight and strengthened their practice such that the risk they pose will have reduced?*

The panel considered the above factors in turn.

The panel was of the view that the charges found proved do raise fundamental questions about Mrs Nicholas' professionalism, as they relate to her failure to treat vulnerable residents with dignity as well as her non-adherence to accepted clinical practices, despite her knowledge of them. The panel determined that Mrs Nicholas' actions were significant departures from the standards expected of a registered nurse.

The panel next considered whether public confidence in the profession can be maintained if Mrs Nicholas is not removed from the register. In deciding this, the panel bore in mind the NMC Guidance, '*Striking-off order*' (SAN-2e), which stated:

'The Committee should refer to our guidance on sanctions for the highest risk cases. This highlights how the Committee should approach some types of cases where strike-off is most likely to be appropriate. This is because it may not be possible for the professional to put things right, or they will most seriously affect the public's trust and confidence in the professions.'

The types of case that are most likely to result in a striking-off order are:

- ...
- ...
- ...
- *Deliberately causing harm to people receiving care, or putting them at serious risk of harm*
- ...'

The panel bore in mind its findings on facts and impairment above, in that Mrs Nicholas did place vulnerable residents at serious risk of harm. Based on the guidance above, the panel determined that public confidence in the nursing profession could not be maintained if Mrs Nicholas was not removed from the nursing register, particularly given the seriousness of her misconduct.

The panel next considered Mrs Nicholas' insight, and it bore in mind its findings above. The panel determined that Mrs Nicholas has demonstrated no insight into her

misconduct that could keep people receiving care and members of the public safe, maintain public confidence in the profession, and uphold professional standards.

The panel then considered whether there is a realistic prospect that, after a period of suspension, Mrs Nicholas will have gained insight and strengthened her practice such that the potential risk she posed will have reduced. The panel bore in mind that Mrs Nicholas does not wish to continue nursing. The panel therefore determined that it would be unlikely that she would therefore gain insight or strengthen her practice during a period of suspension to allow her to return to nursing.

Balancing all of these factors and after taking into account all the evidence before it, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the risk posed by Mrs Nicholas to the public as well as to the effect of Mrs Nicholas's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of this would be sufficient in this case. The panel concluded that Mrs Nicholas' actions are fundamentally incompatible with her remaining on the register.

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

This will be confirmed to Mrs Nicholas in writing.

Interim order

As the striking-off cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Mrs Nicholas' own interests until the striking-off sanction takes effect.

Submissions on interim order

Ms Jones invited the panel to impose an 18-month interim suspension order to cover any relevant appeal period before the substantive striking-off order takes place. She submitted that, based on the panel's findings on impairment and sanction, this interim order would be on both public protection and public interest grounds.

The panel accepted the advice of the legal assessor.

Decision and reasons on interim order

The panel determined that not to impose an interim suspension order would be incompatible with its earlier findings.

The panel considered the NMC guidance on interim orders (SAN-6). 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 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 suspension order is consistent with its findings on impairment and sanction.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months, to cover any relevant appeal period and allow any appeal, if made, to conclude.

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

That concludes this determination.