

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

**Substantive Order Review Hearing
Thursday, 5 March 2026**

Virtual Hearing

Name of Registrant: Joanne Burchell

NMC PIN: 83A3835E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – (September 1986)

Relevant Location: Devon

Type of case: Misconduct

Panel members: Shaun Donnellan (Chair, lay member)
Karin Downer (Registrant member)
Ray Salmon (Lay member)

Legal Assessor: William Hoskins

Hearings Coordinator: Adaobi Ibuaka

Nursing and Midwifery Council: Represented by Selena Jones, Case Presenter

Miss Burchell: Not Present and unrepresented

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: **Suspension order (6 months) to come into effect on 17 April 2026 in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Miss Burchell was not in attendance and that the Notice of Hearing had been sent to Miss Burchell's registered email address by secure email on 3 February 2026.

Further, the panel noted that the Notice of Hearing was also sent to Miss Burchell's representative Mr Loggenberg on 3 February 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 substantive order being reviewed, the time, dates and venue of the hearing/and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Miss Burchell's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Miss Burchell has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Miss Burchell.

The panel next considered whether it should proceed in the absence of Miss Burchell. The panel had regard to Rule 21 and heard the submissions of Ms Jones who invited the panel to continue in the absence of Miss Burchell. She submitted that Miss Burchell had voluntarily absented herself.

Ms Jones informed the panel of an email from Miss Burchell's representative Mr Loggenberg, dated 5 March 2026, stating the following;

'Due to unforeseen circumstances, I can now only be available at around 4pm this afternoon.

The Registrant cannot be in attendance for the proceedings.

Kindly let me know whether this time can be accommodated.'

Ms Jones submitted that Miss Burchell's representative has indicated that they are unable to attend at this time, but may be able to attend at around 4pm. Ms Jones submitted that there was strong public interest in the expeditious review of this case, especially one of this nature where the order is due to expire soon. She further submitted that there was also no reason to believe that an adjournment would secure Miss Burchell's attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Miss Burchell. In reaching this decision, the panel has considered the submissions of Ms Jones and the advice of the legal assessor. It has had particular regard to the principles explained in *GMC v Adeogba* [2016] EWCA Civ 162 and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Miss Burchell or her representative Mr Loggenberg;
- Miss Burchell has not engaged with the NMC since the last hearing and has not responded to any of the letters sent to her about this hearing;
- Even if Mr Loggenberg could make it at 4pm, it was unlikely that the substantive order review would conclude on time;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Miss Burchell.

Decision and reasons on review of the substantive order

The panel decided to extend the current suspension order.

This order will come into effect at the end of 17 April 2026 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 20 March 2025.

The current order is due to expire at the end of 17 April 2026.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved which resulted in the imposition of the substantive order were as follows:

'That you, a registered nurse while employed as the Manager of Holmesley Nursing Home between February 2021 – 9 March 2021:

1. *On one or more occasions, did not follow infection control procedures as you:*
 - a) *Informed staff members that their Covid Lateral Flow test results were negative when the results were positive;*
 - b) *Stated that positive Lateral Flow test results were inaccurate and/or negative because the tests used were from a faulty batch when you had no clinical basis for doing so;*
 - c) *Allowed staff members to work when they had tested positive for Covid.*

2. *Did not provide leadership and/or management to implement effective infection control measures to prevent the spread of Covid, in that:*
 - a) *residents were not isolated when admitted or readmitted to the Home;*

- b) residents with symptoms were not isolated;
- c) staff members did not wear masks consistently and/or in the proper manner;
- d) barrier nursing was not implemented at the first opportunity after residents tested positive for Covid;
- e) Infection control/barrier control signs were not on the doors of residents who had tested positive and/or showing symptoms of Covid;
- f) ...
- g) ...
- h) ...
- i) Threw a telephone message from Public Health England asking if more staff were required, in the bin saying “we do not need their help” or words to that effect.

3. Your conduct at any and/or all of charges 1 – 2 put residents and/or staff at risk of serious harm.

And, as a consequence of the above, your fitness to practise is impaired by reason of your misconduct.’

The original panel determined the following with regard to impairment:

‘The panel determined that your insight is emerging, but your remediation is limited in respect of those specific infection prevention and control, and leadership and management skills that need to be addressed. It noted that the training you have undertaken is not targeted at the identified concerns.

In relation to the risk of repetition, whilst a situation similar to the unprecedented COVID-19 pandemic may be unlikely to reoccur, the panel was not satisfied that you are unlikely to repeat the misconduct, which involved failings in fundamental infection control and leadership skills. Whilst your insight is emerging, and you have stated what you would do differently in the future, you have not yet undertaken targeted learning, or had the opportunity to demonstrate such learning in practice.

The panel acknowledged that there has been no repetition of the concerns. However, it noted that you have not worked in a management or leadership role since you left the Home and are currently working for the DWP. You have therefore not been able to demonstrate strengthened practice or provide evidence that you have worked on the issues identified and embedded any learning or insight.

As such, the panel could not conclude that it is highly unlikely that your misconduct would be repeated in the future. It therefore found that there is a risk of repetition and that a finding of current impairment of fitness to practise is necessary on the grounds of public protection.

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

The panel determined that a finding of impairment on public interest grounds is also required to mark the seriousness of the concerns and to uphold proper professional standards. The panel considered that a well-informed member of the public and fellow professionals would be concerned if a finding of impairment were not made in a case where you had breached numerous parts of the Code within your role as a manager, and where your insight is still developing, and you are yet to strengthen your practice.

In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was not satisfied that you can practise kindly, safely and professionally and therefore determined that your fitness to practise is currently impaired.'

The original panel determined the following with regard to sanction:

'The panel considered that even if conditions would address the public protection concerns, it was not satisfied that that public interest concerns would be addressed or that it would mark the seriousness of these concerns, namely your disregard for the COVID-19 rules, the risk of harm to vulnerable patients and your failings in leadership and management.

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

- A single instance of misconduct but where a lesser sanction is not sufficient;*
- No evidence of harmful deep-seated personality or attitudinal problems;*
- No evidence of repetition of behaviour since the incident;*
- The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel acknowledged that this was not a single instance of misconduct. However, the panel determined that it was a course of conduct that took place over a discrete period in an unusual and unprecedented time. It considered that the situation required active, dynamic management of the Home with which you struggled. The panel determined that you did not respond well to this situation and did not fully avail yourself of the support available.

Whilst the panel considered that there was some evidence of attitudinal issues (for example that your responses to staff and the CQC were defensive and dismissive), it did not consider these to be harmful or deep-seated, but rather misguided and focused on the wrong priorities and outcomes.

The panel noted that there has been no repetition of the behaviour since the incidents in question and, and that prior to the pandemic colleagues had been

positive about your abilities. However, the panel also noted that you have not undertaken a role where your managerial skills have been tested.

The panel considered that you are in the early stages of reflection and insight into your management and leadership skills. It considered that whilst there remains a risk of repetition, the panel did not consider this to be a significant risk because you have identified what you would do differently and demonstrated a willingness to take more accountability for your actions in the future. The panel acknowledged your full engagement with these proceedings.

The panel next went on to carefully consider whether a striking-off order would be proportionate but, taking account of all the information before it, and in particular, the very particular context in which the misconduct occurred, the panel concluded that it would be disproportionate. The panel bore in mind the overarching question of “is the striking off order the only sanction that will be sufficient to protect the public and maintain professional standards?” The panel was satisfied that a suspension order would address the public protection concerns, mark the seriousness of the misconduct and maintain professional standards. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in your case to impose a striking-off order.

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register because of the context in which these incidents occurred. It acknowledged the pandemic was a difficult time for everybody and presented very specific challenges to those delivering care in care homes. The panel was satisfied that whilst your decisions at the time were misguided, they were not intended to cause harm to the residents of the Home. The panel considered that your misconduct was very serious, and as such, a serious sanction would need to be imposed to protect the public and to satisfy the public interest. However, it took the view that a suspension order is a serious sanction. The panel bore in mind that whilst you are suspended, the public will be protected as you will not be able to practise as a nurse.

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

The panel noted the hardship such an order will inevitably cause you. It noted that you have explained that you have been living with these allegations for years and it has been extraordinarily stressful for you. However, this is outweighed by the need to protect the public and to mark the public interest in this case.

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

In making this decision, the panel carefully considered the submissions of Mr Malik in relation to the striking-off order that the NMC was seeking in this case. However, the panel considered that in the absence of deep-seated attitudinal issues, and with the relevant contextual factors in mind, a striking off order was not the only order that would be sufficient to protect the public and mark the public interest. It determined that the attitudinal concerns can be addressed before the end of the period of suspension by proper reflection into your misconduct. It also noted that there are steps you can take to begin strengthening your practice. The panel determined that a review of the order allows you time to present further evidence of reflection and remediation to a future panel.

The panel concluded that imposing a suspension order with a review would protect the public and maintain public confidence in the profession and the NMC as a regulator. It noted that on the balance of all of the above factors, a striking-off order may be too punitive at this stage.

The panel determined that a suspension order for a period of 12 months was appropriate in this case to mark the seriousness of the misconduct, protect the public and maintain public confidence in the profession and the NMC as its regulator. It determined that this also allows you time to develop your insight and strengthen your practice.'

Decision and reasons on current impairment

The panel has considered carefully whether Miss Burchell's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as the ability of a professional on our register to practise as a nurse midwife or nursing associate safely and effectively without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle. It has taken account of the submissions made by Ms Jones on behalf of the NMC.

Ms Jones outlined the background of the case and invited the panel to extend the current substantive suspension order. She submitted that an order remains necessary on the grounds of public protection and public interest.

Ms Jones highlighted to the panel, what information the original substantive panel stated would assist today's panel in making its decision. She submitted that this information has not been provided to today's panel, and that the matters found proved are of a serious nature to which the panel would want to see evidence that the areas of concerns highlighted have been remediated or is in the process of being remediated.

Ms Jones submitted that Miss Burchell still has some way to go to demonstrate sufficient remediation and that she could practice safely. She submitted that this order is necessary to uphold the public trust and confidence in the profession and that a member of the public would be very concerned if a registered nurse with concerns of this nature were permitted to practise without restriction. Ms Jones submitted that in the absence of any evidence, the panel may feel that there is a risk of repetition and a consequent risk of significant harm to others and therefore, this order remains necessary and proportionate in order to maintain public protection and to meet the public interest.

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

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether Miss Burchell's fitness to practise remains impaired.

The panel noted that the original panel found that Miss Burchell had emerging insight. At this review hearing, the panel had nothing new before them to demonstrate any further insight or strengthening of practice.

The panel noted what the original substantive panel stated to Miss Burchell, would assist a reviewing panel in making their decision:

- *'Evidence of further insight and reflection into your misconduct and specifically addressing your managerial and leadership skills;*
- *Further training undertaken relating to the identified areas of concern;*
- *Recent testimonials relating to any work undertaken whether in or outside of healthcare, paid or unpaid.'*

As there was no new information before it, the panel concluded that Miss Burchell was still impaired.

The original panel determined that Miss Burchell was liable to repeat matters of the kind found proved. Today's panel has determined that Miss Burchel is still liable to repeat matters of the kind found proved and therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that Miss Burchell's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Miss Burchell's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

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 Miss Burchell's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise, but the Committee wants to mark that what happened was unacceptable and must not happen again.'* The panel considered that Miss Burchell's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice on Miss Burchell's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Miss Burchell's misconduct.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Miss Burchell further time to fully reflect on her previous failings. It considered that this was the first review of the substantive order and concluded that a further 6 months suspension order would be the appropriate and proportionate response and would afford Miss Burchell adequate time to further develop her insight and take steps to strengthen their practice.

The panel determined therefore that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of 6 months would provide Miss Burchell with an opportunity to engage with the NMC and adequately address her misconduct. It considered this to be the most appropriate and proportionate sanction available at this stage. However any further reviewing panel is likely to wish to see evidence of positive engagement if the most serious sanction available is to be avoided.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 17 April 2026 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. This panel will need to see before them, evidence that Miss Burchell has attempted to address the ongoing regulatory concerns. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Evidence of further insight and reflection into your misconduct and specifically addressing your managerial and leadership skills;
- Further training undertaken relating to the identified areas of concern;
- Recent testimonials relating to any work undertaken whether in or outside of healthcare, paid or unpaid.

This will be confirmed to Miss Burchell in writing.

That concludes this determination.