Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
18 – 27 May 2026

Virtual Hearing

Name of Registrant:	**Recley Wallace Costelo**
NMC PIN:	23F1881O
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing (Level 1) – 21 June 2023
Relevant Location:	Hammersmith and Fulham
Type of case:	Misconduct
Panel members:	Margaret Wolff (Chair, Lay member) Sophie Agolini (Registrant member) Norah Christie (Lay member)
Legal Assessor:	Caroline Hartley
Hearings Coordinator:	Jumu Ahmed
Nursing and Midwifery Council:	Represented by Sally Denholm, Case Presenter
Mr Costelo:	Present and represented by Simone Bowman, (Bow Law)
Facts proved by way of admission:	Charges 1, 2, 3(b) (partial admission), 3(d), 3(e), 3(f)
Facts not proved:	Charges 3(a), 3(b)(in that you did not breach professional boundaries), 3(c), 4
Fitness to practise:	Impaired (public interest only)
Sanction:	**Caution order (2 years)**

Interim order: **N/A**

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

Ms Denholm, on behalf of the Nursing and Midwifery Council (NMC), made an application for this case be held partly in private on the basis that proper exploration of your case involves [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms Bowman, on your behalf, did not object to the application.

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

Having heard that there will be reference to [PRIVATE], the panel determined to hold the hearing partly in private as and when such issues are raised in order protect the privacy of Patient A. This included the whole of Patient A's oral evidence.

Details of charge

That you, a registered nurse:

1. On 22 July 2024, accessed Patient A's clinical records, to obtain their phone number, without clinical justification. **[PROVED BY WAY OF ADMISSION]**

2. Your conduct in charge 1 breached Patient A's right to confidentiality. **[PROVED BY WAY OF ADMISSION]**

3. On 22 July 2024 on one or more occasions whilst providing care, breached professional boundaries in that you:

a. Winked at Patient A. **[NOT PROVED]**
b. Asked Patient A their age. **[PARTIAL ADMISSION in that you had asked Patient A about their age but you denied that this was a breach of professional boundaries] & [NOT PROVED in that this did not breach professional boundaries]**
c. Sought to remain near Patient A, when you ought to have been on a break. **[NOT PROVED]**
d. Sent Patient A, a text message stating *'I hope you're ok after your appointment today. Smiley face'.* **[PROVED BY WAY OF ADMISSION]**
e. Sent Patient A, a text message stating *'Take care, you're cute by the way'.* **[PROVED BY WAY OF ADMISSION]**
f. Sent the text messages at 3(d) and 3(e) from your personal mobile. **[PROVED BY WAY OF ADMISSION]**

4. Your conduct in charges 1 and/or 3 was sexually motivated in that you, were pursuing a future sexual relationship. **[NOT PROVED]**

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

Background

You were referred to the NMC on 30 December 2024 by Imperial College Healthcare NHS Trust (the Trust).

The charges arose out of allegations made on 22 July 2024 whilst you were employed as a Band 5 Registered Nurse at Charing Cross Hospital where you had been employed since 18 November 2022. At the time of the events at issue, you were working on Ward 5

South, Neuroscience Treatment Unit which was not your usual ward, because Ward 5 South was short staffed that day.

[PRIVATE] and you were responsible for undertaking her observations as well as those of the other patients on the 10-chair bay. It is alleged by Patient A that you had enquired about her age, had winked at her on multiple occasions, and did not take your full lunch break because you sought to be near her.

When Patient A left the Hospital, you sent her two text messages from your personal telephone number stating:

> *‘ I hope you’re ok after your treatment today..[smiley face]’*
>
> […]
>
> *‘Take care..you’re cute by the way.. [smiley face]’*

During the Trust’s local investigation, you admitted to accessing Patient A’s clinical records to obtain Patient A’s mobile number and sending the two text messages.

Decision and reasons on facts

The panel heard from Ms Bowman who informed the panel that you made admissions to charges 1, 2, 3(b) in that you had asked Patient A for her age), 3(d), 3(e) and 3(f). The panel therefore finds those charges proved, by way of your admissions.

With regard to charge 3(b), the panel noted that you admitted to asking Patient A for her age but deny that this breached professional boundaries.

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 Denholm and by Ms Bowman.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

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

- Patient A: Patient A;
- Catherine Berueda (Ms Berueda): Ward Sister at ward 5, South;
- Joni Jacob (Ms Jacob): Band 5 staff nurse at ward 5, South.

The panel also heard evidence from you under oath.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by Ms Denholm and by Ms Bowman.

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

Charge 3(a)

On 22 July 2024 on one or more occasions whilst providing care, breached professional boundaries in that you:

a) Winked at Patient A

This charge is found NOT proved.

In reaching this decision, the panel took into account the documentary and oral evidence of Patient A, Ms Berueda and Ms Jacob. The panel also took into account the evidence provided by you.

The panel had regard to the initial complaint made on behalf of Patient A, by her partner, which was undated. However, it noted from her oral evidence that this complaint was provided to the Trust on the same day as the alleged incident.

In the initial complaint, it was stated:

> '[…] *My partner attended your facility* [PRIVATE] *from 8:00 AM until around 1:30/1:45 PM. During her visit, a male staff member, whom we believe to be an assistant, was responsible for taking her temperature and performing other general duties. Unfortunately, his behavior was highly inappropriate and disturbing. He winked at her multiple times,* […]' [sic]

In Patient A's witness statement, she wrote:

> *'3. When I went in* [PRIVATE]*, I sat in my normal seat. I cannot recall how many other patients were being treated at the same time, maybe five or six. There were two female nurses and a male nurse working in the ward. I believe this male nurse to be Mr Costelo. He took my blood pressure and put the thermometer in my mouth to take my temperature. During this time, he was wearing a face mask and so I*

couldn't really see what his face looked like, but I could see his eyes and we could make eye contact.

4. I felt that Mr Costelo was staring at me the entire time I was receiving the infusion and winked at me a lot. This made me very uncomfortable especially when he was the person who was taking my blood pressure and putting a thermometer in my mouth.'

Patient A in her oral evidence told the panel that she did not report it to the two nurses at the time of the alleged incident. The panel noted that Patient A received her treatment in this ward every six months and that this ward was not the ward you usually worked in.

The panel noted that Ms Berueda and Ms Jacob were the two female nurses on shift on this day.

Ms Berueda, in her witness statement, wrote:

'5. I am unaware if Mr Costelo winked at the patient. I did not see this happening so I cannot comment on this.

[…]

8. I did not see Mr Costelo behave in a way that was untoward or inappropriate towards any patients within the ward.'

Ms Berueda confirmed in her oral evidence that she did not see you wink at Patient A.

Ms Jacob, in her witness statement, wrote:

'7. I do not recall Mr Costelo winking at the patient. I did not see this.'

Ms Jacob also confirmed to the panel in oral evidence that she did not see you wink at Patient A.

The panel had regard to the evidence you provided. The panel noted that you deny this charge.

The panel also noted that you confirmed in answer to Ms Bowman that you had a face mask on when you were providing care to Patient A as well as other patients. There was no evidence to corroborate the evidence provided by Patient A. The panel accepted that, as you were wearing a face mask, it would not be unreasonable for you to attempt to adjust that face mask by moving your facial muscles to avoid using your hands whilst undertaking clinical tasks. The panel was of the view that Patient A could have misconstrued this face movement as a wink. The panel also had regard to your evidence that you do not usually wink at people and noted from the evidence provided that this would be out of character.

The panel also had regard to the evidence of Ms Jacob who had worked with you before on your usual ward, and the testimonial of the ward manager from your usual ward who both described you as a professional, caring and attentive nurse.

The panel determined that on the balance of probabilities, it is unlikely that you winked at Patient A.

The panel, therefore, determined that this charge is not proved.

Charge 3(b)

> On 22 July 2024 on one or more occasions whilst providing care, breached professional boundaries in that you:

b) Asked Patient A their age.

This charge is found NOT proved.

The panel noted that you made admission to asking Patient A her age. However, you deny that this breached professional boundaries.

In reaching this decision, the panel took into account the documentary and oral evidence of Patient A and Ms Berueda. The panel also took into account the evidence provided by you.

In Patient A's initial complaint, it stated:

> '[…] *Unfortunately, his behavior was highly inappropriate and disturbing.* […] *inquired about her age,* […]' [sic]

Ms Berueda, in her witness statement, wrote:

> *'6. In terms of asking a patient's age, I do not deem it appropriate to enquire about a patient's age but verifying a patient's age for the purpose of identification prior to giving medication is acceptable […]'*

Ms Berueda in her oral evidence confirmed that asking a patient's age might also be acceptable in trying to establish a rapport.

The panel had regard to your evidence. You said that you asked Patient A about her age because you noticed that Patient A appeared to be considerably younger than other patients receiving treatment [PRIVATE] on the bay. You said that you *'were curious as Patient A was smiling so much despite what she was going through.'*

The panel was of the view that, whilst it had heard evidence that nurses do make small talk with patients in this ward and that it was not unreasonable to ask a patient for their age as part of that small talk, you could have sourced this information by checking her medical records. However, it also noted that there was no clinical reason for you to ask for her age. The panel was of the view that, as a registered nurse who was undertaking the observations for Patient A, it was not up to Patient A to satisfy your *'curiosity'* about the duration of her illness. The panel determined that this was poor practice but did not amount to breaching professional boundaries.

The panel, therefore, determined that this charge is not proved.

Charge 3(c)

> On 22 July 2024 on one or more occasions whilst providing care, breached professional boundaries in that you:
>
> c) Sought to remain near Patient A, when you ought to have been on a break.

This charge is found NOT proved.

In reaching this decision, the panel took into account the documentary and oral evidence of Patient A, Ms Berueda and Ms Jacob. The panel also took into account the evidence provided by you.

Patient A's initial complaint, drafted by her partner, stated:

> '[…]*Unfortunately, his behavior was highly inappropriate and disturbing.* […]*, and deliberately shortened his lunch break to remain in the area, watching over her in an unsettling manner.'* [sic]

In Patient A's own witness statement, she wrote:

> *'5. I overheard the female nurses tell Mr Costelo to take his break and he refused saying that he didn't want to go on a break. I noticed that the other nurses had taken their break, but he had not taken his.'*

Patient A told the panel, in her oral evidence, that she did not know when that break started, how long that break was, and when that break concluded.

In Ms Berueda's witness statement, she wrote:

> *'7. In terms of taking a break during our shift, this is protected time and so we tend to complete our break, unless something unexpected arises that requires our attention, we complete our breaks throughout. At the time of this incident, I was unaware of whether Mr Costelo had taken his full break time.'*

Ms Berueda told the panel, in her oral evidence, that, although she was unaware of your break, it was standard for breaks to be short if the ward was busy. She said that nurses liked to protect their break but also wanted to finish on time and this was a fast paced ward. The shortest break she ever took was 15 minutes.

Ms Jacob, in her witness statement, wrote:

> *'5. It can be very busy in the morning and sometimes we do not take the full break during this time. We can cut it short and then take the rest in the afternoon, but this is usually down to the discretion of the nurse in charge. Our ward is divided into two;* [PRIVATE]*. On the date of the incident, I was working with Mr Costelo in the* [PRIVATE] *ward, and I told Mr Costelo to take his break. He expressed that he did not want to go first. I, therefore, took my break first. I didn't ask him why he didn't want to take his first break. I just asked him if he was Ok, and there didn't appear to*

be any problems. Once I came back from my break, I advised Mr Costelo to take his break around lunchtime. When he returned early, he told me he didn't want to take the rest of his break. I didn't mind and didn't enquire why he decided to take a shorter break. Typically, if a nurse is working 11.5/12-hour shift then they should take a thirty-minute break. On this particular day, I believe Mr Costelo returned after fifteen minutes but I cannot remember for certain and there was no explanation as to why he decided to come back early. I do not have a formal record of this.'

The panel took into account your evidence. You told the panel that you were offered to take your full break but that you cut your break short because the ward was busy and you wanted to help out as much as possible. You told the panel that it was your general custom on shift to take shortened breaks and to return to your duties when you have had a drink and something to eat. A testimonial from the ward manager on the ward where you usually work confirmed that it was your habit not to take your full break. Whilst the panel noted that this factual statement was hearsay evidence, it saw no reason not to accept it on face value.

The panel did not have any evidence to indicate that there was a Trust policy that it is mandatory for a nurse to take their full break or that there was a duty upon you to do so. The panel also did not have any evidence that you were providing more support to Patient A than to other patients.

The panel was of the view that, by virtue of your role at that time, you had to be near Patient A in order to undertake her observations but there was no evidence that you remained near her at other times. Furthermore, Patient A did not provide any evidence that you sought to remain near her. The panel did not have any other evidence to support this charge.

The panel, therefore, determined that this charge is not proved.

Charge 4

> Your conduct in charges 1 and/or 3 was sexually motivated in that you, were pursuing a future sexual relationship.

This charge is found NOT proved.

The panel noted that charge 4 relates only to the proven charges: charge 1 and charge 3(d), 3(e), and 3(f).

In reaching this decision, the panel took into account the all the documentary and oral evidence.

The panel noted that you initiated the contact with Patient A as you reached out to her spontaneously via text message after she left the Hospital. You were aware that Patient A was a patient receiving treatment at that ward and you were a nurse looking after her. The panel also noted that you had completed a course on ‘Safeguarding Level 3’ on 2 July 2024 (less than a month before the incidents) which would have highlighted your responsibilities as a staff member to protect and safeguard patients’ wellbeing and confidentiality.

The panel determined that you had breached Patient A’s right to confidentiality and privacy as you obtained her number and texted her from your personal mobile phone, and that this was an abuse of power. The panel considered that it was inappropriate and wrong for you to have sent them. However, the panel concluded that in sending of the messages in itself did not demonstrate sexual motivation. The panel also noted that Patient A, in her oral evidence, considered on reading the first text, that the sender was being kind. In your oral evidence, you said that you found Patient A to be *‘admirable’* as she was *‘young and smiley’* through her treatment. It also noted that when asked directly if you felt sexually attracted to Patient A and hoped that she felt the same way, you responded *‘no no’.*

The panel took careful note of the wording of the text messages. It noted that they were brief and unsigned and were not framed in such a way that they appeared to invite a response. It noted that the second message to *'take care'* was wording commonly used at the conclusion of an interaction and did not suggest that you intended to pursue a relationship with Patient A. It noted the comment *'by the way you're cute'* was highly inappropriate but concluded that there was no evidence of a sexual connotation.

The panel did not have any evidence to support the sexual motivation element of this charge.

The panel determined that on the balance of probabilities, it is unlikely that your actions in charge 1, charge 3(d), 3(e), and 3(f) were sexually motivated.

The panel, therefore, determined that this charge is not proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider whether the facts found proved amount to misconduct and, if so, whether your fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise safely and effectively without restriction.

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

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

Ms Denholm's submissions on misconduct and impairment

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

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

Ms Denholm identified the specific, relevant standards, in her submissions, where your actions amounted to misconduct, namely elements: 5, 5.1, 20, 20.1, 20.2, 20.3, 20.5, 20.6, 20.8. She submitted that your actions within the charges found proved by way of your admission fell short of the standards expected of a registered nurse, and therefore amount to misconduct.

Ms Denholm moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the cases of *Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin) and *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Ms Denholm submitted that the concerns are attitudinal in nature, which may be more difficult to remedy in the circumstances. She invited the panel to take into account your level of insight, whether there is a risk of repetition and the positive testimonials you have provided. With regard to your reflection, she said that [PRIVATE] these incidents might jeopardise your job [PRIVATE] and that you found it disheartening to think that a single mistake had the power to overshadow all the good deeds and efforts you have made. She submitted that in your reflection, you have acknowledged the impact it had on Patient A in that it had the potential to cause [PRIVATE] a fear of returning to the Hospital for future treatment.

Ms Denholm submitted that, although you have expressed remorse and provided a level of insight, this was limited and that the conduct in question has not been fully remediated as of yet.

Ms Denholm invited the panel to make a finding of current impairment by reason of public protection as well as in the wider public interest.

Ms Bowman's submissions on misconduct and impairment

Ms Bowman told the panel that since the incident, [PRIVATE] you feel there is a '*grey shadow hanging over you'*. She said that you acted out of character on that day and that you acknowledge that you breached professional boundaries by sending those two text messages from your personal mobile. You fully accepted that it was a breach of confidentiality and you were regretful of your mistake.

Ms Bowman submitted that there is no likelihood of repeated conduct. She submitted that this was a one-off incident. She referred the panel to the positive testimonials provided by your manager and a colleague which demonstrate that you have continued to maintain your professionalism as a registered nurse. Furthermore, Ms Bowman submitted that you have undertaken further training. She reminded the panel that immediately following the

incident, you arranged and attended three counselling sessions. She submitted that this demonstrated that you fully acknowledge your wrongdoing. She also submitted that you have reflected in full, shown remorse and made admissions as early as possible. Therefore, there is no future risk to public safety or to the wider public interest.

Ms Bowman submitted that you are not currently impaired.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Cheatle v General Medical Council* [2009] EWHC 645 (Admin)*, Roylance v General Medical Council*, *Calhaem, R (on the application of) v General Medical Council* [2007] EWHC 2606 (Admin), *Yeong v General Medical Council* [2009] EWHC 1923 (Admin) [2009] WLR (D) 268, *Cohen* and *Grant.*

Decision and reasons on misconduct

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

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

> ***5 Respect people's right to privacy and confidentiality***
> *As a nurse, midwife or nursing associate, you owe a duty of confidentiality to all those who are receiving care. This includes making sure that they are informed about their care and that information about them is shared appropriately.*
> *To achieve this, you must:*
>
> *5.1 respect a person's right to privacy in all aspects of their care*
>
> ***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

20.2 act with … integrity at all times …

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

20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress

20.6 stay objective and have clear professional boundaries at all times with people in your care …

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that the charges found proved constitute a serious breach of the Code. You, as a registered nurse, had a duty and responsibility to respect Patient A's right to confidentiality. Instead you accessed her private records without any clinical justification in order to take her phone number. You then used that number to send her two text messages from your personal mobile thereby breaching her confidentiality and your professional boundaries.

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

Decision and reasons on impairment

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

In coming to its decision, the panel had regard to the NMC Guidance on *'Impairment'* (Reference: DMA-1, Last Updated: 28/01/2026) in which the following is stated:

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

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

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

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

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

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

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

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

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

d) ...'

The panel determined that limbs a, b and c of the Grant test were engaged in this case.

The panel considered limb a of the test. The panel was of the view that, whilst there was no evidence that Patient A suffered physical harm, she was a vulnerable patient receiving treatment under your care. The panel noted from Patient A's evidence that she felt *'uncomfortable and was nervous'* undertaking her future treatments in the Hospital. In light of this, the panel determined that your actions had put Patient A at unwarranted risk of harm.

The panel next considered limbs b and c of the test. The panel determined that your actions have brought the profession into disrepute, and/or breached a number of fundamental tenets of the nursing profession as set out above.

In considering whether you are liable in the future to act so as to put a patient at unwarranted risk of harm, bring the profession into disrepute and/or to breach the

fundamental tenets of the profession, the panel considered the factors set out in the case of *Cohen* and the principles set out in DMA-1, namely:

- Is the conduct easily remediable?
- Has the conduct has been remedied?
- Is it highly unlikely that the conduct will be repeated?

The panel was of the view that the misconduct is capable of being addressed as it was a one-off isolated failure of judgement on one day. The panel noted that you have made admissions to all the charges that were found proved and that this was an error of judgement. The panel concluded that this conduct is remediable: it was a one-off event and not indicative of deep seated attitudinal behaviour. However, the panel took into account that you have reflected on the concerns and have demonstrated in your written reflection and in your oral evidence an understanding of the impact your conduct may have had on Patient A, the nursing profession and the wider public interest.

The panel also noted that you undertook [PRIVATE] some months before you were referred to the NMC. The panel also noted that you have undertaken some relevant training and took into account the positive testimonials from patients and colleagues who work with you, including your line manager with whom you have been having monthly meetings since last year. Taking this into account, the panel was of the view that it is unlikely that your conduct will be repeated. The panel therefore decided that a finding of current impairment on the grounds of public protection is not necessary.

The panel next considered whether a finding of impairment on public interest grounds is required.

The panel bore in mind that the overarching objectives of the NMC: to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public

confidence in the nursing and midwifery professions and upholding proper professional standards for members of those professions.

The panel was of the view that your misconduct in accessing Patient A's clinical records to obtain her phone number without clinical justification, breaching both her right to confidentiality and your professional boundaries, and sending her two text messages from your personal mobile phone, is so serious that a finding of impairment is necessary to maintain the public's confidence and trust in the profession and to uphold professional standards. Therefore, the panel determined that a finding of impairment on public interest grounds is required.

The panel was, therefore, satisfied that your fitness to practise is currently impaired.

Sanction

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

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had regard to the NMC Guidance on *'The sanctions available'* (Reference: SAN-2 Last Updated: 28/01/2026).

The panel accepted the advice of the legal assessor.

Submissions on sanction

In the Notice of Hearing, dated 12 May 2026, the NMC had advised you that it would seek the imposition of a striking-off order if it found your fitness to practise currently impaired.

During the course of the hearing, the NMC revised its proposal and submitted that a suspension order for a period of three months with a review is more appropriate in light of the panel's findings.

With regard to aggravating and mitigating features, Ms Denholm submitted that your misconduct had arisen from an of abuse of position of trust but that this was a single one-off incident.

With regard to sanction, Ms Denholm submitted that making no order or imposing a caution order would not be appropriate or proportionate. Furthermore, she submitted that a conditions of practice order would also not be appropriate when considering the nature of the charges. She submitted that the misconduct is indicative of attitudinal concerns which can be more difficult to put right, and can result in the public losing trust in registered professionals. Therefore, Ms Denholm submitted that the appropriate order is a suspension order with a review as the charges found proved are serious.

In response to the panel's question, Ms Denholm confirmed that you have not been subject to any previous regulatory concern.

Ms Bowman invited the panel to impose a caution order for a period of one year to mark the seriousness of your misconduct and to satisfy the public interest ground. She submitted that this was a single and isolated incident, and that since the misconduct took place, which was 22 months ago, you have continued to work with no concerns.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Abuse of a position of trust

The panel also took into account the following mitigating features:

- One-off incident
- Immediate acknowledgement that you have fallen short of the standards expected of a registered nurse
- Full engagement with the NMC process and immediate admission to all of the charges found proved
- Took steps to strengthen your practice to prevent similar things happening again such as:
    - Attendance at [PRIVATE] before you were referred to the NMC
    - Undertaking of relevant training courses
    - Reflection on what happened, the impact it had on Patient A, your colleagues and the wider public interest
- Demonstrated sufficient insight
- You have worked safely and professionally in the same or similar role since the events causing concern
- Evidence of positive testimonials from your manager, your colleagues and patients.

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

Next, in considering whether a caution order would be appropriate in the circumstances, the panel had regard to the NMC Guidance on 'Caution order' (Reference: SAN-2b) Last Updated: 28/01/2026) in which the following is set out:

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

A caution may be appropriate when any of the following factors are apparent (this list is not exhaustive):

- *significant evidence of re-training and reflection*
- *significant insight which makes repetition highly unlikely*
- *a sanction is necessary to uphold professional standards and public confidence in the profession, but the professional is able to practise safely and a more restrictive sanction would be disproportionate’*

The panel noted that you have shown insight into your conduct, and the impact it has had on Patient A and the wider public interest. The panel noted that you also made admissions, apologised for your misconduct, and showed evidence of remorse. You engaged with [PRIVATE] before you were referred to the NMC and engaged with the NMC since you were referred. The panel has been told that there have been no adverse findings in relation to your practice either before or since this incident. Furthermore, the panel noted that positive testimonials were provided by your colleagues and patients. The panel was of the view that you have been able to practise safely since you were referred to the NMC, which was 22 months ago, and that restriction of your practice would be disproportionate. The panel determined that repetition of your misconduct is highly unlikely.

The panel was also of the view that your behaviour sprang from compassion for Patient A and admiration for the way in which she was dealing with [PRIVATE], rather than from any sexual motivation. However, what you did raised questions of uncertainty for Patient A over the nature of your interest in her, which understandably caused her some alarm. The

panel considered the seriousness of the case and determined that a sanction is required to mark this.

The panel considered whether it would be proportionate to impose a more restrictive sanction and looked at a conditions of practice order. The panel concluded that no useful purpose would be served by a conditions of practice order as there are no outstanding clinical issues that need to be addressed and it is not necessary to protect the public. The panel further considered that a suspension order or a striking-off order would be wholly disproportionate in this case and that returning a safe, professional and well-regarded nurse to unrestricted practice would be in the public interest.

The panel has decided that a caution order would adequately meet the public interest. For the next two years, anyone searching the register, including your employer, any prospective employer, and members of the public, will be able to see that your fitness to practise has been found to be impaired and that your registration is subject to this sanction. Having considered the general principles above and looking at the totality of the findings on the evidence, the panel has determined that to impose a caution order for a period of two years would be the appropriate and proportionate response because patients need to have confidence that an act such as this, which falls below the standards expected of a professional nurse, is marked as unacceptable. It would mark not only the importance of maintaining public confidence in the profession, but also send the public and the profession a clear message about the standards required of a registered nurse.

In making this decision, the panel carefully considered the submissions of Ms Denholm in relation to the sanction that the NMC was seeking in this case. However, the panel considered that this was a single lapse of judgement, and that you have insight into the impact it has had on Patient A and the wider public interest. The panel also noted that this incident took place over two years ago, and you have been practising with no further concerns. The panel was also of the view that you are a good nurse, and it would not be in the public interest to withhold a good nurse from practice.

At the end of this period the note on your entry in the register will be removed. However, the NMC will keep a record of the panel's finding that your fitness to practise had been found impaired. If the NMC receives a further allegation that your fitness to practise is impaired, the record of this panel's finding and decision will be made available to any practice committee that considers the further allegation.

This decision will be confirmed to you in writing.

That concludes this determination.