Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Tuesday, 5 May 2026 – Friday, 15 May 2026

Virtual Hearing

Name of Registrant:	Michelle Karen McLaren
NMC PIN	01I7980E
Part(s) of the register:	Nurses part of the register Sub part 1 RNA, Registered Nurse – Adult (September 2006)
Relevant Location:	Salford
Type of case:	Misconduct
Panel members:	John Millar (Chair, Lay member) Wendy Hope (Registrant member) Fulata Shawa-Siyunyi (Lay member)
Legal Assessor:	Juliet Gibbon
Hearings Coordinator:	Rim Zambour
Nursing and Midwifery Council:	Represented by Richard Webb, Case Presenter
Miss McLaren	Present and represented by Joanne Agbitor (Unison)
Facts proved by admission:	Charges 1a, 1b, 2a, 2b, 3, 4, 5a, 5b, 5d, 5e, 5f (partially admitted)
No case to answer:	Charges 5g and 6
Facts proved:	Charge 2c
Facts not proved:	Charge 5c
Fitness to practise:	Impaired
Sanction:	Conditions of practice order (18 months)
Interim order:	Interim conditions of practice order (18 months)

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

At the outset of the hearing Mr Webb, on behalf of the Nursing and Midwifery Council (NMC), made a request that this case be held partly in private on the basis that proper exploration of your case involves making references to [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms Agbitor, on your behalf, supported 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 may be reference to [PRIVATE], the panel determined to go into private session as and when these issues arise in order to protect your privacy.

Decision and reasons on application to amend the charge

The panel heard an application made by Mr Webb to amend the wording of charge 1a.

The proposed amendment was to remove the word '*loose'* from the charge on the basis that there is no direct evidence before the panel relating to the medication being loose. It was submitted by Mr Webb that the proposed amendment would provide clarity and more accurately reflect the evidence.

"That you, a registered nurse:

1) On or around 11 November 2022:

    a) left ~~loose~~ medication belonging to Resident C in Resident B's bed.

    …"

Ms Agbitor had no objection to the application.

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

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

Details of charge

That you, a registered nurse:

1) On or around 11 November 2022:

    a) left medication belonging to Resident C in Resident B's bed. **[PROVED BY ADMISSION]**

    b) signed Resident C's medication administration records before administering Resident C's medication. **[PROVED BY ADMISSION]**

2) On or around 14 November 2022:

    a) left medication unattended on the dining room table. **[PROVED BY ADMISSION]**

    b) administered Resident E's 14:00 Bumetanide medication at or after 17.00. **[PROVED BY ADMISSION]**

    c) the medication referred to in charge 2)a) was left for around 30 mins. **[PROVED]**

3) On or around 22 November 2022, whilst not permitted to manage or distribute any medication to residents, signed the controlled drug book. **[PROVED BY ADMISSION]**

4) Between June 2022 and 21 January 2023, exchanged one or more electronic message(s) with Resident A. **[PROVED BY ADMISSION]**

5) On or around 20 January 2023:

a) consumed alcohol with and/or were intoxicated by alcohol in the company of Resident A. **[PROVED BY ADMISSION]**

b) at the time of your actions at 5a) you knew Resident A was vulnerable because they had a history of alcohol dependence. **[PROVED BY ADMISSION]**

c) leaned with your head on Resident A's lap. **[NOT PROVED]**

d) entered premises belonging to Broughton House ('the Home') whilst intoxicated. **[PROVED BY ADMISSION]**

e) touched Resident A's face. **[PROVED BY ADMISSION]**

f) kissed Resident A's face on one or more occasion(s). **[PARTIALLY ADMITTED]**

g) one or more of the kisses described in charge 6)f) were on Resident A's lips. **[NO CASE TO ANSWER]**

6) Some or all of your actions at charge 5 were sexually motivated in that they were carried out for the purpose of sexual gratification and/or the pursuit of a future relationship. **[NO CASE TO ANSWER]**

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

Decision and reasons on application to admit hearsay evidence

The panel heard an application made by Mr Webb under Rule 31 to allow the written statement of William Whittleworth into evidence. Mr Webb informed the panel that Mr Whittleworth was not in attendance at the hearing, and that the NMC had submitted a hearsay bundle illustrating the efforts taken to secure his attendance.

Mr Webb submitted that Mr Whittleworth's evidence is relevant as it speaks to the contested charge 2c.

Mr Webb referred the panel to the NMC guidance relating to hearsay, as well as the principles in *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin). He submitted the following:

1. Sole or decisive: Mr Whittleworth's evidence is not sole or decisive as other witnesses, including Francesca Lally, also speak to charge 2c.

2. Nature and extent of challenge to the content of the statement: you have challenged this statement as you do not accept charge 2c.

3. Reasons to fabricate evidence: there is no suggestion of fabrication.

4. Seriousness: the charges are serious, although in relation to charge 2c this is limited to the amount of time the medication was left unattended.

5. Good reason for non-attendance of the witness: there is no good reason to provide the panel for Mr Whittleworth's non-attendance. He appears to have disengaged.

6. Whether reasonable steps have been taken to secure the attendance of the witness: The NMC has made efforts including instructing a trace to his address and no results have come back from that trace.

7. Prior notice: Mr Webb was not sure what notice was given to you in relation to Mr Whittleworth's disengagement.

Mr Webb submitted that there is a public interest in considering the evidence applied for, which is relevant to the charges.

Ms Agbitor opposed the application. She submitted that although it is not sole or decisive in relation to the medication and there is a partial acceptance, she was not able to question Mr Whittleworth on his thought process in relation to certain issues. These included questions as to why the medication was left on the table, why he did not pick it up and take it to you and instead chose to take a photograph of it.

Ms Agbitor told the panel that she had only been informed of which witnesses would be appearing on the morning of day one of the hearing. She stated that she has had no communication with the NMC prior to the hearing and that they appear to have been copying in the previous representative, despite Ms Agbitor being on record.

Ms Agbitor received some additional time to prepare and returned with some further submissions in relation to the hearsay application. She submitted that although Ms Lally also makes mention in her statement, there is also the mention of CCTV which has not been made available to the panel and has never been available to the NMC. Ms Agbitor opposed the evidence of CCTV and the admission of Mr Whittleworth's evidence as hearsay.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 provides that, so far as it is '*fair and relevant'*, a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings.

The panel gave the application in regard to Mr Whittleworth's witness statement and exhibit being admitted as hearsay evidence serious consideration. The panel noted that Mr Whittleworth's statement had been prepared in anticipation of being used in these proceedings and contained the paragraph, '*This statement … is true to the best of my information, knowledge and belief'* and signed by him.

The panel was of the view that Mr Whittleworth's evidence goes to charge 2c, and that this evidence is relevant as charge 2c is contested.

The panel considered this application using the following relevant principles of *Thorneycroft*. It determined that:

1. The evidence is not sole or decisive.
2. The evidence is challenged as charge 2c is contested.
3. There is no suggestion that there is any fabrication.
4. The charge relates to medication being left unattended, which is serious notwithstanding the amount of time it was left for.
5. Mr Whittleworth has disengaged with the NMC.
6. The NMC has made reasonable attempts to secure his attendance.
7. Based on Ms Agbitor's submissions, you did not have notice that Mr Whittleworth would not be attending the hearing but the panel allowed Ms Agbitor further time to prepare her submissions on the application.

The panel noted that Mr Whittleworth would not be questioned or challenged on his evidence and that this may cause some unfairness to you, but it considered that there was also a public interest in the issues being explored fully which supported the admission of this evidence into the proceedings.

In these circumstances, the panel came to the view that it would be fair and relevant to accept into evidence the hearsay evidence of Mr Whittleworth. It would give what it deemed appropriate weight to the hearsay evidence once the panel had heard and evaluated all the evidence before it.

Decision and reasons on admitting references to CCTV footage

It was noted in the hearing that several references have been made within the evidence relating to CCTV footage of the alleged incidents on 14 November 2022 and 20 January 2023. The panel did not have sight of this footage.

Mr Webb made an application to allow these references into evidence. He stated that there are two sets of references made to this footage, one comes from Ms Lally in relation to charge 2 and the other is referred to in the statement of Jane Green in relation to charge 5. Mr Webb told the panel that both of these witnesses say that they viewed the CCTV footage and will be giving evidence in the hearing as NMC witnesses.

Mr Webb accepted that the footage is not available to the panel, so it will give these references the weight it deems necessary based on the evidence it will hear. Mr Webb submitted that the evidence is relevant and fair as the witnesses can speak to it.

Ms Agbitor stated that it has never been communicated throughout the process why the CCTV was not available, and she did not know whether it had been made available to the NMC. Ms Agbitor submitted that the panel would be relying on witnesses speaking about what they have seen without having access to the actual objective evidence.

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

The panel noted that the CCTV evidence was not available. However, as there were two witnesses who could speak to the footage, the panel determined that it would be fair and relevant to admit these references to the CCTV into evidence but would give what it deemed appropriate weight to it once the panel had heard and evaluated all the evidence before it.

Background

You commenced work at Broughton House (the Home) in June 2022. The Home referred you to the NMC on 23 February 2023.

The referral set out that in November 2022, you were found to have made three medication errors across two dates (11 and 14 November 2022):

- leaving medication belonging to Resident C in Resident B's bed and signing the medication out before it was administered,
- leaving medication unattended, and
- administering medication at least three hours late.

The Home commenced an investigation and, whilst ongoing, you were not allowed to manage or distribute any medication to residents without supervision. You are alleged to have contravened this condition of your continued employment on 22 November 2022 when signing the controlled drug book (as a second checker) for the administration of a controlled drug to Resident A.

On 20 January 2023, you are alleged to have exchanged messages with Resident A which led to meeting him in town for his hair cut. You then allegedly went to a pub and bought each other drinks. You and Resident A are alleged to have returned to the Home at approximately 23:00 and were let in by a colleague who believed you both to be under the influence of alcohol.

You are alleged to have leant your head on Resident A's lap, touched Resident A's face and grabbed Resident A's face and kissed it at least once. It is alleged that one

of those kisses was on Resident A's lips. It is further alleged that your conduct was sexually motivated.

Decision and reasons on application of no case to answer

The panel considered an application made by Ms Agbitor under Rule 24(7) that there is no case to answer in respect of charges 5c, 5g, and 6.

Ms Agbitor referred the panel to the test set out in *R v Galbraith* [1981] 1 WLR 1039.

Charge 5c

In relation to charge 5c, Ms Agbitor submitted that whilst it has been conceded that there is some evidence in support of this charge, specifically from Iyamuremye Turahirwa, this evidence is of such a tenuous nature that a properly directed panel could not find the charge proven.

Ms Agbitor submitted that the evidence of Mr Turahirwa is weak and vague due to there being different versions, both locally and in his NMC statement and therefore the evidence cannot be considered to be wholly reliable. Ms Agbitor told the panel that Mr Turahirwa gave live evidence, during which his reasoning for the different accounts was vague and lacked clarity.

Ms Agbitor submitted that Mr Turahirwa also kept stating that he could not recall, which is understandable given the lapse in time. She also reminded the panel that during his testimony, Mr Turahirwa stated that the view through the window and from behind Resident A's wheelchair was not altogether clear, which could have obscured his sight and understanding of what he saw.

Ms Agbitor submitted that therefore, there is not enough evidence to find this charge proved.

Mr Webb submitted that the panel has heard evidence in relation to this charge, specifically from Mr Turahirwa who said that he saw your head on Resident A's lap in his local statement given closer to the time in March 2023. Further, that in his later

NMC statement, Mr Turahirwa describes you leaning your head on Resident A's legs.

Mr Webb submitted that the evidence is sufficient for the panel to consider this charge.

The panel took account of the submissions made and heard and accepted the advice of the legal assessor, which included what the panel should consider in relation to the charge that some or all of your actions at charge 5 were sexually motivated.

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

The panel considered that the evidence in support of this charge is contained in Mr Turahirwa's local statement, within his later NMC statement and in the oral evidence he gave to the panel at this hearing. The panel noted that in Mr Turahirwa's local statement, specific reference was made to your placing your head on Resident A's lap and although this term was not used in his NMC statement, he later clarified this point during his oral evidence. The panel considered that there is at least some evidence worthy of exploration, especially noting that Mr Turahirwa was cross-examined in depth by Ms Agbitor, and that any matters of consistency and credibility would be considered at the facts stage.

The panel was of the view that there had been sufficient evidence presented to support the charge at this stage and, as such, it was not prepared, based on the evidence before it, to accede to an application of no case to answer. What weight the panel gives to any evidence remains to be determined at the conclusion of all the evidence.

Charge 5g

In relation to charge 5g, Ms Agbitor submitted that there is no evidence to support this charge. She noted that in Ms Green's statement to the NMC, she had stated that there was a kiss on the lips between you and Resident A. However, during Ms Green's oral testimony she acknowledged that due to the camera angle of the CCTV, she could not see your face touch Resident A's face and could not say with any certainty whether there was a kiss was on Resident A's lips or not.

Ms Agbitor submitted that the evidence of Ms Green is therefore inherently weak, especially as it relates to CCTV footage that is not before the panel today.

Ms Agbitor stated that the panel has also heard from Mr Turahirwa in relation to this charge, and during his oral evidence he confirmed that he could not be sure where you kissed Resident A on his face. Ms Agbitor stated that although Mr Turahirwa had mentioned a kiss on the chin or mouth, he also stated that due to his positioning behind the wheelchair, he could not be clear and he accepted it was possibile that you could have kissed Resident A on the forehead, as you have accepted.

Ms Agbitor submitted that in relation to this charge, there is insufficient evidence to find this charge proven.

Mr Webb referred the panel to the evidence of Mr Turahirwa in relation to this charge. Mr Webb told the panel that Mr Turahirwa has accepted that he could not clearly recall, but he did say in his evidence that the kiss was either on the mouth or the chin and that he recalled you holding Resident A's face with both hands.

Mr Webb submitted that in light of this, there is sufficient evidence for the panel to take the next step in determining whether, on the balance of probabilities, a kiss on the lips had taken place.

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

The panel considered that this charge was based on the witness statement of Ms Green who gave a different account in her oral evidence to that in her written statement. She gave a graphic description of the CCTV footage she saw and made it clear that she could not see your or Resident A's lips on the footage. The panel noted that when Ms Green was questioned in oral evidence, she said she could not be sure that you had kissed Resident A on his lips as the footage was not clear.

The panel also considered that there is evidence from Mr Turahirwa in relation to this charge where he stated that there was a kiss either on Resident A's chin or mouth but that he could not be certain and he accepted that it was possible you had kissed Resident A on the forehead.

The panel determined that there is no longer any evidence from Ms Green in support of this charge as she has reconsidered her evidence and given a different account. The panel considered that the evidence from Mr Turahirwa for this charge is very tenuous, weak and ambiguous.

The panel therefore allowed the application of no case to answer in relation to charge 5g.

Charge 6

Ms Agbitor submitted that there is no evidence in support of this charge. She stated that whilst it is conceded that there is some admittance of some of the charges within charge 5, and there is some evidence from Ms Green and Mr Turahirwa, this is weak and of such a tenuous nature that a properly directed panel could not find the charge proven.

Ms Agbitor submitted that the panel has also heard evidence from Ms Green about there being some demonstration of affection displayed by staff to the residents, which is not unusual due to the amount of time the residents spend in the Home, as well as their backgrounds and that they require some form of affection.

Ms Agbitor submitted that there were inconsistencies within the evidence, and that therefore there is insufficient evidence to support that any of the alleged actions in charge 5 were sexually motivated and for sexual gratification.

Ms Agbitor told the panel that you did admit to kissing Resident A's forehead when saying goodbye to him, but this was not in a sexual way and certainly not for any sexual gratification. Further, that you and Resident A both admitted to knowing each other outside of the Home, however there was never anything sexual between you and there was never any pursuit of a relationship at all.

Ms Agbitor stated that the NMC appear to have brought this charge out of nowhere and that it is a stretch as they have not provided sufficient cogent evidence to meet the required standard of proof for such a serious allegation.

Mr Webb submitted that the panel should take into account the nature of the alleged interactions, some of which are accepted, that happened between you and Resident A which include that you kissed Resident A, exchanged messages, arranged to meet outside of the caring environment and to drink alcohol together.

Mr Webb reminded the panel that Mr Turahirwa described seeing your head in Resident A's lap and seeing Resident A rubbing your head. Further, that Mr Turahirwa gave evidence that he was under the impression from the way you were interacting, that you may have been in a '*girlfriend and boyfriend'* relationship.

Mr Webb submitted that on the basis of all of this evidence, the panel should consider the motivation behind your behaviour. He stated that there will be careful consideration of the weight to be placed on the evidence, but that is not the test at this stage.

Mr Webb submitted that the NMC resist a no case to answer application on all of the contested charges.

In reaching its decision, the panel has made an initial assessment of all the evidence that had been presented to it at this stage. The panel was solely considering whether

sufficient evidence had been presented, such that it could potentially find the facts proved and whether you had a case to answer.

The panel considered that there has not been any explicit suggestion of sexual motivation in the evidence before it in relation to any of the alleged actions under charge 5. Further, there was no other evidence to support that any of your actions in charge 5 had been sexually motivated.

In considering whether there is a case to answer for charge 6, the panel went through each of the sub charges in charge 5.

In relation to charge 5a, the panel considered that consuming alcohol with someone is not inherently sexual, and there is no supporting evidence before it to suggest that your actions were sexually motivated.

In relation to charge 5b, the panel was of the view that there is no evidence before it to support that your knowledge of Resident A's vulnerability was in any way linked to the purpose of sexual gratification or pursuing a sexual relationship.

In relation to charge 5c, the panel noted that you admitted to being intoxicated at this stage and that there is no evidence to suggest that your actions were sexually motivated.

In relation to charge 5d, the panel considered that entering the premises of the Home whilst being intoxicated is not inherently sexual, and there is no supporting evidence before it to suggest that your actions were sexually motivated.

In relation to charge 5e, the panel determined that there is no evidence before it to suggest that your touching Resident's face was sexually motivated.

In relation to charge 5f, the panel noted that you admitted to kissing Resident A's forehead one time. It also noted that Ms Green had moved away from her original statement and in her oral evidence she had stated that she cannot be sure whether you were kissing Resident A's face but that you were moving your head towards his in a way in which she had previously assumed indicated that you were kissing his

face. The panel was of the view that there is nothing contained within the evidence to support that your alleged actions were sexually motivated.

The panel therefore determined that there is no evidence to support charge 6 in its entirety and decided to allow the application of no case to answer for this charge.

Decision and reasons on facts

At the outset of the hearing, the panel heard from Ms Agbitor, who informed the panel that you made admissions to charges 1a, 1b, 2a, 2b, 3, 4, 5a, 5b, 5d, 5e, 5f. She told the panel that you made a partial admission to charge 5f in respect of there having been only one kiss to the forehead.

The panel therefore finds charges 1a, 1b, 2a, 2b, 3, 4, 5a, 5b, 5d, 5e proved in their entirety, by way of your admissions.

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Webb on behalf of the NMC and by Ms Agbitor on your behalf.

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 the 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:

- Francesca Lally: Registered Home manager employed by the Home at the time;
- Jane Green: Director of Care employed by the Home.

- Iyamuremye Turahirwa: Agency nurse who regularly carried out locum work at the Home at the time.

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 both the NMC and Ms Agbitor.

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

Charge 2c

"That you, a registered nurse:

2) On or around 14 November 2022:
   c) the medication referred to in charge 2)a) was left for around 30 mins.."

This charge is found proved.

In reaching this decision, the panel took into account all of the written and oral witness evidence including your statement as well as that of Ms Lally and oral evidence from Ms Lally and yourself. The panel also had sight of the hearsay evidence of Mr Whittleworth which included the statement he provided to the NMC and a photograph of the medication in a pot on the table. The panel gave appropriate weight to this evidence.

The panel had sight of Ms Lally's witness statement in which she stated:

'The CCTV footage of this incident showed that Ms McLaren left this medication unattended for 45 minutes.'

Ms Lally was questioned about this in her oral evidence to the panel and was adamant that the medication was left for 45 minutes.

The panel also noted the hearsay evidence of Mr Whittleworth who stated:

> *'I photographed the medication and for the whole time I was doing another exercise they remained there for at least 30 minutes,'*

And,

> *'I am aware that the medication that Ms McLaren left unattended was on the dining room table for at least 30 minutes as I was carrying out an activity with some residents…'*

The panel also noted that in your written evidence you stated that the medication was left for a few minutes, but in your oral evidence you stated that it could have been around 15 minutes, but not 30. The panel noted that there is a conflict between your first account of the medication being left for a '*few minutes'* which then changed to '*around 10 to 15 minutes'*.

The panel considered that the witness evidence in relation to this charge has been consistent, even during Ms Lally's live oral examination where she was cross-examined and maintained that the medication was left for around 45 minutes.

The panel accepted and preferred the evidence of Ms Lally, who had watched the CCTV footage, and the hearsay evidence of Mr Whittleworth and found this charge proved on the balance of probabilities.

Charge 5c

> "That you, a registered nurse
>
> 5) On or around 20 January 2023:
>
> c) leaned with your head on Resident A's lap."

This charge is found NOT proved.

In reaching this decision, the panel took into account all of the written and oral evidence including the written statements and exhibits and the oral evidence of Mr Turahirwa and yourself.

The panel considered Mr Turahirwa's first account given in his local statement to the Home dated 2 March 2023 in which he stated:

> *'When I arrived downstairs I found the resident cuddling a female friend who was leaning with her head on the resident's laps, they both appeared intoxicated.'*

The panel then took account of his written statement to the NMC dated 22 May 2023 where he stated:

> *'Resident A was accompanied by Ms McLaren. Ms McLaren was standing, leaning up against Resident A, who had his arm around her. Ms McLaren was leaning up against Resident A's legs and his wheelchair. It is an electric wheelchair and is of tall height and bulky.'*

The panel noted that in Mr Turahirwa's statement to the NMC, he did not make any mention of you leaning on Resident A's lap.

The panel also had sight of your written evidence where you stated:

> *'Whilst waiting to gain entry, I leaned over, with my hands on my knees, speaking to [Resident A] (as I would usually do, so as not to tower over him whilst in his wheelchair).'*

The panel considered your account that you were bent down to speak to Resident A, which you also physically demonstrated during your oral evidence to the panel. You

also mentioned [PRIVATE] where it would not have been possible for you to have been leaning on his lap.

The panel considered that your account was credible in relation to this charge and that Mr Turahirwa was not clear about what he saw. The panel therefore preferred your account and found that the NMC had not discharged its burden of proof in relation to this charge. It found this charge not proved.

Charge 5f

"That you, a registered nurse

5) On or around 20 January 2023:
   f) kissed Resident A's face on one or more occasion(s)."

This charge is found proved in relation to one kiss to the forehead only.

In reaching this decision, the panel took into account all of the written and oral witness evidence including the statements of Ms Green and Mr Turahirwa, as well as your written and oral evidence.

The panel considered the written and oral evidence of Ms Green where she described what she had seen on the CCTV footage. She stated that she saw movement from your head to Resident A's face on more than one occasion but that she could not see either your or Resident A's lips on the camera and she conceded that she could not in fact see any kisses by you to Resident A.

The panel also considered Mr Turahirwa's written statement where he stated that he saw one kiss but did not know to what part of Resident A's face this was to. In his oral evidence, Mr Turahirwa stated that the kiss could have been on the chin or lips.

The panel therefore accepted your account that there was one friendly kiss that you made to Resident A's forehead as you were saying goodbye. It determined that the NMC had not discharged its burden of proof in relation to there being more than one occasion and as such, accepted your admission in relation to this charge.

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.

Submissions on misconduct

Mr Webb invited the panel to take the view that the facts found proved amount to misconduct. He referred the panel to the terms of The Code: Professional standards of practice and behaviour for nurses and midwives 2015 (the Code) in making its decision.

Mr Webb provided the panel with the following written submissions:

> *'The NMC submit that the conduct of Ms McLaren ("the Registrant") specified in the charges found proved amounts to misconduct.*
>
> *The matters found proved at charges 1 to 3 relate to medication errors, namely:*

- *Leaving medication unattended (in one instance on the bed of another Resident and in the other on a table in a communal for approximately 30 minutes);*
- *Signing medication records before administering that medication;*
- *Administering medication after it was due;*
- *Signing a controlled drug book whilst not permitted to manage or distribute medication.*

The matters found proved also involve (at charges 4 to 5) a breach of professional boundaries with a resident and associated inappropriate behaviour which included:

- *Exchanging messages on matters not related to their care;*
- *Consuming alcohol and becoming intoxicated with the resident despite knowing they had a history of alcohol dependence;*
- *Entering the workplace whilst intoxicated;*
- *Touching and kissing Resident A's face.*

This conduct fell seriously short of what was expected and required of a registered nurse in the circumstances of the case and fellow practitioners would consider such actions, as found proved, to be deplorable.

The comments of Lord Clyde in Roylance v General Medical Council [1999] UKPC 16 provide some assistance when seeking to define misconduct:

'Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rule and standards ordinarily required to be followed by a [nurse] practitioner in the particular circumstances'.

The NMC's guidance on misconduct (reference FTP-2a) states that the NMC Code of Conduct sets out the professional standards of practice and behaviour for nurses, midwives and nursing associates, and the standards that the public tell the NMC they expect from those professionals. Nurses, midwives and nursing associates must act in line with the NMC Code. If their

conduct falls short of the requirements of the Code, what they did or failed to do could amount to serious professional misconduct.

The NMC say the Registrant's behaviour breached the following paragraphs of the 2015 NMC Code:

> *10.1 complete all records at the time or as soon as possible after an event, recording if the notes are written some time after the event*
> *18.2 keep to appropriate guidelines when giving advice on using controlled drugs and recording the prescribing, supply, dispensing or administration of controlled drugs*
> *18.4 take all steps to keep medicines stored securely*
> *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 …*

Although, the Code is relevant to this case and will be of assistance to the Panel, there are concerns in this case that are so serious that cannot be fully encapsulated by paragraphs of the Code, namely that:
1) Ms McLaren's alcohol use with a dependent resident was a serious failure to act in the resident's best interests and actively placed a vulnerable person at risk of harm
2) Ms McLaren's decision to enter the care home whilst intoxicated comprised the safety of the residents and posed a serious reputational breach.

Such actions clearly bring the reputation of the profession into disrepute and fall far short of the conduct and standards expected of a nurse and therefore amount to misconduct.'

Ms Agbitor submitted that charges 1 to 3 relate to actions that are failings relating to medications management whilst charges 4 to 5 are interactions with the service user Resident A.

In relation to misconduct and the relevant contextual factors, Ms Agbitor asked the panel to take account of the following:

- [PRIVATE],
- [PRIVATE],
- [PRIVATE],
- The environment at the Home at the time,
- Time restrictions were applied to medication rounds,
- There were emergencies happening with other residents during the medication round, and
- There was only one registered nurse on shift for all of the units within the Home.

In relation to charges 4 to 5, Ms Agbitor told the panel that you knew Resident A prior to working at the Home, but that you did not know he was a resident there when you commenced work. Ms Agbitor informed the panel that once you realised you knew Resident A personally you reported it to your manager.

Ms Agbitor asked the panel to consider that the incidents took place over a short space of time, and were grouped together within a couple of months. She also asked the panel to consider that no harm from any of the medication errors occurred to any of the service users and/or Resident A in terms of your interactions with him.

Ms Agbitor submitted that the breaches of the Code happened with mitigation and they are not so serious that they pose a public safety risk. She submitted that therefore, a finding of misconduct is not required.

Submissions on impairment

Mr Webb moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in

the profession and in the NMC as a regulatory body. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Mr Webb provided the panel with the following written submissions:

> *'The NMC say that Ms McLaren's fitness to practise is currently impaired by reason of her misconduct.*
>
> *The NMC's guidance on impairment (reference DMA-1, updated on 28 January 2026) states:*
> *"A key focus of our fitness to practise process is deciding whether or not a professional's fitness to practise is currently impaired. We do this by assessing whether the professional would pose a risk to public safety, the public's confidence in their profession or professional standards if they were permitted to practise without restrictions. 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."*
>
> *When determining whether a Registrant's fitness to practise is impaired, there are helpful questions set out by Dame Janet Smith in her Fifth Report from Shipman, approved in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) by Cox J;*
> *i. 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*
> *ii. Has in the past brought and/or is liable in the future to bring the professions into disrepute; and/or*
> *iii. Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the professions …*
>
> *The NMC say that the above three "limbs" taken from the case of Grant are engaged in relation to Ms McLaren.*

In relation to the first limb. Ms McLaren consumed alcohol with a Resident she knew to have a history of alcohol dependency. This is such a significant error in judgment it brings into question Ms McLaren's professionalism to the extent that she may be liable to make similar failings in the future. Ms McLaren's medication errors also presented a risk of harm, for instance, by leaving medication unattended she created a high risk of accidental ingestion of medication by a Resident.

In relation to the second limb. Ms McLaren behaved, with regard to Resident A, in a way which is significantly below the level expected of a nurse. Her behaviour is liable to bring the nursing profession into disrepute.

In relation to the third limb. Ms McLaren breached fundamental tenets of the profession of prioritising people and promoting professionalism and trust.

<u>Public protection</u>

In the case of Cohen v General Medical Council [2008] EWHC 581 (Admin), the court set out three matters which it described as being 'highly relevant' to the determination of the question of current impairment;

- *Whether the conduct that led to the charge(s) is easily remediable.*
- *Whether it has been remedied.*
- *Whether it is highly unlikely to be repeated.*

Ms McLaren has fully engaged with her NMC referral and has attended the hearing and given evidence. Ms McLaren has submitted multiple reflective pieces and has accepted the majority of the charges in this case. Ms McLaren has clearly shown remorse and reflection and a level of insight into her previous failings. Ms McLaren has also provided evidence of relevant training and numerous positive testimonials.

Ms McLaren has not practised since the incidents set out in the charges in this case. This is significant given the evidence provided from Ms McLaren that her mistakes were made at the time due, in part, to having been out of practise for a similar time which left her feeling unprepared and vulnerable.

Despite the reflection and training undertaken by Ms McLaren, her clinical practice has yet to be tested and for this reason the NMC submit a risk of repetition of her failings remains.

Turning to context, the panel has heard about the environment of the Home and practises and processes in place at the Home at the time. Whilst such context will be a relevant factor in terms of Ms McLaren's medication errors, the NMC submit that failings such as leaving medication unattended are fundamental errors that can and should be prevented in almost all circumstances.

In relation to Resident A, the panel has heard evidence of the connection between Ms McLaren and Resident A outside of the Home and prior to Ms McLaren working there. This will also be relevant context as to the actions of Ms McLaren. However, this context does not justify Ms McLaren's poor judgement in consuming alcohol with Resident A and attending the Home intoxicated as described above.

NMC guidance on misconduct (reference FtP2a) states, in relation to serious professional misconduct:
"Some concerns about harm to people receiving care will be so serious that they can't be addressed. In cases like this, we will usually only need to take action if it's clear that the nurse, midwife or nursing associate deliberately chose to take an unreasonable risk with the safety of people in their care."

And in relation to risk of harm:
"To determine whether conduct outside professional practice could impair fitness to practise, we will consider all the facts involved. Examples of important factors include:

- *the duration or frequency of the conduct in question*
- *the professional's relationship or position in relation to those involved*
- *the vulnerabilities of anyone subject to any alleged conduct."*

Considering the above, the Panel is invited to conclude that there is a likelihood of repetition of the failings found in this case should Ms McLaren be

allowed to continue to practise as a nurse without restriction and that this would place the public at risk of harm.

A finding of impairment is therefore necessary on public protection grounds.

Public interest

A finding of impairment is also necessary on public interest grounds.

In Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) at paragraph 74 Cox J commented that:
"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."

The NMC guidance on impairment (reference DMA-1) states:
"A finding of impairment based on public confidence or maintaining professional standards is more likely to occur in cases where the conduct breaches a fundamental tenet of the profession as set out in the Code. The following list gives examples of conduct that would breach the fundamental tenets of the profession (whether or not it occurs within professional practice). It is not an exhaustive list but gives some examples of the types of conduct where a finding of impairment is likely to be required:

- *Deliberately causing harm to vulnerable adults, children or to people receiving care or knowingly taking risks with their safety"*

Consideration of the public interest therefore requires the Fitness to Practise Committee to decide whether a finding of impairment is needed to uphold proper professional standards and conduct and/ or to maintain public confidence in the profession.

In upholding proper professional standards and conduct and maintaining public confidence in the profession, the Fitness to Practise Committee will need to consider whether the concern is easy to put right. For example, it might be possible to address clinical errors with suitable training. A concern which hasn't been put right is likely to require a finding of impairment to uphold professional standards and maintain public confidence.

However, there are types of concerns that are so serious that, even if the professional addresses the behaviour, a finding of impairment is required either to uphold proper professional standards and conduct or to maintain public confidence in the profession.

The Panel will have in mind Article 3(4A) of the Nursing and Midwifery Order 2001, which states:

> *The pursuit by the Council of its over-arching objective, which involves the pursuit of the following objectives –*
> *(a) to protect, promote and maintain the health, safety and well-being of the public;*
> *(b) to promote and maintain public confidence in the professions regulated under this Order; and*
> *(c) to promote and maintain proper professional standards and conduct for members of those professions.*

Ms McLaren's behaviour has undermined public confidence in the nursing profession.

The NMC consider there is a public interest in a finding of impairment being made in this case to declare and uphold proper standards of conduct and behavior.

Given the serious nature of the charges in this case, the NMC submit that Ms McLaren's fitness to practice is impaired on both public protection and public interest grounds.'

Ms Agbitor submitted that your fitness to practise is not currently impaired.

Ms Agbitor reminded the panel that the test for impairment is in the present tense and referred to the case of *General Medical Council v Meadow* [2007] QB 462 (Admin).

Ms Agbitor asked the panel to consider that you have accepted any wrongdoings and are of good character. She stated that there have been no prior referrals and at the time, there were practices within the Home that affected your actions.

Ms Agbitor referred the panel to the case of *Cohen*. She submitted that the allegations did not result in any harm and took place a significant period of time in the past. She submitted that the conduct in relation to the charges has been remedied and will continue to be remedied. Further, that that your conduct was not attitudinal in nature and was very out of character for you. Ms Agbitor also submitted that you have taken and will continue to take steps to develop as a practitioner.

Ms Agbitor reminded the panel that you admitted to many of the charges, you have undertaken further reading and watched webinars on the relevant issues. She also stated that you have completed Continuing Professional Development (CPD) in the areas of concern and this demonstrates that you have sought to learn from your mistakes. Ms Agbitor told the panel that these training courses include safeguarding vulnerable adults, person-centred care, administration of medications, professional boundaries, health and social care, alcohol misuse and you have also completed an assignment in medication management errors.

Ms Agbitor also submitted that if you were to return to practice, you would need to complete a return to practice course which will test your competencies and will mean you are thoroughly assessed due to your time out of practice. Ms Agbitor told the panel that you will ensure you are aware of any future employer's policies.

Ms Agbitor submitted that you have reflected on the incidents, clearly demonstrating insight and showing an understanding of what happened at the time in the Home [PRIVATE]. Further, that you understand how and why these incidents occurred, and

any potential consequences for those affected even where the allegations have been denied. Ms Agbitor referred the panel to the case of *Sawati v General Medical Council* [2022] EWHC 283 and submitted that where the charge was denied, this should not be counted against you as showing a lack of insight.

Ms Agbitor submitted that you intend to use this experience as a tool to help other nurses, that you have engaged fully with the process and that it is highly unlikely that this conduct will be repeated.

Ms Agbitor reminded the panel of the contextual factors in the Home at the time. She submitted that a finding of current impaired fitness to practise is not required in the public interest. Ms Agbitor submitted that there is no evidence to suggest any of the regulatory concerns or charges have deterred members of the public from using the services of nurses in general, or that the professional standards of nurses generally are likely to be undermined.

Ms Agbitor submitted that it would be in the public interest to allow you to return to practice so you can provide the public with the benefit of your nursing skills, as well as your passion for caring for people.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), *General Medical Council v Meadow* and *Cohen*.

Decision and reasons on misconduct

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.'*

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 breaches of the Code. Specifically:

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

To achieve this, you must:

1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay

10 Keep clear and accurate records relevant to your practice

To achieve this, you must:

10.1 complete all records at the time or as soon as possible after an event, recording if the notes are written some time after the event

10.3 complete all records accurately …, taking immediate and appropriate action if you become aware that someone has not kept to these requirements

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 regulations

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

18.2 keep to appropriate guidelines when giving advice on using controlled drugs and recording the prescribing, supply, dispensing or administration of controlled drugs

18.4 take all steps to keep medicines stored securely

19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice

To achieve this, you must:

19.1 take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place

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

20.6 stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers

20.9 maintain the level of health you need to carry out your professional role

25 Provide leadership to make sure people's wellbeing is protected and to improve their experiences of the health and care system

To achieve this, you must:

25.1 identify priorities, manage time, staff and resources effectively and deal with risk to make sure that the quality of care or service you deliver is maintained and improved, putting the needs of those receiving care or services first'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct.

The panel considered each charge and sub charge separately and whether the actions set out amounted to misconduct. The panel took account of the contextual factors in the Home at the time in determining whether the facts found proved amounted to misconduct.

Charge 1a

The panel considered that as a registered nurse, you were fully aware of the standards expected of you as well as the policy within the Home relating to the

management of medications. Therefore, your failure to adhere to the policy by putting the medication for Resident C in your tabard pocket resulted in the medication falling into Resident B's bed. This was left for a period of time until found by a colleague. Your actions fell short of the conduct and standards expected of a registered nurse.

The panel therefore found that your actions in relation to this sub charge amounted to misconduct.

Charge 1b

The panel noted that you completed the induction process at the Home which made you aware of the medication policy. In signing Resident C's medication administration records before administering the medication, you had breached the policy and therefore your actions did fall short of the conduct and standards expected of a registered nurse.

The panel considered the contextual factors at the Home and noted that you were the only nurse on duty and as such you were under pressure at the time to prioritise your tasks. However, it found that your actions amounted to misconduct.

Charge 2a and 2c

The panel noted that as a registered nurse, you would have been aware that leaving medications unattended for any length of time falls below the standards expected of a registered nurse. The fact that this medication was left for a period of over 30 minutes also fell short of the standards expected of a registered nurse as it increased the potential risk of the medication being found and possibly consumed by a resident.

The panel therefore found that your actions in relation to each of these sub charges amounted to misconduct.

Charge 2b

The panel noted that medications are prescribed at specific times for a clinical reason. The panel noted that you gave the medication three hours later than was prescribed despite being reminded on a number of occasions by a colleague. The

panel was therefore of the view that your conduct in relation to this sub charge fell short of the standards expected of a registered nurse and that this amounted to misconduct.

Charge 3

The panel noted that you had received a letter on 17 November 2022 from the Home which restricted your practice and clearly communicated that you *'are no longer allowed to manage or distribute medication to residents'*. The panel considered that despite being aware of this, you counter-signed the Controlled Drugs Book (CDB) whilst not permitted to do so. The panel considered that your action in this regard fell seriously short of the conduct and standards expected of a registered nurse and amounted to misconduct.

Charge 4

The panel noted that your conduct in relation to this charge related to exchanging electronic messages with Resident A which included conversations about watching TV programs. The panel considered that your electronic communications and associated sharing of your personal telephone number with Resident A had breached your professional boundaries. The panel also noted that you had informed your manager previously about your existing acquaintance with Resident A when you became aware that he was a resident at the Home and this showed your awareness of the potential professional boundary conflict.

The panel determined that your breach of professional boundaries by exchanging electronic messages with Resident A fell short of the standards expected of a registered nurse and amounted to misconduct.

Charge 5a

The panel noted that you consumed alcohol with and were intoxicated in the presence of Resident A who was a resident at the Home where you worked. The panel found that this was a clear breach of your professional boundaries, even though you were off duty at the relevant time and had a pre-existing friendship.

The panel was of the view that as you had a duty of care to Resident A, your actions in relation to this sub charge fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Charge 5b

The panel considered your admission that you were aware of Resident A's alcohol dependency. Resident A's care plan at the Home clearly indicated that his consumption of alcohol had the potential to impact the effectiveness of his prescribed medication. The panel was of the view that your drinking alcohol with him in the knowledge of this vulnerability and despite the fact that he had mental capacity to choose whether to consume alcohol, was a serious falling short of the conduct and standards expected of a registered nurse and amounted to misconduct.

Charge 5d

The panel considered that you only entered the Home to assist Resident A and for you to use the bathroom. It noted your evidence that you had not intended to enter the Home at all but had done so to assist Resident A who was having difficulty entering the Home. Although the panel considered that it was unprofessional to enter your workplace whilst intoxicated, it was of the view that in these very specific circumstances, your actions in relation to this sub charge did not fall short of the conduct expected of a registered nurse and did not amount to misconduct.

Charge 5e and 5f

The panel noted that you had known Resident A before he became a resident at the Home and had raised this issue with a manager. It also took into consideration the oral evidence from Ms Green who stated that there were hugs and displays of affection in the Home between employees and residents which were undertaken to benefit the residents. The panel also noted your evidence that a kiss on the forehead when saying goodbye was an act of friendship and also established practice towards an elder within your and Resident A's culture.

The panel considered that your actions in kissing Resident A once on the forehead was a friendly interaction and that this did not amount 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.

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

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

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

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

> *'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/ fitness to practise is impaired in the sense that S/He:*
>
> a) *has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*

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

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

d) *...'*

In relation to limb a) of the test, the panel was of the view that through your actions you have in the past acted so as to put residents at unwarranted risk of harm. Your actions in charges 1 to 3 relating to medication management errors and leaving medication unattended placed residents at a risk of harm in that there was a potential for them to accidentally ingest the medication. In relation to whether you would be liable to place patients at a risk of harm in the future, the panel noted that, in relation to the medication management issues, you have been out of practice and untested for a significant period of time, and therefore it could not say that you would not be liable to do so again in the future.

Your actions in breaching professional boundaries with Resident A in charges 4 and 5 also placed him at a risk of harm in that you accept you were intoxicated, he was a vulnerable resident with physical care needs requiring support and he had a history of alcohol dependence. The panel considered that in respect of the charges relating to breaching boundaries, the specific circumstances of these matters and your subsequent detailed demonstration of insight and remorse and the steps you have taken to strengthen your practice are such that you would not be liable to place patients at a risk of harm in the future.

In relation to limb b) of the test as it relates to charges 1 to 3 the panel did not consider that your actions brought the nursing profession into disrepute as it accepts that medication errors of this type unfortunately have the potential to occur when registered nurses are under pressure, interrupted or distracted. The panel noted that these matters were identified as existing within the Home through the internal disciplinary process.

In relation to charges 4 and 5, the panel was of the view that whilst you have in the past brought the nursing profession into disrepute, due to the unique circumstances of the situation and given your significant insight, remorse and strengthened practice it was of the view that you would not be liable to do so again in the future.

In relation to limb c) of the test, the panel considered that you have breached fundamental tenets of the nursing profession by your breaches of the Code that it identified at the misconduct stage. In relation to charges 1 to 3, the panel considered that as your practice is untested, you may be liable to breach fundamental tenets of the nursing profession in the future. However, in relation to charges 4 and 5, the panel was of the view that you have demonstrated remorse, insight and strengthened practice and that you would not be liable to breach fundamental tenets of the nursing profession in the future.

Regarding the grounds of public protection, the panel considered that the incidents in charges 1 to 3 are serious in terms of the potential risk of harm to residents, although it accepted that no actual harm was caused to any residents. The panel also considered the contextual factors at the Home in relation to these errors. In particular, it noted the evidence in the Home's disciplinary hearing in which the Chair stated the following:

> *'The seriousness of the medication incidents cannot be diminished and cannot be understated. My biggest concern is in relation to 3 elements, 2 of which are combined – the placing of medication in your tabard. I understand, I do, but we absolutely should not be doing that practice. And the third incident that concerned me the most was the signing of the fentanyl patch. Not only did you take the word of a colleague aka an agency nurse – you went in, signed it and moved on without really understanding and realising the impact of your actions.*
>
> *However, what is very clear from what you have said today and my deduction of this situation, in terms of support and registered structure at Broughton House we do have a challenge that we need to work through. You cannot be expected as a registered nurse to cover a floor of patients to then have to go on another floor to manage another patient and come back. You were not*

sitting in the coffee room with your feet up playing candy crush or asleep somewhere – you were actually physically doing your job trying to protect the residents in your care best as you possibly could and that is clear.'

The panel therefore noted that the environment within the Home was very pressurised and you had been expected to deal with multiple incidents occurring at the same time, whilst also being the only registered nurse on the premises. The panel was of the view that your actions were a result of flawed decision making, poor judgment and failure to adequately prioritise in a high-pressure environment.

[PRIVATE].

The panel was of the view that there remains a risk of repetition of the misconduct in charges 1 to 3, based on the fact that you have been out of practice for a long period of time and your clinical practice has been untested since the last incident. The panel therefore decided that a finding of impairment in relation to charges 1 to 3 is necessary on the grounds of public protection. The panel did not find, however, that the grounds of public protection are engaged in relation to charges 4 to 5 given your insight, remorse and strengthened practice and the specific circumstances.

Regarding insight, the panel took into account that you made admissions to most of the charges, you have demonstrated an understanding of how your actions put the residents at a risk of harm, why your actions were wrong and how this impacted negatively on the reputation of the nursing profession, colleagues and residents. You have apologised to this panel for your misconduct and have sufficiently demonstrated in your reflective piece how you would handle the situation differently in the future. You have also provided the panel with several positive character references and evidence of wide-ranging training courses which were clearly relevant to the issues. The panel also considered that you have shown genuine remorse and have been open and honest throughout the process which is to your credit.

The panel next went on to consider the factors as outlined in *Cohen*, namely:

- Is the misconduct easily remediable?

- Has it been remedied?
- Is it highly unlikely to be repeated?

In relation to the professional boundaries issues, the panel considered that these are remediable in the particular circumstances of this case. There is no evidence that there have been any similar issues of this nature prior to the incidents. The panel considered that your misconduct relating to the breach of professional boundaries is highly unlikely to be repeated in the future given your full insight, the strengthening of your practice through training and the level of remorse you have demonstrated in relation to your actions.

The panel was of the view that the misconduct relating to medication management errors is remediable through training and supervision.

The panel considered that you have shown some strengthening of practice but the misconduct in relation to charges 1 to 3 has not been fully remedied as you have not practised as a registered nurse since the date of the last incident and therefore you have not been able to demonstrate sufficient remediation.

The panel could not therefore determine that your misconduct in relation to medication management is highly unlikely to be repeated in the future.

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 required in relation to charges 4 to 5 to mark the seriousness of your misconduct and to uphold proper professional standards. The panel considered that an ordinary and informed member of the public and fellow practitioners would be concerned and confidence in the profession would be undermined if a finding of impairment were not made in this case. It therefore found your fitness to practise impaired on public interest grounds only in relation to charges 4 to 5.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired on public protection grounds only in relation to charges 1 to 3 and on public interest grounds only in relation to charges 4 to 5.

Sanction

The panel has considered this case very carefully and has decided to make a conditions of practice order for a period of 18 months. The effect of this order is that your name on the NMC register will show that you are subject to a conditions of practice 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 careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

Submissions on sanction

Mr Webb informed the panel that in the Notice of Hearing, dated 23 March 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 an interim suspension order for a period of six months with a review is more appropriate in light of the panel's findings.

Mr Webb submitted that the aggravating factors in this case are:

- Your conduct put residents at a risk of harm which the panel has found is liable to be repeated,
- The misconduct is of a varied nature, and
- The concerns relate to medication management and your behaviour towards a resident.

Mr Webb submitted that the mitigating factors in this case are:

- Your reflection and insight
- The attempts you have made to address your failings through training, and

- [PRIVATE].

Mr Webb submitted that a sanction of no further action would not be suitable due to the seriousness of the concerns in this case, and would not be sufficient to maintain professional standards.

In relation to a caution order, Mr Webb submitted that your misconduct was not at the lower end of the spectrum due to your consumption of alcohol with Resident A and being intoxicated at the Home. He submitted that the concerns relating to your repeated medications management errors also would not fall within the category of being at the lower end of the fitness to practice spectrum.

Mr Webb submitted that a conditions of practice order would not be appropriate due to the serious nature of the concerns and as a result of the public interest issues identified. He referred the panel to the NMC guidance 'Sanctions for the highest risk cases' (SAN-4) which refers to cases where a professional has been '*directly responsible for exposing people receiving care to harm or neglect'*. Mr Webb submitted that this relates to your behaviour in consuming alcohol to the point of being intoxicated with a resident you knew to be vulnerable regarding the use of alcohol. He also submitted that the public would therefore expect a nurse found responsible to be removed from practice.

Mr Webb submitted that allowing you to return to practice would not be appropriate or proportionate as a sanction given the particular circumstances of this case.

In relation to a suspension order, Mr Webb submitted that this would be an appropriate, proportionate and sufficient order for this case. He stated that the panel has not identified any deep-seated attitudinal or personality issues, and it has found you to have demonstrated insight and to have deeply reflected. Mr Webb submitted that in the circumstances, with your engagement and insight, this is not a case where you should be removed from the register. However, he also submitted that this was not a single instance of misconduct, and that the misconduct was serious and placed residents at a risk of harm.

In relation to a striking off order, Mr Webb submitted that the charges found proved raise fundamental questions about your professionalism but public confidence in the profession could still be maintained if you were not removed from the register. He stated that given your engagement there is a realistic prospect that after a period of suspension you would be able to strengthen your practice such that the risk you pose will have reduced.

Mr Webb submitted that a suspension order is therefore required to meet the public interest concerns identified, and would also protect against the ongoing public protection concerns which can be addressed at the subsequent review hearings.

Ms Agbitor referred the panel to the case of *General Medical Council v Abdulkhaled Ahmed* [2022] EWHC 403 (Admin) when making her submissions relating to mitigating factors. She asked the panel to consider the following mitigation in this case:

- You made a number of full and frank admissions at the earliest opportunity and have maintained these throughout,
- The conduct was isolated to a couple of months in time,
- You recognise the seriousness of your actions and the potential outcomes,
- Prior to this you were of previous good character, with there being no prior referrals to the NMC,
- [PRIVATE],
- [PRIVATE],
- [PRIVATE],
- At the time you believed you were helping Resident A on the day you met with him, but you now understand this was misguided,
- In relation to the medication errors, you were doing your best in the circumstances.

Ms Agbitor invited the panel to find that there were no aggravating factors in this case due to the panel's finding of no case to answer in relation to charges 5g and 6.

Ms Agbitor submitted that the panel should consider your conduct in its proper context and find that it was isolated to a short period of time in your career during which you were experiencing unique difficulties. Ms Agbitor submitted that there is

no conduct outside of this context that has ever called your fitness to practise into question, and you have an unblemished career spanning 20 years.

Ms Agbitor submitted that the proven charges are not so serious that they are not capable of remediation and there is considerable evidence before the panel to suggest that the misconduct has been remediated. She submitted that the remedial actions you have taken include completing relevant training and undertaking a Masters in nursing in order to further strengthen your knowledge and understanding.

Ms Agbitor invited the panel, in the first instance, to impose no order. She submitted that just because impairment has been found that does not mean a sanction must be imposed. She also submitted that public interest and professional standards and confidence in the profession would be satisfied by there being a finding of impairment. Further, that your competencies would be tested on the commencement of any employment and through revalidation.

Ms Agbitor submitted that there is in fact a public interest in retaining the services of a competent practitioner and pointed out that there has been a delay in the case being heard through the fault of the NMC which has meant that you have struggled to find employment. She told the panel that many employers would not employ you once it was mentioned that an NMC investigation into your practice was ongoing.

Ms Agbitor submitted that you have essentially already suffered a period of nearly three years of what amounts to a suspension, because you have been unable to find employment during this time.

Ms Agbitor stated that, if the panel finds a sanction is necessary, she would invite it to impose a caution order as the issues in this case are isolated, limited, there is a low risk of repetition, you have demonstrated good insight and have undertaken appropriate remediation. She further submitted that public interest in the profession and the regulator would be sufficiently safeguarded by a caution order.

Ms Agbitor reminded the panel that a caution order is still a serious mark on your record and one that you would take very seriously, as you have the entire regulatory process.

Ms Agbitor submitted that if the panel does not find a caution order appropriate, then she would invite it to impose a conditions of practice order. She submitted that it is not necessary and would add further difficulties to you gaining employment and the conditions would need to be workable and not serve as a deterrent for an employer.

Ms Agbitor submitted that a suspension or striking off order would be wholly disproportionate in light of the context, as well as your insight and remediation efforts. However, she submitted that if the panel feels a suspension is necessary, a short period with no review is requested as this would be suitable to satisfy the public protection and public interest requirements.

Ms Agbitor reminded the panel that in deciding on which sanction it views to be necessary, it should consider any financial and reputational damage that may be caused to you.

Ms Agbitor referred the panel to the case of *Thampi v The General Medical Council* [2026] EWHC 1036 (Admin).

Ms Agbitor submitted that a reasonable and well-informed member of the public would be satisfied to know that the case has been thoroughly considered and impairment has been found. Further, that any future risk of harm is minimal and that the public interest lies with the continuing practice of a highly skilled and experienced nurse.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Medication management failures and behaviour that placed residents at a risk of harm,
- Poor decision making which was repeated across a number of incidents and continued despite being under a remedial plan,
- Failure to effectively challenge poor working practices in the Home and to demonstrate leadership,
- [PRIVATE].

The panel also took into account the following mitigating features:

- Context of the staffing issues, subsequent time challenges and competing demands facing you in the Home,
- Your induction could have been more robust,
- Absence of clinical leadership supporting you,
- You had an extended absence from practice and returned to an unfamiliar working environment,
- The behaviour, although repeated, occurred within a short period of time [PRIVATE],
- [PRIVATE],
- Previous positive good character,
- Demonstrated candour.

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 public protection issues identified in relation to the medication management charges, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that your misconduct was not at the lower end of the spectrum

and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- No evidence of harmful deep-seated personality or attitudinal problems;
- Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;
- No evidence of general incompetence;
- Potential and willingness to respond positively to retraining;
- The conditions will protect patients during the period they are in force; and
- Conditions can be created that can be monitored and assessed.

The panel noted that you have shown insight into your conduct. It also noted that you made admissions to all but one of the charges found proved and apologised to the NMC for your misconduct, showing evidence of genuine remorse. You have engaged with the NMC since your referral and have been open and honest throughout. The panel has been told that there had been no adverse findings in relation to your practice before these incidents and you have not worked as a registered nurse since the date of the last incident.

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case, specifically in relation to the medication management concerns within charges 1 to 3. The panel accepted that you would be willing to comply with conditions of practice.

The panel had regard to the fact that these incidents happened a significant time ago and that, other than these incidents, you have had an unblemished career since you qualified as a registered nurse in 2006. The panel was of the view that given your

considerable insight, remorse and strengthening of practice, it was in the public interest that with appropriate safeguards, you should be able to return to practice as a registered nurse.

Balancing all of these factors, the panel determined that that the appropriate and proportionate sanction is that of a conditions of practice order.

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the particular circumstances of your case. The panel considered that had it only been considering a sanction in relation to charges 4 and 5, it would have imposed a caution order as these charges applied to a particular set of circumstances. You have demonstrated to the panel through your reflective piece, witness statement and oral evidence that you are aware of your poor decision making at the time and have reassured the panel that it is highly unlikely that this will be repeated in the future.

Further, the panel considered that the circumstances of the misconduct in relation to charges 4 and 5 was unique. You had known Resident A prior to starting work at the Home and whilst he was vulnerable because he had an alcohol dependency, the panel noted that he also had full capacity to make his own decisions and chose to drink alcohol. Therefore, the panel was of the view that a suspension order would be wholly disproportionate in this case, given that the imposition of a sanction, a conditions of practice order, would also address the public interest issues identified in relation to charge 4 to 5 and will send the public and the profession a clear message about the standards of practice required of a registered nurse.

In making this decision, the panel carefully considered the submissions of Mr Webb in relation to the sanction that the NMC was seeking in this case. However, the panel considered that in the particular circumstances of this case, a suspension order would be wholly disproportionate and overly punitive in nature given the level of insight, remorse and strengthened practice that you have demonstrated. The panel determined that it is in the public interest to allow you to return to practice as a registered nurse once you have completed the appropriate return to practice course.

The panel determined that the following conditions are relevant, proportionate, workable and measurable in this case:

'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.'

1. You must send evidence of your successful completion of the return to practice course to your NMC case officer.

2. You must limit your nursing practice to one substantive employer at one time. This may be through an agency. Any post you take should be for a minimum of 3 months.

3. On commencing clinical practice with your employer, you must place yourself under and remain under the indirect supervision of a registered nurse who will be responsible for monitoring your compliance with the conditions of practice and your personal development plan (PDP). You must attend upon that supervisor as required and follow their advice and recommendations in relation to your practice.

4. Within seven days of commencing employment you must notify your NMC case officer of the details of your supervisor.

5. You must ensure that you are directly supervised by a registered nurse anytime you are administering medication until you are assessed as competent by your supervisor. By direct supervision it is meant being observed at all times.

6. You must work with your supervisor to create a PDP. Your PDP must address the concerns relating to:
    - Medicines administration and management,

- Effective decision making,
- Prioritisation of work tasks,
- Leadership skills within the workplace.

You must send your case officer a copy of your PDP prior to the substantive order review hearing.

7. You must meet with your supervisor on a monthly basis to discuss your progress towards the aims set out in your PDP which includes:
   - Medicines administration and management,
   - Effective decision making,
   - Prioritisation of work tasks,
   - Leadership skills within the workplace.

8. You must keep a reflective practice log on a monthly basis demonstrating your improved practice in:
   - Medicines administration and management,
   - Effective decision making,
   - Prioritisation of work tasks,
   - Leadership skills within the workplace.

   You must send your case officer a copy of the reflective practice log prior to the substantive order review hearing.

9. You must submit a report from your supervisor to your NMC case officer prior to the substantive order review hearing containing details of your compliance with these conditions.

10. You must keep us informed about anywhere you are working by:
    a) Telling your NMC case officer within seven days of accepting or leaving any employment.
    b) Giving your NMC case officer your employer's contact details.

11. You must keep us informed about anywhere you are studying by:
    a) Telling your NMC case officer within seven days of accepting any course of study.
    b) Giving your NMC case officer the name and contact details of the organisation offering that course of study.

12. You must immediately give a copy of these conditions to:
    a) Any organisation or person you work for.
    b) Any employers you apply to for work (at the time of application).
    c) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.

13. You must tell your NMC case officer, within seven days of your becoming aware of:
    a) Any clinical incident you are involved in.
    b) Any investigation started against you.
    c) Any disciplinary proceedings taken against you.

14. You must allow your NMC case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:
    a) Any current or future employer.
    b) Any educational establishment.
    c) Any other person(s) involved in your retraining and/or supervision required by these conditions

The period of this order is for 18 months.

Before the substantive order expires, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may extend the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- Testimonials, including from a line manager or supervisor which detail your current work practices
- Your attendance at the substantive order review hearing.

This will be confirmed to you in writing.

Interim order

As the substantive conditions of practice order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in your own interests until the conditions of practice sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Submissions on interim order

The panel took account of the submissions made by Mr Webb. He invited the panel to impose an 18-month interim conditions of practice order on the same terms as set out in its substantive sanction decision. He submitted that this order is required to cover the 28-day appeal period open to you, and any subsequent appeal which you may make.

Ms Agbitor did not have any objections to the application.

Decision and reasons on interim order

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

The panel concluded that the only suitable interim order would be that of a conditions of practice order, as to do otherwise would be incompatible with its earlier findings. The conditions for the interim order will be the same as those detailed in the substantive order for a period of 18 months in order to cover the appeal period and to protect the public.

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

That concludes this determination.