

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

**Substantive Order Review Hearing
Thursday, 8 October 2026**

Virtual Hearing

Name of Registrant:	Kay Mitchell
NMC PIN:	10H1722E
Part(s) of the register:	Registered Nurse – Sub Part 1 Mental Health Nursing – 20 September 2010
Relevant Location:	Lancashire
Type of case:	Misconduct
Panel members:	Farrah Jaura (Chair, Lay member) Sue Quayle (Registrant member) Keith Murray (Lay member)
Legal Assessor:	Paul Hester
Hearings Coordinator:	Eyram Anka
Nursing and Midwifery Council:	Represented by Nawazish Choudhury, Case Presenter
Mrs Mitchell:	Not present and unrepresented
Order being reviewed:	Suspension order (12 months)
Fitness to practise:	Impaired
Outcome:	Striking-Off order to come into effect on 27 October 2026 in accordance with Article 30 (1)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Mitchell was not in attendance and that the Notice of Hearing had been sent to Mrs Mitchell's registered email address by secure email on 2 September 2026.

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

The panel accepted the advice of the legal assessor.

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

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

Decision and reasons on proceeding in the absence of Mrs Mitchell

The panel next considered whether it should proceed in the absence of Mrs Mitchell. The panel had regard to Rule 21 and heard the submissions of Mr Choudhury who invited the panel to proceed in the absence of Mrs Mitchell.

Mr Choudhury submitted that there had been no engagement by Mrs Mitchell with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion. He submitted that there is a public interest in the expeditious review of this case and it is in the interest of justice for this case to go ahead. He therefore invited the panel to proceed in Mrs Mitchell's absence.

The panel accepted the advice of the legal assessor.

The panel decided to proceed in the absence of Mrs Mitchell. In reaching this decision, the panel considered the submissions of Mr Choudhury and the advice of the legal assessor. It had regard to relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- Mrs Mitchell has not engaged with the NMC and has not responded to any of the emails sent to her about this hearing;
- No application for an adjournment has been made by Mrs Mitchell and there is no reason to suppose that adjourning would secure Mrs Mitchell's attendance at some future date; and
- There is a strong public interest in the expeditious review of the case as the present order expires on 27 October 2026.

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

Decision and reasons on review of the substantive order

The panel decided to impose a striking-off order.

This order will come into effect at the end of 27 October 2026 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 26 September 2025.

The current order is due to expire at the end of 27 October 2026.

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

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

'That you, a registered nurse:

- 1. On or around 6 April 2022 acted in a manner that was unprofessional and/or abusive towards Patient A.*
- 2. On or around 28 March 2022, you encouraged a member of staff to contact an ex-employee in order to commit violence against Colleague A.*

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

The original panel determined the following with regard to impairment:

'In the panel's judgement, Mrs Mitchel's misconduct caused Resident A physical and emotional harm. The panel determined that Mrs Mitchell's conduct in both charges brought the profession into disrepute and breached the fundamental professional tenets of preserving safety, prioritising people and promoting professionalism and trust. There has been no response from Mrs Mitchell addressing the concerns, as such, the panel determined that she is liable in the future to breach the fundamental tenets and bring the nursing profession into disrepute.

The panel had no evidence of insight, remorse or remediation and noted that Mrs Mitchell had not provided a comprehensive response to the charges that would lead the panel to find that she no longer poses a risk. The panel noted Mrs Mitchell engaged at the outset of the NMC's investigation but did not provide any evidence to be put before the panel. It further noted that in emails sent by Mrs Mitchell to the NMC, she expressed that she believes that these allegations against her were fabricated to damage her career, in response to her raising concerns about the standard of clinical care in the Home.

The panel considered that Mrs Mitchell has not demonstrated an understanding of how her actions caused harm to Resident A and Witness 2. Further, Mrs Mitchell has not provided any evidence demonstrating an understanding of why what she did was wrong and how this impacted negatively on the reputation of the nursing profession.

The panel was satisfied that the misconduct in this case is capable of being remedied, however there is no evidence of remediation or intention to remediate in this case. Furthermore, in relation to the charges found proved, the panel determined that there are underlying attitudinal concerns that are more difficult to remediate.

The panel considered what evidence it had before it and determined it had no evidence of strengthened practice or relevant training. It had regard to Mrs Mitchell's emails to the NMC, the most recent dated 5 August 2025, in which she stated that she is no longer practicing as a registered nurse and requested that the NMC to cease contacting her. The panel noted that it currently has no evidence as to what Mrs Mitchell is currently doing in terms of professional practice and is therefore unable to say how she might handle a similar situation differently in the future.

Given the lack of evidence, the panel was not satisfied that matters of the kind found proved would not be repeated in the future. The panel therefore decided that a finding of impairment is necessary on the ground of public protection.

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

In the panel's view public confidence in the nursing profession would be seriously undermined if a finding of impairment were not made in this case, given the seriousness of the charges found proved. The panel concluded Mrs Mitchell's misconduct combined with the risk of repetition, makes a finding of impairment on public interest grounds necessary in order to uphold proper professional standards of conduct and performance.

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

The original panel determined the following with regard to sanction:

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

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Mitchell's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where 'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.' The panel considered that Mrs Mitchell's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

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

- *No evidence of general incompetence;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force;*

The panel determined that it would not be possible to formulate practical or workable conditions in this case. In reaching this conclusion, the panel considered the nature and seriousness of the charges, Mrs Mitchell's lack of insight, and the absence of evidence to suggest that she would be willing to comply with any conditions imposed. The panel also took into account Mrs Mitchell's disengagement from the regulatory process which undermines the prospect of effective and measurable conditions. Furthermore, the panel concluded that the placing of conditions on Mrs Mitchell's registration would not adequately address the seriousness of this case and would not protect the public.

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

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

The panel took into account that Mrs Mitchell has not recently engaged with the NMC or attended this hearing, therefore there is no evidence before the panel of insight into her misconduct or any evidence of remorse or remediation. The panel determined that there is a risk of repetition, given the

lack of evidence from Mrs Mitchell and limited engagement with these proceedings. The panel considered that whilst the nature of the charges may suggest an underlying attitudinal concern, they relate to two separate instances of misconduct that are unrelated. The panel acknowledged that Mrs Mitchell has stated at this time, that she does not intend to return to nursing practice and it has no information before it as to her current employment.

In the panel's view, although Mrs Mitchell's potential attitudinal concerns may be difficult to remediate, they are not incapable of being addressed. The panel considered that with relevant training, meaningful reflection and a willingness to engage with the regulatory process, there is potential for Mrs Mitchell to demonstrate developed insight and take steps towards remediation should she choose to do so.

The panel therefore determined that a suspension order for 12 months, with a review is appropriate in this case. Such an order would mark the importance of maintaining public confidence in the profession, send to the public and the profession a clear message about the standard of behaviour required of a registered nurse and at the same time provide Mrs Mitchell an opportunity to reflect and demonstrate insight into her misconduct. The panel noted the hardship such an order will inevitably cause Mrs Mitchell. However, this is outweighed by the public interest in this case.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, the panel concluded that it would be disproportionate. The panel was satisfied that in this case the misconduct was not fundamentally incompatible with remaining on the register. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Mrs Mitchell's case to impose a striking-off order.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- *Mrs Mitchell's attendance at a future review hearing*
- *Mrs Mitchell's engagement with the NMC*
- *A comprehensive reflective piece that demonstrates the impact of Mrs Mitchell's actions on patients, colleagues and the nursing profession as a whole*
- *Evidence of relevant training to strengthen Mrs Mitchell's nursing practice*
- *Information on any current employment or voluntary work that Mrs Mitchell may have undertaken'*

Decision and reasons on current impairment

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

The panel has had regard to all of the documentation before it.

Mr Choudhury provided the panel with an overview of the background to the case and took the panel through the original panel's decision.

Mr Choudhury reminded the panel that Mrs Mitchell stated that she does not wish to return to nursing. He referred the panel to the case of *Abraheim v General Medical Council* [2008] EWC 183, in which the Judge stated the following:

'In practical terms, there is a persuasive burden on the practitioner at a review to demonstrate that he or she has fully acknowledged why past professional performance was deficient and through insight, application, education, supervision, or other achievements sufficiently addressed to past impairments. That burden is on a registrant panel.'

Mr Choudhury submitted that Mrs Mitchell is not in the position to discharge the persuasive burden of demonstrating that she is no longer impaired. He referred the panel to the recommendations made by the previous panel regarding the information that would assist a future reviewing panel, namely:

- Mrs Mitchell's attendance at a future review hearing
- Mrs Mitchell's engagement with the NMC
- A comprehensive reflective piece that demonstrates the impact of Mrs Mitchell's actions on patients, colleagues and the nursing profession as a whole
- Evidence of relevant training to strengthen Mrs Mitchell's nursing practice
- Information on any current employment or voluntary work that Mrs Mitchell may have undertaken

Mr Choudhury submitted that she has not engaged with any of those recommendations.

Mr Choudhury reminded the panel of its powers available to it. He submitted that on the one hand, it is unfortunate that Mrs Mitchell is not here and that she has not engaged in these proceedings. He further submitted that the purpose of a substantive order review is not to give an indefinite time to a registrant to get back into a position of safe practice. However, Mr Choudhury submitted that the panel may also take the view that as this is the first substantive order review, this is not a situation that has been prolonging for a number of years and may wish to give Mrs Mitchell one further opportunity.

The panel accepted the advice of the legal assessor.

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

The panel considered whether Mrs Mitchell's fitness to practise remains impaired.

The panel noted that Mrs Mitchell did not attend the original substantive hearing in September 2025. Mrs Mitchell has not attended today, nor engaged with the NMC in respect of this review. Further, she has not provided any evidence as to her strengthening her practice or any evidence which was suggested by the substantive panel.

The panel considered that the persuasive burden rests with Mrs Mitchell to demonstrate that her fitness to practise is no longer impaired. In the absence of any evidence, the panel concluded that there was no evidence of Mrs Mitchell strengthening her practice or a reduction in the risk posed by Mrs Mitchell to the public. The panel was therefore satisfied that there is nothing before it to undermine the previous finding of impairment.

The panel determined that the first three limbs of the Shipman test approved of in *Grant* [2011] EWHC 927 (Admin) remain engaged. It considered that Mrs Mitchell remains liable in the future, to put patients at an unwarranted risk of harm, bring the profession into disrepute and breach fundamental tenets of the nursing profession.

In light of this, this panel determined that Mrs Mitchell is liable to repeat matters of the kind found proved. Accordingly, the panel concluded that a finding of continuing impairment is necessary on the ground of public protection.

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

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

Decision and reasons on sanction

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

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

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

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

practice that would adequately address the concerns relating to Mrs Mitchell's misconduct.

The panel next considered imposing a further suspension order.

The panel noted that Mrs Mitchell has not engaged with the regulatory proceedings or the recommendations made by the previous panel. It further noted that there is no evidence before it to demonstrate that Mrs Mitchell has shown remorse for her misconduct, developed insight into her previous failings or taken steps to strengthen her practice. The panel had regard to the attitudinal concerns identified in this case and determined that these have not been addressed. The panel was of the view that considerable evidence would be required to show that Mrs Mitchell no longer posed a risk to the public.

The panel gave careful regard to the NMC's guidance '*Suspension order*' (SAN-2d). The panel noted that a further suspension order would protect the public and address the wider public interest. However, the panel went on to consider whether it is realistic that Mrs Mitchell would return to unrestricted practice in the future. In this regard, the panel noted that within the substantive decision Mrs Mitchell, in three emails to the NMC, appears to have made it abundantly clear that she did not wish to engage with the regulatory process. Further, there is no communication from Mrs Mitchell showing a change of heart and a wish to engage. In these circumstances, the panel decided that there is no realistic prospect of Mrs Mitchell engaging with the process in the future and that the making of a further suspension order would not result in her engaging.

The panel next gave consideration to imposing a striking-off order.

The panel carefully considered the NMC guidance '*Striking-off order*' (SAN-2e). The panel noted that before imposing this sanction, it should consider:

- '*Do the charges found proved raise fundamental questions about their professionalism?*

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

Further into this guidance, there is a further consideration which is failing to engage with the fitness to practise process.

The panel was particularly concerned by Mrs Mitchell's continued lack of engagement. It was the panel's view that public confidence could not be maintained if Mrs Mitchell was not removed from the register. Further, Mrs Mitchell has not demonstrated any insight or reflection which could keep people receiving care and members of the public safe, maintain public confidence in the profession, and uphold professional standards. The panel further determined that there is no realistic prospect in light of Mrs Mitchell's non-engagement that if this panel imposed a further period of suspension, that Mrs Mitchell would gain insight and strengthening of her practice such that the risk she poses would be reduced.

The panel also had regard to the NMC guidance '*Deciding between a suspension order and strike off*' (SAN-3).

The panel gave careful regard to the factors set out within this guidance when deciding between a suspension or a striking-off order, which are as follows:

- *'consider all of the relevant aggravating and mitigating factors.*
- *consider that, unless the Committee directs otherwise, a suspension order will be reviewed before its expiry and may be extended. However, the Committee cannot direct that the suspension must be extended on review. As such the Committee should consider whether public confidence in the profession would be protected if the professional returned to practice after one year, or ever.*

- *Consider the professional's insight and attitude to addressing the concerns, and whether it is realistically possible that these will change positively during the suspension period. If it is unlikely the professional will try to address the concerns, there may not be appropriate for them to be suspended in the hopes that they will eventually return to practice.*
- *Professionals are under an obligation to cooperate with their regulator. Where professionals have failed to engage with the fitness to practise process, it won't usually be appropriate to use a suspension order as a means of giving them a 'last chance' to engage, reflect or show insight.'*

The panel noted the aggravating features found by the substantive panel which appear to greatly outweigh the single mitigating factor. In this regard, the panel decided that the aggravating features are serious.

In respect of the third factor, the panel again noted Mrs Mitchell's non-engagement with the NMC and the regulatory process. Further, in the substantive decision by her three emails, she appears to have made it clear that she has no intention of engaging or addressing her misconduct which was found, in part, to be attitudinal. There has been no evidence provided by Mrs Mitchell of strengthening of practice either at the substantive hearing or over the last 12 months.

In respect of the fourth factor, the panel noted that professionals are under a clear obligation to cooperate with the NMC. The panel gave particular regard to the situation within this factor where professionals have failed to engage with the process and that it will not be usually appropriate to use a suspension order as a means of giving a registrant a last chance. Mrs Mitchell has shown no sign whatsoever of engaging and therefore the panel decided that this is not a situation where a last chance should be given.

In deciding a striking-off order the panel did note that there is limited mention within the substantive decision of Mrs Mitchell's [PRIVATE]. [PRIVATE] There is nothing within the decision to identify any specific [PRIVATE]. The panel also noted that the substantive panel did not find [PRIVATE] to be a mitigating factor when considering sanction. The panel recognises that a striking-off order is the most serious order and

the consequences that it will have on Mrs Mitchell and therefore considered whether removal from the register by allowing the order to lapse with a finding of impairment is available to it. The panel gave careful regard to the NMC guidance '*Removal from the register when there is a substantive order in place*' (REV-2h). Whilst Mrs Mitchell is unlikely to return to safe practice within a reasonable period of time, there is no evidence from her as to any [PRIVATE] which would allow her to be removed from the register by this route.

The panel determined that it was necessary to take action to prevent Mrs Mitchell from practising in the future and concluded that the proportionate and appropriate sanction that would adequately protect the public and serve the public interest was a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 27 October 2026 in accordance with Article 30(1).

This decision will be confirmed to Mrs Mitchell in writing.

That concludes this determination.