Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Monday 2 March 2026 – Tuesday 24 March 2026
Tuesday 1 September 2026 – Friday 4 September 2026

Virtual Hearing

Name of Registrant:	**Rossitsa Petkova**
NMC PIN:	08E0039C
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing (Level 1) – 8 May 2008
Relevant Location:	Gloucestershire
Type of case:	Misconduct
Panel members:	Graham Gardner (Chair, Lay member) Melanie Lumbers (Registrant member) Margaret Jolley (Lay member)
Legal Assessor:	Graeme Dalgleish (2 March – 24 March 2026) William Hoskins (1 September – 4 September 2026)
Hearings Coordinator:	Sara Glen (2 March – 24 March 2026) John Kennedy (1 September – 4 September 2026)
Nursing and Midwifery Council:	Represented by Mohsin Malik, Case Presenter
Ms Petkova:	Present and represented by Rebecca Butler, Libertas Chambers (2 March 2026- 24 March 2026) Present and represented by Karen Carr (1 – 2 September 2026) Not present or represented (2 – 4 September 2026)

No case to answer:	Charges 8, 9, 11a, 11b, and 12a
Facts proved:	Charges 1a, 1b, 2a, 2b, 4, 5, 6a, 6b, 7, 11c, and 12b
Facts not proved:	Charges 3, and 10
Fitness to practise:	Impaired
Sanction:	**Striking-off Order**
Interim order:	**Interim suspension order (18 months)**

Decision and reasons on application to admit the hearsay evidence of Ms Newport and Ms Lewis

The panel heard an application made by Mr Malik, on behalf of the Nursing and Midwifery Council (NMC), under Rule 31 of The Nursing and Midwifery Council (Fitness to Practise) Rules 2004 (the Rules) to allow the written statement of Ms Newport dated 18 August 2024 into evidence. He also made the application under Rule 31 to allow the written statement of Ms Lewis dated 23 August 2024 into evidence.

He submitted that Rule 31 allows for hearsay evidence to be admitted, and it is *prima facie* admissible, if it is relevant and fair. Mr Malik referred the panel to the case of *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 and to the factors as set out in paragraph 56:

> '*1. Whether the statements were the sole and decisive evidence in support of the charges;*
> *2. The nature and extent of the challenge to the contents of the statements;*
> *3. Whether there was any suggestion that the witnesses had reasons to fabricate their allegations;*
> *4. The seriousness of the charge, taking into account the impact which adverse findings might have on N's career;*
> *5. Whether there was a good reason for the non-attendance of the witnesses;*
> *6. Whether the Respondent had taken reasonable steps to secure the attendance of the witness;*
> *7. The fact that N did not have prior notice that the witness statements were to be read.'*

Mr Malik submitted that in respect of Ms Newport, her evidence is not the sole and decisive evidence in respect of Charges 1 and 3. He submitted that Mr Murray is attending and giving evidence at this hearing and is a direct witness in respect of Charge 1. Further he submitted that that Mr Miller is attending and giving evidence at this hearing and that

Ms Newport's written statement corroborates what Mr Miller says in that she reported the incident to him. Mr Malik further submitted that Ms Newport's evidence corroborates Mr Murray's evidence. Mr Malik submitted there is no reason for Ms Newport to fabricate her evidence. He submitted that reasonable steps have been taken by the NMC to secure Ms Newport's attendance at this hearing. He referred the panel to the hearsay bundle and to communication by way of an email dated 17 June 2025 from the NMC to Ms Newport. He submitted there was a follow up email by the NMC on 17 September 2025 and a response from Ms Newport on 25 September 2025. The response by Ms Newport, stated that she was in Australia and that she did not feel comfortable giving evidence anymore as [PRIVATE], but was content for her statement to be used. Mr Malik referred the panel to further communication attempts including further emails and telephone call attempts by the NMC to encourage Ms Newport to give evidence at this hearing, but none were successful.

Mr Malik submitted that in respect of Ms Lewis, their evidence is the sole and decisive evidence in relation to Charges 11a and 11b and that there is no reason to suggest that Ms Lewis has fabricated her evidence. Mr Malik submitted that reasonable steps have been taken by the NMC to secure Ms Lewis' attendance at this hearing. He submitted that communications were sent by way of email from the NMC to Ms Lewis confirming dates for this hearing in September 2025 in which Ms Lewis confirmed in an email dated 29 September 2025 that she would attend the hearing to give her evidence. There was further email communication by Ms Lewis dated 22 December 2025 stating that she could not attend the new dates of this hearing. There were numerous attempts by the NMC by way of email and telephone call communication to engage Ms Lewis. Mr Malik referred the panel to an email communication by Ms Lewis dated 2 February 2026 confirming her disengagement due to [PRIVATE].

Mr Malik submitted that the NMC informed the representatives about Ms Lewis' disengagement at the Case Conference on 15 December 2025. He submitted that the most recent email stating that Ms Lewis was disengaging from this process is dated 2 February 2025 and is therefore very recent. As a result, he submitted that the NMC

informed representatives that it would make a hearsay application. Further he submitted that the charges in respect of both Ms Newport's and Ms Lewis' evidence are serious.

Mr Malik invited the panel to admit both witness statements from Ms Newport and Ms Lewis into evidence.

Ms Butler, on your behalf, submitted that she opposed both applications for Ms Newport's and Ms Lewis' written statements to be admitted as hearsay evidence.

Ms Butler referred the panel to the relevant case law of *El Karout v Nursing and Midwifery Council* [2019] EWHC 28 (Admin), *Nursing and Midwifery Council v Ogbonna* [2010] EWCA Civ 1216, and *Thorneycroft.*

In respect of the application for Ms Newport's evidence to be admitted as hearsay evidence, Ms Butler invited the panel to read the communication emails carefully. She submitted that Ms Newport has tried to "*get out*" of giving her evidence quite significantly and that there is no evidence of why Ms Newport is unwilling to attend. She submitted that there is no good or cogent reason for the non-attendance of Ms Newport at these proceedings. In respect of Ms Lewis, she submitted that there is no evidence to support [PRIVATE].

Ms Butler submitted that fairness should remain uppermost in the consideration of the panel and even if a decision is made to admit this hearsay evidence; the panel should then determine what weight to give it accordingly. She submitted that one of the critical parts of having a witness attend is so that the registrant can cross-examine them. She submitted that under Article 6 of the European Convention on Human Rights, it is a human right that you are able to challenge the case against you and that this is not mitigated by the NMC sending repeated emails to an unwilling witness.

Ms Butler submitted that you contest the charges against you and that there are significant factual challenges. She submitted that in the non-attendance of both witnesses, you have

been denied the opportunity to put those challenges to them in regard to the tone of voice used, the words that were said and their interpretation and to give further context. She submitted that you are not a native English speaker and it is documented that you speak loudly, but this does not mean you were being unkind, uncaring or unprofessional toward these witnesses at the time. She submitted that you have been denied the opportunity to cross-examine the witnesses by their non-attendance at this hearing and if the panel were to allow their statements to be admitted as hearsay evidence, it would deny you, your side of the argument.

Ms Butler stressed the importance of fairness as an overlying principle to the panel and invited the panel to not admit Ms Newport and Ms Lewis' statements into evidence.

The panel heard and accepted the legal assessor's advice on the relevant factors 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.

In respect of the application to allow Ms Newport's evidence and Ms Lewis' evidence to be admitted as hearsay, the panel noted that both witnesses were not registered nurses at the time of the incident. Therefore, they are not obliged to attend.

In respect of Ms Newport, the panel determined that Ms Newport's evidence is not the sole and decisive evidence and that her evidence can be tested by other witnesses who are attending this hearing. It determined that her evidence is relevant to Charges 1 and 3 and that reasonable attempts have been made by the NMC to secure Ms Newport's attendance at these proceedings. Further, it noted that you and your representative have been aware for some time about the witnesses being called to attend at this hearing and the potential engagement issues regarding Ms Newport. Regarding Ms Newport, she is in Australia until March 2026, working numerous jobs and at times she would be uncontactable due to travelling.

The panel decided to allow Ms Newport's evidence to be admitted as hearsay evidence. It noted that you would not be able cross examine Ms Newport as a result of their non-attendance. Nevertheless, it concluded that as Ms Newport's evidence can be sufficiently tested during these proceedings by other witnesses who are attending, it would be able to test the reliability of Ms Newport's evidence and give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

In respect of Ms Lewis, the panel considered that Ms Lewis' evidence is the sole and decisive evidence in regard to Charge 11a and 11b. As there are no other witnesses attending these proceedings that can corroborate Ms Lewis' evidence, the panel considered that due to Ms Lewis' non-attendance, you would not be able to cross examine and test their evidence. Accordingly, it decided it would not be fair to allow Ms Lewis' evidence to be admitted as hearsay.

Decision and reasons on application to admit the meeting notes from Ms Cunningham, Ms Richards, Ms Lennett, Ms Sadzikowska and Resident G's local statement into evidence

The panel heard an application made by Mr Malik under Rule 31 to allow the written meeting notes of Ms Cunningham, Ms Richards, Ms Lennett, Ms Sadzikowska and the local statement of Resident G into evidence. He submitted that Rule 31 allows for hearsay evidence to be admitted, and it is *prima facie* admissible, if it is relevant and fair. Mr Malik referred the panel to the case of *Thorneycroft* and to the factors as set out in paragraph 56.

Mr Malik submitted that the evidence of Ms Cunningham, Ms Richards, Ms Lennett, Ms Sadzikowska and Resident G is not sole and decisive in respect of any of the relevant charges. He submitted that there will be an opportunity for you to test this evidence against other evidence.

He submitted that in regard to this evidence, which is in the form of meeting notes and local statements taken by the employer, there is no good reason for it to have been fabricated and reminded the panel that notes were taken in all instances very soon after the matters to which they relate.

Mr Malik submitted that you have had sight of the meeting notes since the investigation stages and this information, as well as all attempts by the NMC to make contact, would have formed part of the Case Examiner's bundle sent on 19 November 2025. He submitted that this was resent to you on 3 and 4 December 2025 and that you have had sight of the bundle since then and would have known about the NMC witnesses since that time.

As such, he submitted that it would be fair and relevant to admit the meeting notes of Ms Cunningham, Ms Richards, Ms Lennett, Ms Sadzikowska and the local statement of Resident G into evidence as hearsay. He invited the panel to consider proportionality and to consider that the meeting notes are a record of interview.

Ms Butler submitted that it would not be fair or relevant to admit the meeting notes of Ms Cunningham, Ms Richards, Ms Lennett and Ms Sadzikowska and the local statement of Resident G into evidence as hearsay. She submitted that Ms Cunningham's evidence is inadmissible on the grounds of relevance as it does not go to the allegation itself. She submitted that her evidence goes to your attitude and that this is prejudicial on the basis that her evidence is inadmissible. Ms Butler noted that Mr Malik also considered that Ms Richards's evidence adds little and she submitted that it should not be admitted on the basis of fairness and that it is prejudicial. She submitted that Resident G's local statement is not relevant as it is unclear who was present at the time of the incident and it is not fair as she does not have the opportunity to challenge this. Further, she submitted that Resident G's evidence does not speak to the charge.

In respect of Ms Lennett, Ms Butler submitted that the NMC have not pursued this witness to attend these proceedings and that there has been no attempt to contact them at all. She

submitted that Ms Lennett's evidence is deeply prejudicial and that it is opinion evidence. She submitted that it is inadmissible on that basis. She submitted that Ms Lennett's evidence speaks to Charge 7 in this case. She submitted that Ms Lennett's evidence is prejudicial and irrelevant because she adds to the weight against you. She submitted that her evidence cannot be tested as she is not at these proceedings to give evidence. Further, she submitted that Ms Sadzikowska's evidence should not be admitted as hearsay evidence.

The panel heard and accepted the legal assessor's advice on the relevant factors 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.

In respect of the meeting notes of Ms Cunningham, Ms Richards and Resident G, the panel determined that this evidence is not sole and decisive and formed part of the investigation in this case. In regard to Ms Cunningham's evidence, the panel noted that the meeting notes were written soon after the incident and reported issues that were occurring at the time. The panel considered that this is relevant evidence and that it can be tested by other witnesses that are giving evidence at this hearing. Further, the panel determined that the meeting notes of Ms Richards and local statement of Resident G are also relevant and can be tested at this hearing. The panel considered that there have been reasonable efforts made by the NMC to secure the attendance of Ms Cunningham at these proceedings. The panel considered that the evidence of Ms Cunningham, Ms Richards and Resident G tends to support each other and that it will determine what weight to give it once it has heard and evaluated all of the evidence before it.

The panel considered Ms Lennett's evidence and determined that it is not the sole and decisive evidence in relation to Charge 7 as the panel will hear from Ms Corfield and Ms Baker at this hearing. It noted that Ms Lennett's evidence is relevant in regard to the context of alleged concerns and admitted this hearsay evidence.

The panel considered Ms Sadzikowska's evidence in relation to Charge 5. The panel noted that it is not the sole and decisive evidence and is consistent with Ms Greening's evidence, who is attending to give their evidence at this hearing. Therefore, the panel determined that Ms Sadzikowska's evidence can be sufficiently tested as Ms Greening will be cross-examined during these proceedings. It therefore admitted this evidence.

In conclusion, the panel decided that it would be fair and relevant to admit the meeting notes of Ms Cunningham, Ms Richards, Ms Lennett, Ms Sadzikowska and the local statement of Resident G into evidence. They provide relevant evidence as to context and can be tested against other evidence. It would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it. There is also public interest in the issues being explored fully which supported the admission of this evidence into the proceedings.

Both parties agreed that hearsay evidence from Ms Edwards and Mr Hayes was not contested and would be admitted.

Details of charge

1) On or around 11 January 2023:

    a) Shouted at Resident A.
    b) Told Resident A to shut up.

2) On 11 January 2023:

    a) Told Resident B it was their fault when they dropped a beaker on the floor.
    b) Told Resident B "*no you're not sorry"* when they apologised for dropping the beaker.

3) On 11 January 2023, denied Resident M a choice in respect of their food and/or drink at breakfast.

4) On 27 September 2023, stated that Resident C did not need a birthday cake as, due to their dementia, they would not remember it was their birthday.

5) On 19 October 2023, told Resident B you would put them on the floor before ascertaining why they were trying to stand up.

6) On 24 October 2023:

    a) Shouted at Resident I to '*sit down.*'
    b) Pushed Resident I into their armchair when they would not sit down.

7) On 24 October 2023, told Resident F if they did not eat their dinner, their daughter would not be able to visit them.

8) On 24 October 2023 did not turn off the light in Resident G's room when requested to do so because they had a migraine.

9) On 24 October 2023, pushed food into Resident J's mouth without their consent and/or clinical justification.

10) On 24 October 2023, you failed to provide care in accordance with Resident I's care plan and/or risk assessment in that you provided textured food when they required a level 4 pureed diet.

11) Failed to work co-operatively with colleagues, in that:

    a) On an unknown date, you indicated that you would not speak to Colleague B again when they interjected during a manual handling procedure you were overseeing.
    b) Raised your voice at Colleague B in response to the incident at charge 11a)

c) On 30 September 2023, you shouted at Colleague A in the dining room in response to them giving Resident D marmalade on toast for breakfast.

12) On 30 September 2023 in respect of Resident K:

a) You pushed Resident K onto a chair.
b) Raised your voice at Resident K and said “sit down” or words to that effect.

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

You deny all the charges.

Background

The charges arose whilst you were employed as a Registered Nurse at Castleford House Nursing Home (“the Home”). You commenced this role initially on 23 December 2008 and left for a period of time on the 31 July 2011. You recommenced your employment at the Home on 12 April 2012 until 9 February 2024.

The Regulatory concerns arose from a referral by the Home relating to alleged concerns detailed as follows:

- On 11 January 2023, you allegedly told a resident to "*shut up*" and would not let them choose what to eat for breakfast;
- On 27 September 2023, you allegedly told a kitchen assistant not to make a fuss with a birthday cake for a resident, as they had dementia and did not know it was their birthday;
- On 30 September 2023, you allegedly shouted at a kitchen assistant that they should not give a resident a choice for breakfast;
- On 19 October 2023, you allegedly told a resident, who was trying to stand up, if they continued to try to stand up you would hoist them to the floor. The resident had dementia and would forget they could not walk;
- On 24 October 2023, you allegedly told a resident if they did not eat their food, their daughter would not visit them, which distressed the resident;
- On 24 October 2023 you were allegedly informed that a resident had a migraine but when you allegedly went into their bedroom, you turned the lights on and, when the

resident asked you to turn them off, you allegedly would not (which made their migraine worse);

- On 24 October 2023, you allegedly pushed cake into the mouth of a resident because they were tapping their bowl with a spoon;
- On 24 October 2023, you allegedly shouted at a patient because they would not sit down and then approached them and pushed them into a chair; and
- On 24 October 2023, you allegedly gave the wrong textured food for a resident (brownie without enough cream), who was at high risk of choking and requires level 4 textured food.

Investigations by the Home took place in January 2023 and Autumn 2023.

The investigations concluded on 8 January 2024.

Application to exclude evidence

Prior to hearing the evidence of Witness 6, the legal assessor identified that a letter dated 8 January 2024 (Exhibit MP10) and provided advice that it should be redacted in its entirety as it includes the outcome of the investigation decision meeting dated 4 January 2024. He referred the panel to the relevant case law of *Enemuwe v NMC* [2015] EWHC 2081 (Admin).

Mr Malik indicated that he was in agreement that the letter in Exhibit MP10 and any reference to any outcome should not be before the panel. Ms Butler also indicated that

she was in agreement that contents of Exhibit MP10 should be redacted from the Exhibit bundle in its entirety.

As Mr Malik and Ms Butler were both in agreement that the entirety of Exhibit MP10 should be redacted from the Exhibit bundle, the legal assessor instructed the panel to put the letter dated 8 January 2024 out of their mind.

Further, Ms Butler made an application for the investigation meeting notes dated 4 January 2024 (Exhibit MP9) to be redacted from the exhibit bundle in its entirety. She referred the panel to the case of *Enemuwe*. She submitted that as outlined in the case of *Enemuwe*, disciplinary panels must not rely on findings of facts from previous investigations, which risk tainting their own decision making. She submitted that Exhibit MP10 is a finding of fact and that Exhibit MP9 are those facts. She submitted that Witness 6 was simply chairing the meeting and was not present for any of the factual situations. She submitted that Exhibit MP9 and Exhibit MP10 are inextricably joined and that they are one and the same thing. As such, Ms Butler submitted that as Exhibit MP10 is excluded in the interest of fairness and relevance, she invited the panel to exclude Exhibit MP9 on this basis as well.

Mr Malik submitted that Exhibit MP9 is relevant as it forms part of a meeting that took place between yourself and Witness 6 on 4 January 2024. He submitted that it is clearly relevant at the time of what you said and therefore he could not see any reason why it should not be admitted into evidence.

The panel took account of the legal advice from the legal assessor who referred the panel to the relevant case law of *Enemuwe.* Mr Justice Holman said:

> "*In my view, the content of the report should in fact have been regarded as completely irrelevant…*

Although the Committee clearly conducted this whole hearing with the utmost care, and although they clearly demonstrated a capacity to discriminate between the various charges, some of which were found proved and others not proved, there must be a risk here that in some way they allowed themselves to be influenced, even if only peripherally, by their knowledge that all the allegations had earlier been upheld by Ms 2…

What they should in fact have done was decline to admit any evidence by any means of the outcome of the supervisory investigation, and they should have treated the findings and decision of Ms 2 as completely irrelevant and excluded from their consideration by operation of rule 31(1)."

Taking all the above into consideration, the panel acknowledged that the exclusion of Exhibit MP10 was not contested by Ms Butler nor Mr Malik. In making its decision on the exclusion of Exhibit MP9, it determined that Exhibit MP9 is fair and relevant and that there are no findings of fact contained within the investigation meeting notes. It determined that there is nothing in those notes to indicate the final outcome. The panel therefore concluded it was fair to admit Exhibit MP9 and refused the application to have it excluded.

Application for Witness 6's evidence to be heard partly in private

During the course of hearing the evidence of Witness 6, the issue of privacy arose in relation to Witness 6's [PRIVATE]. Ms Butler made a request that matters relating to Witness 6's [PRIVATE] should be heard in private as and when they arose. The application was made pursuant to Rule 19.

Mr Malik indicated that he was in support of the application to the extent that any reference to Witness 6's [PRIVATE] should be heard in private in order to protect her right to privacy.

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.

The panel determined to go into private session as and when such issues are raised in order to protect Witness 6's confidentiality and right to privacy.

Decision and reasons on application of no case to answer

The panel considered an application from Ms Butler that there is no case to answer in respect of Charges 3, 5, 8, 9, 10, 11a, 11b,12a and 12b. This application was made under Rule 24(7).

Ms Butler referred the panel to the case law of *R v Galbraith* [1981] 1 WLR 1039, *R v Turnbull* [1977] QB 224 and *R v Shippey* [1988] Crim. L. R 767.

In relation to this application, Ms Butler submitted that in relation to Charges 9, 11a and 11b there is no case to answer and that there is no evidence to support these charges.

In relation to Charge 9, Ms Butler submitted that there is no evidence to support the allegation that you pushed food into Resident J's mouth. She submitted that there has been no witness statement or local statement of a witness to this allegation. She submitted that the only references to this allegation are contained in a telephone call between you, Ms King and Witness 6 on 23 October 2023. Further references are contained in a letter from Ms King to you on 17 November 2023. She submitted that

neither of these constitute or contain a contemporaneous witness account. Further, she submitted that the allegation was not put to you in the investigation meeting on 4 January 2024 by Witness 6, nor was the witness asked about this allegation whilst giving evidence in chief at this hearing. Ms Butler submitted that at its highest, no evidence has been put before the panel by the NMC and on this basis, Charge 9 should fall under Limb 1 of the *Galbraith* test.

In relation to Charges 11a and 11b, Ms Butler made reference to the panel's decisions to exclude the evidence of Ms Lewis. She submitted that as Ms Lewis is the sole and decisive evidence in regard to Charges 11a and 11b, there remains no evidence to support these charges. On that basis, she submitted that Charges 11a and 11b should fall under Limb 1 of the *Galbraith* test.

Ms Butler then considered Charges 3, 5, 8, 10, 12a, 12b and submitted that there is no case to answer as there is some evidence but it is not sufficient.

In respect of Charge 3 and the allegation that you denied Resident M a choice in respect of their food and/or drink at breakfast, Ms Butler submitted that Mr Hayes's evidence is that in response to a question from Mr Miller in a local interview, he said "*I think Rossi told [Ms Newport] to get him cornflakes*". Ms Butler submitted that the panel heard from Mr Murray at this hearing and in his local statement he said that both Ms Newport and you were arguing about giving Resident M cornflakes. Ms Butler submitted that Ms Newport's statement dated 13 August 2024 is almost a year after the alleged incident and that there is no contemporaneous statement to compare accounts with Mr Murray and Mr Hayes. Ms Butler further submitted that Ms Newport refers to a different resident anonymisation in her statement than what is in the charge. Ms Butler submitted that the panel has heard that you were doing the medication round at the time of the incident and therefore would not have been giving out cornflakes. She submitted that the multiple hearsay accounts are inherently weak and incapable of cross examination and that the hearsay evidence should be given less weight than the independent witnesses. Further, she submitted that the evidence before the panel is inherently weak as it points to interpersonal problems

between yourself and Ms Newport, rather than the wording of the charge. Ms Butler submitted that the only evidence that has any credibility is that of Mr Murray and Mr Hayes who provided contemporaneous accounts but neither of these accounts go to you denying the resident a food choice. Therefore, Ms Butler submitted that this evidence is inconsistent, inherently weak and fails to establish an element of the allegation and therefore this charge must fail.

In respect of Charge 5 and the allegation that you told Resident B that you would put them on the floor before ascertaining why they were trying to stand up, Ms Butler submitted that Resident B is not involved in this allegation and that it refers to Resident J. She submitted Ms Greening in her statement questions what she heard and said that you were loud. Ms Butler further submitted that the evidence of Ms Sadzikowska was admitted hearsay and that her evidence should be treated with caution in regard to any weight that the panel may give it. She submitted that Ms Sadzikowska was asked about the incident in her local interview, three days after, and she was asked if she thought you were "*joking*". Ms Butler submitted that the line of questioning with Ms Greening and Ms Sadzikowska suggests that if your tone was a joke, it would not be a matter of concern and further submitted that what does matter is the wording of the charge. She submitted the evidence does not match the allegation that has been made. She submitted that you could have been loud in communicating to this resident and that if the resident fell to the floor a hoist would be required. She submitted that on Limb 2 of the *Galbraith* test, the evidence is tenuous, inherently weak and does not address the evidence required to substantiate the charge. Therefore, this charge should fail.

In respect of Charge 8 and the allegation that you did not turn off the light in Resident G's room when requested to do so, Ms Butler submitted that the wording of the charge requires evidence to support that you did not turn a light off when requested. Ms Butler submitted that all of the evidence to support this charge is admitted hearsay. She submitted that Ms Cunningham makes no mention of a request to turn the light off, despite being present and the original complainant. She submitted that Ms Richards does not mention this either. She submitted that the only witness that can speak to this charge is

Resident G. She submitted that Resident G cannot identify you or Ms Richards from each other or from Ms Cunningham as he refers only to the colour of their uniform. She submitted that Resident G was not asked which colour of uniform he asked to turn off the light and that any attempt at the identification of the nurse involved was neglected in proceedings. She submitted there was also no attempt to ascertain what Resident G said during this interaction. Ms Butler submitted that Ms Cunningham cannot give expert evidence on whether Resident G did have a migraine or not and there is no clinical note of whether a migraine was recorded nor evidence of any medications dispensed to treat Resident G. Further, she submitted that there is no care plan that states that all nursing and care staff must turn the light off when Resident G has a migraine. She submitted that the NMC case depends wholly on the purported identification of you by Resident G as the nurse who did not turn the light off.

Therefore, Ms Butler submitted that the evidence in relation to this charge is weak, inconsistent, speculative, uncorroborated by objective evidence and does not address the allegation. Applying the principles of *Galbraith* and *Turnbull,* Ms Butler submitted that there is no case to answer.

In respect of Charge 10 and the allegation that you failed to provide care in accordance with Resident I's care plan and/or risk assessment in that you provided textured food when they required a level 4 pureed diet, Ms Butler submitted that Ms Baker is the sole live witness to this charge. Ms Butler submitted that it is uncontested that Resident I's care plan and risk assessment specified a pureed diet. She further submitted that it is uncontested that it is the registered nurse who supervises the diets of residents and has the authority to intervene when more junior kitchen or care staff are not providing residents with sufficient nutrition. She submitted that there is no evidence offered to the panel that the cake was "*textured*" as has been specified in the charge, nor has any description of the cake been advanced by the NMC. She submitted that Ms Baker, during cross-examination accepted that you went to the "*kitchenette*" in the dining room and brought back a bowl to Resident I with "*fortified milk*" instead of cream. Ms Butler submitted there is no evidence as to how pureed the dessert was and that in her oral evidence Ms Baker

said that there was "*the minutest bit of cream*". She submitted that there is also no evidence that Resident I struggled to swallow her pudding or choked. She submitted that the panel may only speculate as to what "*minutest*" means and in the absence of any evidence that the food was not actually loose and caused a problem, it is left as speculation only. Therefore, she submitted that as the evidence is inherently weak, internally inconsistent with the outcome that the resident finished her pudding without incident, speculative and is unsupported by objective material, Charge 10 fails under all of the tests enunciated in *Galbraith* Limb 2.

In relation to Charge 12, and the allegation that you pushed Resident K onto a chair and raised your voice at Resident K and said, "*sit down*", or words to that effect, Ms Butler submitted that the sole witness in regard to this allegation is Ms du Toit. Ms Butler submitted that in her local interview, Ms du Toit alleged that you came up behind Resident K and "*basically pushed her being all like, 'sit down, sit down, sit down.'"* Ms Butler submitted that Ms du Toit's live evidence consisted of no memory at all of the matters she was asked about and that she accepted the inconsistencies between her witness statement and contemporaneous statement. Ms Butler submitted that Mr Miller made no attempt to question or verify Ms du Toit's account in the investigation. Therefore, she submitted that Ms du Toit's evidence is weak, tenuous and there is no corroboration. She submitted that satisfies Limb 2 of the *Galbraith* test and that this charge should fail.

Mr Malik referred the panel to the relevant case law of *Galbraith* and to NMC guidance DMA-6 namely '*Evidence*' last updated 9 June 2025.

Mr Malik invited the panel to dismiss the submission of no case to answer in respect of Charges 3, 5, 8, 9, 10, 11a, 11b, 12a and 12b.

He submitted that the application has been made by Ms Butler that the NMC has presented no evidence under Limb 1 of the *Galbraith* test for Charges 9, 11a and 11b.

In relation to Charge 9, Mr Malik submitted that there is evidence that this allegation was investigated at the local level. He submitted that Mr Miller confirms this in his documentary evidence and in a safeguarding referral for Resident J, where it states that on 24 October 2023, Resident J was in the foyer at the Home, had a plate and spoon and was tapping the plate with the spoon. It alleges that you took the plate away from Resident J and picked up a piece of cake and put it in Resident J's mouth. He submitted that although Witness 6 was not a direct witness, she speaks about this in her witness statement and there is further mention of the allegation in a telephone conversation on 26 October 2023. Mr Malik submitted the allegation was put to you at this time, and you denied it. He submitted the allegation was also discussed with you as per the investigation meeting notes dated 4 January 2024, which you also denied.

Mr Malik submitted that while there is no direct witness that the panel have heard from in respect of Charge 9, there is some evidence presented, and the safeguarding referral made and exhibited by Mr Miller supports the allegation in Charge 9. He invited the panel to proceed with Charge 9.

In regard to Charge 11a and 11b, Mr Malik submitted that the panel are aware that Ms Lewis was the sole and decisive evidence in relation to Charge 11a and 11b, and that the panel did not admit her statement into evidence at an earlier hearsay application. He submitted that there is no other evidence that supports this charge.

Mr Malik went on to consider Charges 3, 5, 8, 10, 12a and 12b where the *Galbraith* test applies.

In respect of Charge 3, Mr Malik submitted that in Mr Miller's statement he says that Ms Newport went to him with a concern on 11 January 2023 that you were refusing a resident's choice of breakfast. Ms Newport said in her statement that the resident chose bacon and eggs and that you came over to the resident and allegedly slammed down a bowl of cornflakes and said that he could just have this and that he does not know what he wants so to just give him anything as it is quicker. Ms Newport said that there was no

reason why the resident could not have had the breakfast they chose. Mr Malik submitted that in her statement, Ms Newport also speaks about the resident's reaction and facial expression and how they appeared to be quite distressed and upset. Mr Malik submitted that Witness 6 states in her statement that this is a serious concern as it is wrong to say that a resident cannot have a certain food without good justification for this. Further, Mr Malik submitted that Mr Murray was present on the day of the incident and he mentioned the incident in his local statement, which is a contemporaneous record.

Further, in his oral evidence, Mr Murray confirmed that in his local statement he was referring to Resident M and not Resident K. Mr Malik submitted that Mr Murray corroborates what Ms Newport said in her statement. Further, Mr Malik submitted that there is the evidence of Mr Hayes who also corroborates what Mr Murray and Ms Newport say in their statements. Mr Malik submitted that the evidence is not weak, vague or inconsistent with other evidence. Pursuant to *Galbraith*, what weight the panel gives to any evidence remains to be determined at the conclusion of all the evidence. He submitted that the evidence taken at its highest, Charge 3, could properly be found proved.

In relation to Charge 5, Mr Malik submitted that in Mr Miller's statement, he says that on 19 October 2023, you are alleged to have told Resident B that you would hoist him to the floor. This was reported to Mr Miller by Ms Greening who Mr Malik submitted supports this charge and was consistent in her oral evidence. He submitted that in her NMC statement she says that she entered the foyer and found the resident sat on the chair in front of the fire and could see you leaning over the resident. She reported that she heard you say, "*if you do not stop trying to stand up, I will put you in a sling and hoist you to the floor*." He submitted that Ms Greening confirmed in her oral evidence that she spoke to the resident to ask him if he was ok and what he wanted and he replied "*toilet*". Mr Malik submitted that Ms Greening was also consistent with her local statement that she gave closer to the time.

Mr Malik submitted that he asked Ms Greening in her oral evidence if you tried to ascertain the reason why the resident was trying to stand up and her answer was that "*no, you didn't*". He submitted that Ms Greening was clear, concise and consistent about Charge 5

in her oral evidence. Mr Malik further submitted that the Care Quality Commissions (CQC) referral also supports this charge. Further, he submitted that Witness 6 speaks about the seriousness of making threats to a resident in her statement and that the local statement of Ms Sadzikowska also corroborates what Ms Greening says. Therefore, Mr Malik submitted that the evidence does not demonstrate an inherent weakness and can be relied upon. He submitted that the evidence is such that Charge 5 is capable of being found proved.

In relation to Charge 8, Mr Malik submitted that Mr Miller refers to this allegation in his witness statement and says that the concern in relation to Resident G was raised by Ms Cunningham and that you turned the light on and did not turn it off when Resident G asked.

Mr Malik submitted that the safeguarding referral for Resident G confirms that on 24 October 2023, Resident G was in bed and that a carer reported to you that he had a migraine and did not feel well. Mr Malik submitted that the CQC referral further supports this. Mr Malik also submitted that there is evidence in the local interview of Ms Cunningham, the witness statement of Witness 6 and in the local interview of Resident G. Mr Malik submitted that the evidence is not weak, vague or inconsistent with other evidence. He submitted that pursuant to *Galbraith,* what weight the panel gives to any evidence remains to be determined at the conclusion of all the evidence. Therefore, the evidence can be relied upon and Charge 8 is capable of being found proved.

In relation to Charge 10, Mr Malik submitted that Ms Baker supports this charge. He submitted that Ms Baker was consistent in her oral evidence with her statement about what she witnessed, where she told the panel that you went to the kitchen and came back with some brownie and cream and she told you she wanted nothing to do with it. He submitted that her statement is a contemporaneous record and was taken closer to the time of the incident. Further, Mr Malik accepted that it is not disputed that Resident I was on a pureed diet and Resident I's care plan, risk assessment and an email from Speech and Language Therapy (SALT) confirms this. Mr Malik submitted that Charge 10 is an

extremely serious charge not following a resident's care plan. He submitted that the evidence does not demonstrate inherent weakness and can be relied upon. He submitted that the evidence is such that taken at its highest, Charge 10 is capable of being found proved.

In relation to Charge 12a and 12b, Mr Malik submitted that Ms du Toit supports this charge. He submitted that in her oral evidence she told the panel that she was in the dining room behind the hot bar at the time she witnessed the incident. She told the panel that you forcibly tried to get the resident to sit down, pressing down on Resident K's body into the chair and she told the panel that it was not necessary in her opinion. Mr Malik submitted that Ms du Toit was consistent in her oral evidence with her NMC statement and with her local interview and that she was clear, consistent and concise whilst giving her evidence in chief. He submitted that in her statement she also confirmed that you raised your voice at Resident K. Therefore, he submitted that the evidence does not demonstrate an inherent weakness and can be relied upon. He submitted that the evidence is such that Charge 12a and 12b is capable of being found proved.

The panel took account of the submissions made and heard and accepted the advice of the legal assessor who referred to the NMC guidance and *Galbraith*.

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 and whether you had a case to answer. The panel reminded itself that it was not making any findings of fact nor is it conducting a detailed assessment of credibility or reliability, at this stage.

The panel considered the NMC Guidance DMA-6 namely '*Evidence*' last updated 9 June 2025 as well as the principles derived from *Galbraith*. The panel noted the following from *Galbraith:*

‘(1) If there is no evidence that the crime alleged has been committed by the defendant, there is no difficulty. The judge will of course stop the case. (2) The difficulty arises where there is some evidence but it is of a tenuous character, for example because of inherent weakness or vagueness or because it is inconsistent with other evidence,

(a) Where the judge comes to the conclusion that the prosecution evidence, taken at its highest, is such that a jury properly directed could not properly convict upon it, it is his duty, upon a submission being made, to stop the case.

(b) Where however the prosecution evidence is such that its strength or weakness depends on the view to be taken of a witness's reliability, or other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence upon which a jury could properly come to the conclusion that the defendant is guilty, then the judge should allow the matter to be tried by the jury’

The panel first considered Ms Butler’s application that there was no case to answer for Charges 9, 11a and 11b, the submission being there is no evidence.

The panel decided that, taking account of all the evidence before it, there was no evidence on which it could properly find the facts of Charges 9, 11a and 11b proved.

In relation to Charge 9, the panel considered the safeguarding referral and identified that while this is not hearsay evidence as it is authored by Mr Miller, he is reporting what he was told by someone else. The panel determined that there is some evidence in the form of the safeguarding referral. It noted that the person who allegedly directly witnessed the incident and reported it to Mr Miller, did not attend and did not provide a witness statement. Therefore, the panel determined that the evidence relating to Charge 9 is

seriously lacking and what there is, is too weak, vague and tenuous and therefore Charge 9 is not capable of being found proved.

In respect of Charge 11a and 11b, the panel determined that the fact that it excluded the statement of Ms Lewis at an earlier hearsay application means that the NMC has no evidence to offer in relation to Charge 11a and 11b. It further noted that this appeared to be broadly accepted by the NMC in their submissions. Therefore, the panel determined that Charge 11a and 11b could not be found proved.

The panel then went on to consider the application that there was no case to answer in respect of Charges 3, 5, 8, 10, 12a and 12b where there is some evidence.

In relation to Charge 3, the panel decided that there is sufficient evidence to support the charge at this stage, and, as such, it refused the application of no case to answer. The panel considered that the evidence of Mr Hayes was accepted by Ms Butler and Mr Malik as hearsay evidence. Further the panel accepted the evidence of Ms Newport at an earlier hearsay application. The panel also heard from Mr Murray at this hearing and Mr Miller. The panel considered that Mr Murray gave clear evidence and that Mr Miller stated that Resident M was "*independent enough to make that choice*". The panel considered that the oral and documentary evidence of Mr Miller and Mr Murray and the documentary evidence of Mr Hayes all supports this charge. Further the panel considered Ms Newport's written statement and determined that there is no doubt about the alleged incident that she is discussing, and it is clear that it related to the allegations in this charge. The panel noted that that fact that she appears to muddle the resident anonymisation, does not undermine the fact that her evidence clearly describes her knowledge of the same incident as Mr Miller, Mr Murray, and Mr Hayes in their evidence. The panel considered whilst it is mindful that Ms Newport's statement is hearsay evidence, it would not be proper for them to ignore the evidence of Ms Newport simply because she used the wrong resident anonymisation. The description of the incident is clear in that she meant Resident M and not Resident B. Therefore, the panel determined that there is sufficient evidence in relation

to Charge 3 which is not vague, tenuous or contradictory and the reliability and credibility it gives to that evidence remains to be determined at the conclusion of all the evidence.

In relation to Charge 5, the panel decided that there had been sufficient evidence to support the charge at this stage, and, as such, it refused the application of no case to answer. The panel considered that this charge is supported by the documentary and oral evidence of Ms Greening, Mr Miller, Witness 6, and the hearsay evidence of Ms Sadzikowska. The panel considered that there is a possibility that the comments made by Ms Greening at the time of the alleged incident were more expressions of disbelief of what was said, rather than an indication that she may have misheard. The panel considered Ms Greening's witness statement where she expressed that her concern was that it was a threat to the resident and this is supported by Ms Sadzikowska in her written statement. The panel also heard evidence that Resident B was afraid of the hoist. During the cross examination of Witness 6 she confirmed that if someone was in the process of falling, one might guide them down. The panel therefore considered that there is direct evidence in regard to the allegations of this charge and the evidence is not tenuous or vague and that there is a level of consistency in the direct evidence and the hearsay evidence. The panel determined that there is sufficient evidence to proceed in relation to Charge 5 and it will fully consider the reliability and credibility at the conclusion of all the evidence.

In relation to Charge 8, the panel decided that there was a lack of sufficient evidence on which this charge could properly be proved. The panel were mindful of the precise wording of the charge. It would appear it was appropriate to turn the light on in the face of an apparent emergency situation; however, the charge is that the light was not turned off by you despite a request. The evidence in support of this charge comes from Ms Cunningham, Ms Richards and Resident G and it is all hearsay and therefore untested. Furthermore, the evidence such as it is, is somewhat vague, confused and tenuous and therefore the application is successful in respect of this charge.

In relation to Charge 10, the panel decided that there had been sufficient evidence to support the charge at this stage, and, as such, it refused the application of no case to

answer. The panel had sight of Resident I's care plan and risk assessment. The panel noted that there was clear, uncontested evidence that Resident I required a Level 4 pureed diet. The panel further noted the documentary and oral evidence of Ms Baker who was a direct witness to the alleged incident. Ms Baker consistently said in her live and written evidence that you went to the kitchen and came back with some brownie and cream for Resident I. Therefore, the panel determined that there is sufficient evidence in relation to Charge 10 and the reliability and credibility remain to be considered at the conclusion of all the evidence.

In relation to Charge 12a, the panel decided, taking account of all the evidence before it, that there was a lack of sufficient evidence to find the facts of Charge 12a proved. The panel had sight of the documentary evidence of Ms du Toit and heard her oral evidence at this hearing. The panel noted that during cross examination, Ms du Toit appeared to "*row back*" on her written statement and accept that it was not a "*push*" and instead was a "*guide*" of Resident K into the chair. The panel also noted that during her oral evidence, Ms du Toit had a poor memory of the alleged incident and even after referring to her witness statement, she still accepted that it was not a "*push*". Further the panel noted that during her live evidence, Ms du Toit said, "*Rossi's two hands were on the resident's shoulder, it was definitely assistance*." The panel determined that there were serious contradictions between Ms du Toit's live evidence and her written statement. She is the sole witness in regard to this allegation. Therefore, the panel determined that the evidence relating to Charge 12a is too weak, vague and tenuous and therefore could not properly find it proved.

In relation to Charge 12b, the panel decided that there had been sufficient evidence to support the charge at this stage, and it refused the application of no case to answer. The panel considered that in her oral evidence Ms du Toit said that in relation to Resident K, you were "*frustrated and impatient"* and "*I do not recall her shouting at her*." The panel also noted that in her oral evidence Ms du Toit said *"Rossi approached from the left, Rossi said 'sit down".* The panel also noted that in her witness statement, Ms du Toit stated that you forcibly tried to get Resident K to sit down by raising your voice. The witness in this

part of her evidence was not contradictory or vague. Therefore, the panel determined that there is sufficient evidence to proceed in relation to Charge 12b and the reliability and credibility remains to be determined at the conclusion of all the evidence.

The application is therefore successful in respect of Charges 8, 9, 11a, 11b and 12a. The application is unsuccessful in respect of Charges 3, 5, 10, and 12b.

Decision and reasons on facts

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Malik on and by Ms Butler.

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

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

- Ben Miller: Registered Manager at the Home from 2016 until 2024.
- Russell Murray: Cleaner at the Home.
- Trish Greening: Carer at the Home.
- Alison du Toit: Kitchen Assistant at the Home.
- Melanie Corfield: Kitchen Assistant at the Home.

- Witness 6: Registered Manager at the Lodge Care Home which is a different home positioned on the same site as the Home. Was the Home's Manager between 1999 until 2016. Took over a workplace investigation in October 2023.

- Ann Baker: Kitchen Assistant at the Home.

The panel also heard evidence from you under affirmation.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor who referred it to the relevant case law on the assessment of evidence in *Suddock v Nursing and Midwifery Council* [2015] EWHC 3612, *Dutta v General Medical Council* [2020] EWHC 1974 (Admin) and *Khan v General Medical Council* [2021] EWHC 374 (Admin). In respect of the legal issue of cross admissibility, the legal assessor referred the panel to the case of *Professional Standards Authority v General Medical Council* & *Garrard* [2025] EWHC 318 (Admin). The panel was advised to consider the hearsay evidence in the case with some caution. The panel considered the witness and documentary evidence provided by both the NMC and Ms Butler.

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

Charge 1

'That you, a registered nurse;

1) On or around 11 January 2023:

   a. Shouted at Resident A.

b. Told Resident A to shut up.'

This charge is found proved

In reaching this decision, the panel took into account the documentary and oral evidence of Mr Murray, the documentary evidence of Ms Morgan, the documentary evidence of Ms Pace, the documentary evidence of Ms Newport and your documentary and oral evidence. The panel considered this charge in its entirety.

The panel also considered the investigation meeting notes of Mr Murray who when asked if you had said anything to Resident A, Mr Murray said, '*She told her to shut up'.* When asked at the local investigation if those were the exact words used, Mr Murray said in his live evidence, '*She said, "shut up".*'

Further the panel considered Mr Murray's NMC witness statement dated 2 May 2024 where he said;

> '*I witnessed Mrs Petkova tell Resident A to "shut up" as she was shouting something…Resident A did not react to Mrs Petkova, who sounded abrupt. I thought this was normal, it did not sound nasty, just loud*.'

Mr Murray maintained and confirmed this in his oral testimony at this hearing.

Further, the panel considered the local statement, hearsay evidence, of Ms Newport who said;

> *'Rossy was telling her to "be quiet", "shut up", "stop speaking for 10 mins". Repeatedly I heard her say these statements with a frustrated voice.'*

In your witness statement you said, '*It is clear that I did tell the resident to* "*be quiet*". I deny using the words "*shut up*". During cross examination at this hearing, you confirmed

that this was your position and when asked by Mr Malik "…*you're saying that's not your language to use? You wouldn't really say shut up to anyone?"* you replied, "*no, I don't use that kind of words, actually*."

Further in your witness statement you state that Ms Morgan was also on duty and that Ms Pace was at the nursing station at the time of the incident. You said:

> '*If I had shouted or scolded Residents A, B or M as originally alleged, [Ms Morgan] was in a far better position to hear than [Mr Miller], behind a closed door. [Ms Pace] also was at the nursing station at the same time*.'

In making its decision, the panel were mindful that Mr Murray, in their direct live evidence, used the words "*abrupt*" and "*loud*" to describe your tone of voice. Taking a sensible and reasonable view of the meaning of the word "*shout",* the panel was satisfied that those words describe a "*shout*".

The panel found the evidence from Mr Murray was consistent. Mr Murray was balanced and open in his evidence. He has worked with you for some 15 years and there was nothing to suggest that he bore any ill will towards you and nothing to suggest that he would fabricate his evidence. The panel found Mr Murray to be clear, and it found his evidence was credible, plausible and reliable.

Further, the panel were mindful that the evidence of Ms Newport is hearsay and it attached some weight to it. It is consistent with the direct evidence of Mr Murray.

The panel noted that you acknowledged the interaction between yourself and Resident A took place in your evidence, and that you maintained that you said, "*be quiet*" rather than "*shut up*".

Taking all of the evidence into consideration, the panel preferred the clear and consistent live evidence Mr Murray to your version of events. The panel determined that on the

balance of probabilities the words "*shut up*" were used by you and were shouted as alleged**.** The panel considered your view that Ms Pace and Ms Morgan would have heard something. The panel did not have clear evidence of where either of these witnesses were actually working in the Home at the time. The panel determined that their untested evidence carried little evidential weight in relation to this charge.

Therefore, on the balance of probabilities the panel found the evidence of Mr Murray to be clear, plausible, and more probable, and it is also consistent with the hearsay evidence of Ms Newport. Therefore Charge 1 is found proved in its entirety.

Charge 2

'That you, a registered nurse,

2) On 11 January 2023:

a) Told Resident B it was their fault when they dropped a beaker on the floor.
b) Told Resident B "*no you're not sorry"* when they apologised for dropping the beaker.'

This charge is found proved

In reaching this decision, the panel took into account the documentary and oral evidence of Mr Miller, the documentary and oral evidence of Mr Murray, the documentary evidence of Mr Hayes and your documentary and oral evidence.

The panel considered Mr Murray's witness statement dated 2 May 2024 he said:

'*Mrs Petkova also told Resident B on the same shift on 12 January 2023, that it was his fault when he dropped a beaker on the floor…I remember Resident B said it was an accident and was not his fault. Mrs Petkova*

reiterated that it was…Mrs Petkova said that accidents happen, which I thought was nice'

In his oral evidence, Mr Murray confirmed this. When he was asked if he heard you telling Resident B that it was his fault, Mr Murray replied "*yeah*" and when asked if he recalled Resident B apologising, Mr Murray said, "*he did when he dropped it. He said,* "*I'm sorry, it wasn't my fault*." Also, when asked if he could recall a comment from you saying "*no, you're not sorry*", Mr Murray confirmed that he had heard this.

Further, in the investigation meeting notes of Mr Murray when asked by Mr Miller if he was in the room at the time of the incident, Mr Murray said that he was and that Resident B had '*knocked something off the table'*. Mr Murray also said that you were "*quite abrupt*" in your response to this incident.

The panel also considered that in his NMC witness statement dated 10 May 2024, Mr Miller said:

'I overheard her say quite loudly, despite being a room away (I was stood at the nurses' station), "no you're not sorry". I did not know who this was said to but Mrs Petkova was very loud and abrupt when she spoke and although she did not shout, her voice travelled. I also recognised her voice and accent.'

Further in the investigation meeting notes, of the interview with you, Mr Miller said:

'*I heard a cup or something like a tumbler, hitting the floor, there was a noise and I did hear you say seconds later "no, you should be more careful". I heard that. You did say it to someone.'*

During his oral evidence, Mr Miller also confirmed this by saying, '*I heard, I was at the desk and I heard her say, "no, you're not sorry". I didn't hear in what context…but her voice came through very clear through the room*.'

The panel also had sight of the investigation meeting of Mr Hayes who said in relation to the incident:

> *'He was sleepy and dropped something. [Ms Newport] was picking it up and Rossi told him to be more careful. I don't think it was mean, but you know she sounds abrupt*.'

The panel had sight of your investigation meeting notes dated 25 January 2023. In regard to the incident, you told the investigator '*I didn't speak to him because he was sleeping in his chair*.' When asked at the investigation who you said, "*you should be more careful*" to, you told him, '*I don't know, to myself*.' You also told the investigation '*I didn't say to anyone to be more careful… I didn't say it to anyone. Maybe I did say it, but I didn't say it to anyone*.'

When asked at the investigation why you would say "*you should be more careful*" if you weren't saying it to anyone, you replied:

> *'Talking to myself from time to time, maybe I dropped a tablet. I didn't involve Resident B in that conversation. He was sleeping all breakfast.'*

You confirmed that this was your position during cross examination by Mr Malik.

The panel also considered your witness statement at paragraph 50 where you said;

> '*[Mr Miller] was in the worst position, in his office behind the nurses' station to hear or see anything. How he has assumed what happened and [Ms Morgan] who was always present didn't, casts considerable doubt*

over these events in charge 2 that he gave evidence for. Resident B, was as [Mr Murray] said very sleepy. He slept through breakfast. Furthermore, Resident B had dementia and to suggest that I would leave a medication pot unattended and unadministered is wrong. I always took the medication to the resident, administered it and took the pot away. No one heard a medicine pot hit the floor'

The panel found that this account does not provide a plausible or credible explanation, referring to peripheral issues and a claimed absence of evidence that you assert undermines the charge. Your evidence does not engage with and speak to the specifics of the allegation in this charge.

Taking all the evidence into consideration, the panel found the evidence of Mr Murray to be balanced in his acknowledgment that you said that accidents happen and that it was supportive and consistent with the evidence of Mr Miller.

The panel was mindful that the evidence of Mr Hayes is hearsay and it attached some limited weight to it. It is consistent with the direct evidence of Mr Miller and Mr Murray.

The panel considered that there were differences in your local interview, oral evidence and witness statement regarding the incident. It considered that you accepted in your investigation meeting dated 23 January 2023 that you said, "*maybe I did say it, but I did not say it to anyone*". The panel compared this with your oral evidence where you said, "*I talk to myself, I was concentrating on medication*." The panel therefore remained unclear about what your position was on this alleged incident.

The panel preferred the evidence of Mr Murray who was clear and balanced in his oral evidence, which was consistent with his earlier witness statement and his statement at the investigation stage. Mr Murray was fair, pointing out that part of what you had said to Resident B was "*nice*." The panel found Mr Murray to be open, and his evidence was

credible, plausible and reliable. It was also consistent with the evidence of Mr Miller and the hearsay evidence of Mr Hayes.

Therefore, on the balance of probabilities the panel found Charge 2 proved in its entirety.

Charge 3

'That you, a registered nurse,

3) On 11 January 2023, denied Resident M a choice in respect of their food and/or drink at breakfast.'

This charge is found NOT proved

In reaching this decision, the panel took into account the documentary and oral evidence of Mr Miller, the documentary and oral evidence of Mr Murray, the documentary and oral evidence of Witness 6, the documentary evidence of Ms Newport and your documentary and oral evidence. The panel was mindful that Ms Newport's evidence is hearsay evidence and that it was untested by cross examination. The mischief in this charge is essentially the alleged denial of choice of food in respect of Resident M.

There is evidence from Mr Miller that in regard to Resident M, "*he had a diagnosis of dementia but he was high functioning…He had frontotemporal dementia. So, whilst there was some memory impairment, he was capable of choosing his breakfast...He was independent enough to make that choice*".

The panel also had sight of Mr Miller's witness statement dated 10 May 2024, where he said:

'[Ms Newport], kitchen assistant, came to me with a concern on 11 January 2023 that Mrs Petkova was refusing residents a choice at

breakfast. [Ms Newport] asked Resident M, who had dementia, what he wanted for breakfast. Mrs Petkova intervened and told her to get the resident cornflakes and then leave him alone.'

In his oral evidence Mr Miller said that at the time of the incident, Ms Newport came to him in his office and, "*she was upset that this choice was being taken away from him and in front of him as well"*.

The panel had sight of Ms Newport's witness statement, hearsay evidence, dated 13 August 2024. She witnessed the alleged incident and stated:

'*I was asking Resident B what he wanted for breakfast, and showing him the different options available on the laminated book we had in the Home (which had pictures of the food)… Resident B struggled to speak at the usual speed, but he had capacity to make decisions himself. I recall Resident B chose bacon and eggs. Around this time, Mrs Petkova came over to Resident B and myself, slammed down a bowl of cornflakes, and said words to the effect of "he can just have this" to which I said "no, he wants bacon and eggs", and Mrs Petkova went on to say that "he doesn't know what he wants, just give him anything, it's quicker", and then Mrs Petkova walked away. Mrs Petkova had a sharp tone of voice when speaking, and her body language was boisterous in the way she slammed the breakfast down on the table. There was no reason why Resident B could not have the breakfast he chose for himself…Resident B did not say anything, but his facial expression appeared to be distressed, and I thought he was quite upset, so I tried to reassure him. I then placed Resident B's order for bacon and eggs with the chef.*'

In her local statement Ms Newport said:

‘*[Resident M] then comes in the dining room for breakfast, and although he's taking a lot more time to respond he's still able to make decisions for himself. So I was sat with [Resident M] asking what he fancied to drink and what he wanted for breakfast. He was struggling to find a quick response but I wanted to give him the time for him to be able to decide as he has the right and capacity to do so even if it takes a bit longer. Then Rossy says from the other side of the dining room to just put cornflakes in front of him, but I stated to her the reason I wasn't going to do this is he might not want cornflakes. She was getting angry and telling me to listen to her and then told me to just get the cornflakes and to leave him alone. The more I told her [Resident M] can make his own decision, he just needs time, she started waving her hands in the air in frustration. She kept talking over me in anger not listening to me, so I told her if she wants then she can do it herself, and I walked out of the dining room to the kitchen’*.

The panel had sight of the investigation meeting of Mr Murray where he reported:

‘*[Ms Newport] asked him what he wanted for breakfast. Rossi said “just give him cornflakes and leave him alone”. [Ms Newport] said something like “I need to offer." Rossi told her to give him cornflakes and leave him alone. [Ms Newport] said that he can decide for himself. They were arguing. I didn’t want to listen anymore, I don’t like things like that*.’

The panel also had sight of the Witness 6’s witness statement dated 8 October 2024, where in regard to the expectations generally at the Home, she said:

‘*It is the expectation that if a resident wants something specific to eat then we would accommodate that as far as possible, even if this requires someone going to the shop for this. When in care, it is important to make the experience as pleasant as possible, which included choices at mealtimes…Mrs Petkova would be aware of this as the company*

ethos/statement of purpose is widely known…This is a serious concern to say that a resident cannot have a certain food without good justification for this. There is he (sic) potential for a breakdown in a relationship and in trust for the Home.'

The panel had sight of your investigatory meeting notes dated 25 January 2023, where you said:

'*[Ms Newport] didn't ask what he wants to eat, she offered him a bowl and asked him what he want to eat for second course. Resident K has deteriorated, he's very sensitive, he was shaking, confused, petrified because of [Ms Newport]'s manner. She was bending down, face to face, in his face… I said to leave him alone and [Ms Newport] didn't listen, she carried on'*

In your oral evidence, you said, "*I'm not serving food to the residents in breakfast time, and I'm not serving the food at all to residents. I can advise staff*". You further said, "*I never said to her, give to that resident that breakfast or another breakfast… he already had something in front of him, she was already serving him something".*

In your witness statement, you state that '*[Ms Newport] is the sole and decisive witness to this charge of denial'.* You further state that*, 'there are significant discrepancies between her two accounts…the later statement is exaggerated.'* Further*,* you said '*no choice has been made by Resident M at the time; therefore I cannot have denied him his choice* and *'if you take her [Ms Newport] statement at its highest: Resident M had bacon and eggs anyway.'* In addition to this you infer that there has been collusion of the accounts between Mr Murray and Mr Hayes.

The panel considered and weighed all of the evidence, mindful of the hearsay evidence of Ms Newport. The panel determined that, whilst there is evidence that a dispute arose and that there was an argument and Ms Newport was aggrieved and upset by it, there was a

lack of sufficient evidence of specifically what is alleged, that is that Resident M was denied a choice of food. It is not for you to disprove the charge.

The panel concluded the NMC has failed to discharge the evidential burden.

Therefore, on the balance of probabilities Charge 3 is found not proved.

Charge 4

'That you, a registered nurse,

4) On 27 September 2023, stated that Resident C did not need a birthday cake as, due to their dementia, they would not remember it was their birthday.'

This charge is found proved

In reaching this decision, the panel took into account the documentary and oral evidence of Ms Corfield, the documentary evidence of Ms Manser, the documentary evidence of Ms Rowlands and your documentary and oral evidence.

The panel had sight of Ms Corfield's local statement where in relation to this allegation she said:

> '*So we made a cake for Resident C's birthday. He was in bed, so I asked Rossi what she would like me to do with the cake. She told me that I have to remember he doesn't have capacity, that he wouldn't even know it was his birthday and to pretty much not to make a big thing of it*.'

Mr Corfield further said:

‘I said “okay, well if anybody is going up to him, there is a birthday cake in the kitchen, if anybody would like to take it up and sing to him" and she said, “you have to remember that he hasn't got the capacity.” And I replied “it's not the fact that he hasn't got capacity, this is his birthday. And to me, everybody deserves a birthday, dementia or not, so we will get one of the girls to take it up” and Rossi said, “or if not, we can eat the cake’

In her oral evidence, Ms Corfield confirmed that there were no issues between yourself and her. She told the panel that “*it was protocol that you make a birthday cake for every resident when it was their birthday*”. She further told the panel that the birthday cake went out on the tea trolley from 14:00 onwards, but the cake was returned to the kitchen, as the resident had gone to bed. Ms Corfield approached the nurses’ station to ask what they would like to be done with the birthday cake and she was told, “*I was told abruptly that he didn’t have capacity to tell it was his birthday and it didn’t really matter*”. When asked who said this, she told the panel “*It was to me about the resident and it was Rossi*”. When asked where this conversation took place, Ms Corfield said “*at the nurses station*”.

In regard to timings, Ms Corfield told the panel that “*lunch is 12:00, tea trolley is at 2:00 and if we’re celebrating a birthday, the birthday cake would go out on the tea trolley*”. During cross examination, Ms Corfield confirmed that the conversation about the birthday cake between you and her happened “*at the nurses station*” and that “*it was definitely Rossi I spoke to*”.

The panel also had sight of the local statement of Ms Rowlands and in regard to the alleged incident she said:

‘*So, it was his birthday and, for whatever reason, he'd been sent back up to bed quite early… [Ms Corfield] had questioned Rossi as to what we were doing with his birthday cake when it came round to the tea trolley time and Rossi says something like, “well, we can always still eat it." And [Ms Corfield] was like, “well, he hasn't seen the cake, he doesn't know he's*

got the cake, we shouldn't really be cutting it up and handing out if we haven't sung to him or anything“ and she (Rossi) was sat at the nurse‘s station. I was stood next to [Ms Corfield] and Rossi just turned around and said “well, in his condition, it's not like he even knows it's his birthday anyway.“ For me, I just didn't think that was a very appropriate thing to say, one in a public place, just because he might not, but we don't know how much he does understand.’

When asked if she thought you had said that seriously or as a joke, Ms Rowlands said:

‘*No, seriously. She said, “well, in his mind, he doesn't know it‘s his birthday" or “in his condition, he doesn't know it's his birthday anyway." And me and [Ms Corfield] both were like, “Oh!” It was said “don't worry about giving this cake because he doesn't know anyway*.”

The panel also had sight of a statement from Ms Manser regarding the timings on the day of the alleged incident. She said, ‘*I can recall as I was visiting my husband that Rossi entered my husband’s room on the first floor around 2:45pm…This was quite a wide ranging discussion with Rossi and we broke up around 3:45pm when Rossi explained she needed to check the adjacent resident’*.

The panel had sight of your witness statement, in which you said:

‘*On that day I returned from my half hour lunch break at approximately 2:45 pm…After completing the 4pm medications at about 6:00PM I went to the nursing station where [Ms Wingrove] and [Ms Sadzikowska] were sitting. [Ms Corfield] approached us at the nursing station with a cake in her hands. She explained she had found it in the kitchen, left aside and forgotten about. She asked me what to do with the cake, as it ought to have been given to Resident C at 3pm teatime. It is normal practise for the kitchen staff to present birthday cake at 3:00PM with the tea trolley…She*

wouldn't have approached me at all or asked this question if the time was tea-trolley time at 3pm. She would have no need to. The cake would have gone onto the tea trolley without discussion. Its (sic) certainly NOT a matter for a Registered Nurse to monitor cake being put on a tea trolley. This is why I said the cake is already outside the 4 hour limit ([Ms Corfield] said it was cooked by 2 pm) and by now at 6pm it was therefore too late for Resident C or indeed any other resident in [the Home] to consume it…At this point I turned to [Ms Sadzikowska] who had heard everything that [Ms Corfield] and I had said. I asked her: what has happened and does she know why the cake was not given to Resident C, left in the kitchen and no singing of happy birthday?'.

In regard to the chronology of events, you said:

'*This chronology demonstrates that I was attending to residents on the second floor during the period when the alleged 3:00 pm discussion with [Ms Corfield] is said to have taken place, and therefore I could not have been present at the nursing station for such a conversation at that time. It happened after 6pm as I describe as it is after I had completed the 4 pm drug round. If it was 3pm when [Ms Corfield] noticed the cake, it would have been on the trolley with no input from me*.'

Further in your witness statement you said:

'*[Ms Corfield] allegedly claiming she's upset is incorrect. Even if she was, the resident being upset is the concern of the NMC, not a carer's upset at forgetting someone's birthday… I was not the Registered Nurse on the floor and so these matters were not in my responsibility that day…I find I am questioning the seriousness of this allegation. It demonstrates what I outlined earlier which was that the junior staff and kitchen staff felt they*

had a clear run into [Mr Miller]'s office to make pointless and childish complaints, particularly about me.'

In your oral evidence you confirmed that you never had any issues with Ms Corfield. When asked by Mr Malik if it was protocol at the Home to celebrate all residents' birthdays with a birthday cake you told the panel that, "*it's not only protocol, it's a tradition*. *We follow that tradition all the time, it doesn't matter if the residents know or don't know if it's his birthday*".

You were asked in cross examination about what Ms Corfield alleged that you said regarding the resident not requiring a birthday cake, in response you said, "*No, I didn't say that, that thing so [Ms Corfield] actually put her interpretation thoughts in my mouth, I never said that*." Further you said, "*No she was her impression that I said these things and I never talked to [Ms Corfield]."*

Taking all the evidence into consideration, the panel considered the direct, live evidence of Ms Corfield's to be compelling, and consistent and it was supported by the hearsay evidence of Ms Rowlands. The panel found Ms Corfield's evidence to be clear and cogent.

The panel determined that the timing of the birthday cake is not the central issue that is alleged in Charge 4 and whilst it acknowledged the hearsay evidence of Ms Manser, it attributed little weight to this evidence which it did not find was useful given the terms of the charge.

The panel noted there are inconsistencies in your written statement and your oral evidence where you said, "*It's certainly NOT a matter for a Registered Nurse to monitor cake being put on a tea trolley".* The panel have heard direct evidence from Ms Corfield, who was able to explain clearly and consistently when the cake was made, what time it was put on the tea trolley and brought back and her written statement of events was consistent with her oral evidence.

The panel found that your position in regard to the allegations is not credible. You state that as a registered nurse it was not a matter for you, however in your evidence you expend much time and express concern about the timings and age of the cake. The panel found that you sought to both distance yourself from events but at the same time to also explain the events and timings with considerable detail. The panel did not find your version of events to be coherent or plausible.

The panel preferred Ms Corfield's evidence which is found was clear, consistent and plausible. It found Ms Corfield's version of events to be credible and reliable. Therefore, on the balance of probabilities Charge 4 is found proved.

Charge 5

'That you, a registered nurse,

5) On 19 October 2023, told Resident B you would put them on the floor before ascertaining why they were trying to stand up.'

This charge is found proved

In reaching this decision, the panel took into account the documentary and oral evidence of Ms Greening, the documentary and oral evidence of Mr Miller, the documentary evidence of Ms Sadzikowska and your documentary and oral evidence. The panel were mindful there had been some confusion about the ID key in relation to this resident, but it was satisfied that all witnesses knew which resident, and which incident was being discussed in evidence. You clearly are aware of which resident is being discussed in your responses to this charge.

The panel had sight of Ms Greening's NMC witness statement dated 7 March 2024 and in regard to the alleged incident she said:

'*I entered the foyer and found Resident E sat on a chair in front of the fire. Another resident, Resident J, (who was on my list to assist to the toilet) was sat next to him. As I was heading towards Resident J, I could see Mrs Petkova leaning over Resident E and I heard her say '[Resident E] if you do not stop trying to stand up, I will put you in a sling and hoist you to the floor', or words to that effect. It is difficult to describe the tone of Mrs Petkova's voice as she has an accent. It did not appear to be a joke to me and her voice was raised but not shouting*.'

In her witness statement, Ms Greening further said:

'*My concerns here were that it was a threat to Resident E. I know that one of Resident E's biggest worries is being hoisted, I was told that by a senior carer during my induction… The interaction made me feel uncomfortable. I went home that evening and the incident was playing on my mind and it did not sit right with me. We have an internal communication system which I used to message my manager, [Mr Miller], to report the incident.'*

Further in her local statement, Ms Greening said:

'*When I walked in, I could hear Rossie, she was bending over Resident B saying or shouting really "stop trying to stand up, you can't stand up" and I couldn't hear what he was saying, he was sort of muttering. So, I approached Resident J and I bent down to ask her "would you like to go to the toilet?" and what I hear Rossi saying was "if you don't stop trying to stand up, I'm going to put you in a sling and hoist you to the floor". And I sort of thought did she really say that. I looked at [Ms Sadzikowska] and [Ms Sadzikowska] looked at me and she said it again.'*

In her oral evidence, Ms Greening confirmed that during her induction, a senior carer had told her that Resident E was scared of the hoist. When asked if you would have known

that Ms Greening said, "*I would think so*." When asked why in her statement she had said this interaction made her feel uncomfortable, she said, "*It felt threatening because I knew he didn't like the hoist. Him being put in a hoist and being put to the floor would, mean that he couldn't move, he'd be stuck*".

During cross examination, when it was suggested that the words Ms Greening heard were a mistake, she said, "*That's not what was said, if that was said, I wouldn't have heard that as something I should report. That's not what was said, I know what I heard. I heard enough to make me step back, to look at my colleague as if to say, did I just hear that?"*

When asked if Ms Sadzikowska heard this as well, Ms Greening said '*yeah*'.

The panel also had regard to the local statement of Ms Sadzikowska who confirmed that Resident B was trying to stand up from his chair. When asked if she could remember what you allegedly said to the resident, Ms Sadzikowska said, '*I can't remember it word for word but it was something that she would just put him on the floor, and he would just stay there*.' When asked how she interpreted this and if you were joking, she said:

> '*No, it wasn't in a joking way. [Ms Greening] was closer so she could hear it more clearly. Because [Ms Grening] looked to me with "how could she say something like that to a resident?" expression. It was in the foyer. I just took as it was not the right way to speak to a resident.'*

The panel also had regard to your witness statement in which you said in regard to Resident B and when he attempted to stand:

> '*a) approximately 80% of the time he intends to walk elsewhere, often stating he "wishes to go home"; b) approximately 20% of the time he may be attempting to go to the toilet. For this reason staff are expected to ask the resident why he is attempting to stand before intervening.*'

You also said:

> '*Whether [Ms Greening] had previously been told he "didn't like the sling" I don't know, but a resident's dislike of the sling wouldn't prevent staff from using it to get him off the floor. It's a very strange thing for [Ms Greening] to say this is a resident's fear and therefore I was using it as a threat: no matter how much he hated it, it definitely would be used as there is no other way to get him from the floor. I really think he didn't like falling more than he didn't like the sling.*'

Further in your witness statement, you suggested that Ms Morgan was also there at the time of the alleged incident and that she was behind the desk. You said that she would have heard the entire exchange from where she was situation '*whether or not it was loud'*.

You also said:

> '*I was behind the medication trolley at the nurses station preparing medication for Resident B to take to him in the conservatory. While preparing medication I heard an alarm activate behind me. The annunciator board confirmed that the alarm had been triggered by Resident B. Because I had a direct line of sight to Resident B from the medication trolley, I immediately observed that he had shuffled forward to the edge of his chair, indicating he was preparing to stand. I approached him in the conservatory and switched off the alarm. I did not shout at him or threaten him. I explained calmly but urgently that if he fell or collapsed himself onto the floor, staff would need to use the hoist and sling to return him safely to the chair. Resident B acknowledged this and moved himself back into the chair. I don't regard this as a threat: it was a statement of fact. If he had fallen, he would be hoisted. I gave him his medication, which he took'*

In your oral evidence, you confirmed that there were no issues between you and Ms Greening. You told the panel you saw that the resident had pressed his buzzer and that you were ready with his medication as he was next on your list to see. You told the panel that he was on the edge of the armchair and that when you approached, you switched off his buzzer and explained to him that he would have to move back as he was on the edge of the armchair. You said you explained that "*if he fall on the floor, we have to, not me, we have to, I can't manipulate the hoist by myself and nobody is allowed to manipulate the hoist and sling themselves*. *I explained to the resident we have to lift him from, not to, from the floor and put him back to the chair*".

Further, in your oral evidence, you told the panel "*the hoist doesn't go to the floor and it never crossed my mind that, because it isn't logical to hoist the resident to the floor*". In regard to Ms Greening, you said, "*When she heard my conversation and she twisting my words, I don't know when she heard my conversation with that resident, but she definitely twisting my words".* Further you said, "*It's absolutely not true if I was shouting, I never shout at that resident. I never raised my voice with that resident, because that resident is not deaf, and no need to shout*". When asked if you were aware that one of Resident B's biggest worries was the hoist, you said, "*no he's never been scared from the hoist. That's not true"*

Taking all the evidence into consideration, the panel preferred the evidence of Ms Greening to your evidence. Ms Greening was clear and consistent in her evidence. She gave a coherent and plausible account of the incident and her live evidence was consistent with her earlier statements. It was apparent to the panel that Ms Greening was troubled by the incident and what she had heard you say to Resident B. She was certain about that and how that had made her feel. The panel found that Ms Greening was open and honest and was sure about what she had seen and what she had heard you say to Resident B. The panel found her evidence to be compelling, credible and reliable. It is consistent with the hearsay evidence of Ms Sadzikowska to which the panel attached limited weight.

The panel found that in your evidence you accepted that there was an incident and you offered an alternative scenario. However, the panel found your account of events lacked plausibility and credibility. You sought to make much of the illogicality of the incident as described by Ms Greening as you said the hoist did not put people on the floor. That evidence misses the issue. Ms Greening reported what she heard you say and what she saw, whether that was in mechanical terms, possible or not is beside the point. The panel found that your evidence of this incident lacked cogency and was at times confused. You claim that Ms Morgan would have heard this incident, but the absence of such evidence does not assist the panel. The panel found that your evidence seeking to rebut the evidence from Ms Greening that Resident B was fearful of the sling lacked credibility given the context. The panel also determined that in your evidence, it is apparent that you did not ascertain why Resident B was trying to get up out of his chair and you accepted this in your account of events. The panel found that further undermined the credibility of your account of events where safety was the central issue. However, your acceptance goes to support the finding that you did not ascertain why Resident B was trying to stand up, as alleged. The panel noted that Ms Greening described the alleged action as a "*threat*".

The precise words used by you are not specified in the charge but the panel was satisfied from the clear, cogent and consistent evidence of Ms Greening that the incident took place as alleged. It therefore found on the balance of probabilities, that Charge 5 is found proved.

Charge 6

'That you, a registered nurse,

6) On 24 October 2023:

a. Shouted at Resident I to '*sit down.*'
b. Pushed Resident I into their armchair when they would not sit down.

This charge is found proved

In reaching this decision, the panel took into account the documentary and oral evidence of Ms Baker and your documentary and oral evidence. The panel considered this charge in its entirety.

The panel has sight of Ms Baker's NMC witness statement where she said:

> '*I was standing in the kitchenette, next to the door to the foyer. I heard Mrs Petkova shouting things such as 'sit down, stop moving around, sit in your chair, why are you up and moving' at Resident I. I then started to walk towards her, and saw Mrs Petkova push Resident I on their shoulders back into the chair to make her sit down. Mrs Petkova was forceful with Resident I, who is around five foot four approximately and very frail. When I got to Resident I, she looked stunned by what had happened. Resident I had dementia so knew something had happened but did not know what or why*.'

In her local statement, Ms Baker said:

> *'…I've turned around to come back out of the dining room to go to the kitchen. I could hear Rossi all the time shouting. She'd gone from saying Resident I "sit down" in a raised voice to shouting it at her. And it is shouting. I turned round just in time, and I was just coming up to the door (dining room) and could see all of that part of the foyer. She went over to Resident I, said "sit down" and it was a definite push, that is what I would have classed it as.'*

In her oral evidence, Ms Baker confirmed that she was by the kitchenette/hot bar when she heard you allegedly tell Resident I to "*sit down*". When asked where you were, she said that you were in the foyer and when asked if she witnessed this directly, Ms Baker

said, "*I heard it*". When asked if she witnessed you push Resident I, she said, "*yes, in the foyer*". When asked about Resident I's reaction, Ms Baker said, "she *looked slightly stunned*." In her oral evidence Ms Baker also said she, "*had never seen a dementia patient pushed before*".

In your witness statement you said:

> '*Resident I is severely hearing impaired. In order to communicate clearly and ensure her safety, I raised my voice. I repeated two or three times: "Don't sit down yet, [Resident I]." to prevent her from attempting to sit before she was safely positioned in front of the chair… At the same time, I placed my free left hand at the small of her back to guide her safely backwards onto the chair. I was to her side. I could not have been at her front because of the (SIC) table AND the distance she was from the chair. If I had pushed her as described (two hands to her shoulders) she would have gone straight to the floor. I then instructed her to take a small step backwards. She did so. This was repeated several times until she shuffled back and was correctly aligned with the chair and able to sit safely.'*

You also said:

> '*I had medications in my right hand at the time, as I was on my way to the dining room. All I had was one hand available and it was on the small of her back… [Ms Baker] appeared suddenly from the dining room area and she pushed Resident I down as well. This was unexpected, as the resident was already responding to my instructions and repositioning herself safely*.
>
> '*I suggest that this is because confused, sometimes determined residents do need physical interventions to make them safe. This is not at all unusual in a dementia setting. As I have said earlier, even frail residents*

can be determined and strong. "Pushing" someone into a chair does not automatically imply excessive force or unnecessary force. It may be entirely in response to an emergency situation, in response to a significantly stronger male patient or a determined and confused patient. It is a constant problem keeping residents safe and free from falls. Physical interventions are very common place. Interpretation of them can be very subjective… The events described are consistent with routine nursing practice when assisting a resident with dementia and a high risk of falls.'

In your oral evidence, you told the panel "*I didn't shout at Resident I, sit down. I was passing with a pot of medication in my hand and I saw that moment, because Resident I is certified deaf, and she doesn't tolerate her hearing aid, I have to raise my voice and guide her step back, nearer to the chair."*

You told the panel, "*I put my left hand, because I was carrying the pot in my right hand, I put my hand on her lower back and just to support her to step back and I didn't say sit down, I said don't sit down*". Further you said, "*I said, Don't sit down, don't sit down yet. Yes I raised my voice, but she's certified deaf, so I wasn't in front of her to many any eye contact or lip reading. I can't push her because I wasn't in front of that patient".*

In cross examination you also told the panel, "[*Ms Baker], what she hear is not what I said, [Ms Baker] blame me for her action, but she actually done it, because in that moment when that resident was in a safe distance to the chair, she appear and she put two hands on her arm, not me, I don't have three hand*". You then said, *"I can't say she pushed the resident down in a forced way because the resident was in a proper distance to sit on the chair. So it wasn't forceful when she done it, but she actually put her hands on the residents' shoulders, not me*."

Taking all the evidence into consideration, the panel preferred the evidence of Ms Baker to your account. It found her evidence to be cogent, consistent and clear. She explained

where she was at the time and the panel found Ms Baker's account to be plausible and credible.

It carefully considered your witness statement and oral evidence and found your explanation of events to be inconsistent and confusing. The panel considered that there was no good reason for Ms Baker to have fabricated her evidence. In making its decision, the panel found that there were verbal instructions by you to Resident I and that they were loud. It noted you admitted that you raised your voice in your evidence. The panel noted that you said in your evidence regarding what you did in pushing Resident I. You said that she was profoundly deaf and a falls risk and you said that what you did was operationally correct.

The panel carefully considered your detailed explanation of the incident, including your reference to placing a single hand on the resident's back. You said:

> '*As I passed by her, she stood up using the table, stepped slightly away from the chair, and then tried to sit down again. By then was too far from her chair to sit down and the table was in front of her. This created an immediate risk that she could fall, as she was no longer aligned with the chair…Resident I understood the instruction. At the same time I placed my free left hand at the small of her back to guide her safely backwards onto the chair. I was to her side. I could not have been at her front because of the (sic) table AND the distance she was from the chair. If I had pushed her as described (two hands to her shoulders) she would have gone straight to the floor. I then instructed her to take a small step backwards. She did so. This was repeated several times until she shuffled back and was correctly aligned with the chair and able to sit safely… I had medications in my right hand at the time, as I was on my way to the dining room. All I had was one hand available and it was on the small of her back. If I had pushed her, she would have been on the floor as she had shuffled away from her seat*.'

The panel found your explanation difficult to understand and found that it was not plausible.

The panel found your accusation that it was Ms Baker who pushed Resident I lacked credibility or reliability. You do not mention this serious matter in your earlier response to the allegations dated 21 December 2023, where you describe Ms Baker in derogatory and negative terms, *"She is not willing to learn and has made no attempt to educate herself. She is clearly a submissive member of the Ben Miller gang and received his indoctrinations against me."*

The panel preferred the clear and cogent evidence of Ms Baker. Her account is credible and consistent and she appears to bear no ill will towards you and has no reason to fabricate her evidence. The panel found your accusation and attempt to shift blame to Ms Baker significantly undermined the credibility and reliability of your evidence and it did not accept your version of events which it did not believe.

Therefore, on the balance of probabilities, Charge 6a and Charge 6b are found proved.

Charge 7

'That you, a registered nurse,

7) On 24 October 2023, told Resident F if they did not eat their dinner, their daughter would not be able to visit them

This charge is found proved

In reaching this decision, the panel took into account the documentary and oral evidence of Ms Baker, the documentary and oral evidence of Ms Corfield, the documentary evidence of Ms Lennett and your documentary and oral evidence.

The panel had regard to Ms Corfield's witness statement dated 28 February 2024, in which she said;

> *'That afternoon, Resident F did not want to eat his supper. Mrs Petkova told Resident F that if he did not eat his supper then she would call his daughter and she would not come and visit. Resident F looked very scared and very sheepish. By sheepish I mean withdrawn and scared… I was concerned that she would threaten Resident F with his daughter not coming to visit. This was the one thing Resident F did live for, he was always talking about his daughter and always asked about her and when was she coming. I do not know if she followed through on this threat. In regards to impact this had on Resident F, Resident F was sat down and very quiet'.*

In her local statement, Ms Corfield said:

> '*Resident F refused to eat his dinner. Rossi told him if he didn't eat his dinner, she was going with his daughter, and she was not going to be happy and she (his daughter) wasn't going to see him in the morning*.'

The panel had sight of Ms Baker's witness statement dated 22 May 2024 in which she said:

> '*Mrs Petkova went to Resident F and said something along the lines of '[Resident F] if you don't start eating your meal I will phone your daughter and tell her she cannot come until you have started eating'. I cannot recall how long Resident F had been sitting with his food, before Mrs Petkova said this. Mrs Petkova said this in a loud and abrupt way*.'

In her local statement, Ms Baker said:

'*Rossi also had a go at Resident F yesterday as well…Instead of going up to Resident F trying to jolly him along she said Resident F you've got to eat, if you don't eat, then I'm going to tell your daughter not to come tomorrow, I'm going to phone her and tell her not to come". And you could see his face fall, it made him worse'*.

When asked how she interpreted what you allegedly said to Resident F, Ms Baker replied, '*It sounded as if it was a threat'*.

The panel also had sight of Ms Lennett local statement in which she said, '*She said "if you don't eat your food up then [daughter] is going to be upset and she won't be in, she won't come and visit you." It was abrupt, you know what she's like*'. When asked if your voice was raised and louder than your usual voice, Ms Lennett said '*yes*'.

The panel also had sight of your witness statement and in reference to Ms Corfield, Ms Baker and Ms Lennett you said;

'*While all three accounts refer to Resident F's daughter, the wording and meaning attributed to the statement differ between witnesses. Of the witnesses chosen by the prosecutors of this case, the one they didn't interview and provide a witness statement for is the one who gives evidence of a more benign version of my words. That is [Ms Lennett]. Again, this demonstrates the unfairness of being unable to obtain witnesses who could assist in my defence. [Ms Lennett] is a hearsay witness and has therefore been deemed admissible. She refers to what I said that "Angela wouldn't be happy".'*

In your account of events documented in your witness statement, you said:

'*Resident F was confused and distressed. Because of his hearing impairment I bent down so that we were at eye level, allowing him to see my face and read my lips. I asked him: "What's going on [Resident F]? Why didn't you want to eat?"… Resident F replied that he wanted to "wait for his daughter". He was clearly confused about the time of day as he had forgotten that he had already seen her. This is not unusual… I said "[Resident F], it is evening now. Your daughter was here this morning and she will come tomorrow afternoon. But you know she will want you to eat"… I then said: "I can phone her and tell her to come in the morning if you want, but you know she will want you to eat something." Resident F nodded in response.'*

Further you said:

'*The allegation suggests that I told Resident F that his daughter would not visit him if he did not eat his dinner. Posed as a threat. I did not make such a statement. I would never treat an adult with threats or bribes: particularly ones that I had no ability to enact. I have no power or authority to withhold a visit. If I had done this, it would have been completely counter-productive to my encouragement to get him to eat more because it would please his daughter if he did*.'

In your oral evidence you told the panel, "[*Ms Lennett] was around, she was with the resident in the tv room when the conversation took place. I never said then the daughter wouldn't visit or I'll phone the daughter and I stopped the daughter coming. I never said these things*".

In cross examination when asked about you threatening the resident, you said, "*this is some interpretation of my words, I never threatened the resident*." When asked if you were abrupt in speaking to the resident, you said, "*I wasn't abrupt, I was very slow speaking. The resident is certified deaf. I didn't say anything threatening to the resident, I said the*

daughter was visiting in the morning already and she will come to visit that resident in the afternoon, but the resident know she is".

You told the panel, "*that resident not supposed to be in the chaotic dining room, because that resident was end-of life- resident and it wasn't me who authorised to bring the resident into the dining room. I didn't actually raise my voice, I was in front of the resident. I speak slowly to be understood from the resident."* When asked if three colleagues are not telling the truth and that you are, you said, "*I didn't say that, I did say they haven't been present in my conversation*".

The panel found your evidence was largely concerned with when the daughter of Resident F had actually visited or would visit, and whether you had the power to prevent family visits. That misses the point. The mischief in the charge is what it alleges you said to make Resident F eat his dinner and the impact of that on them. You deny shouting or being abrupt, but that is not relevant as it is not part of the charge.

Your account differs markedly from the clear evidence of the two live witnesses, Ms Corfield and Ms Baker. The panel preferred the evidence of those two witnesses and did not accept your version of events which lacked coherency.

Ms Baker and Ms Corfield are both clear and largely consistent in their live evidence, which is also consistent with the earlier witness statements. They both report you said similar words to Resident F about the meal and his daughter. Ms Corfield compellingly described Resident F looking scared and sheepish as a result of what you said. The panel would not expect recollections to be identical and it noted that specific words are not alleged. It was satisfied that there was a sufficient similarity and cogency in the evidence to find that on balance, you did say what is alleged.

Taking all of the evidence into account, the panel determined that it preferred the live evidence of Ms Corfield and Ms Baker. This is further supported by the hearsay evidence of Ms Lennett, to which the panel attached some limited weight in making its decision. The

panel considered their evidence to be credible, reliable and largely consistent. It considered there to be no evidence or reason why they would collude and fabricate their evidence.

Therefore, on the balance of probabilities, Charge 7 is found proved.

Charge 10

'That you, a registered nurse,

10) On 24 October 2023, you failed to provide care in accordance with Resident I's care plan and/or risk assessment in that you provided textured food when they required a level 4 pureed diet.'

This charge is found NOT proved

In reaching this decision, the panel took into account the exhibited Care Plan dated 13 January 2024, Care File/ Risk Assessment for Resident I dated 26 October 2023 and an email from the SALT dated 22 August 2023.The only evidence in date at the time of the allegation was the email from SALT dated 22 August 2023, which states, '*Ongoing level 4 pureed diet, revert to level 3 liquidised diet when is having a bad day 2. Ongoing level 2 mildly thick fluids'.* The panel noted that it provides no further directions or instructions as to achieve this consistency. Further details are provided in the other documentation, but this postdates the alleged incident.

The panel also took into account the documentary and oral evidence of Ms Baker and your documentary and oral evidence.

The panel had sight of Resident I's risk assessment which states that Resident I, '…*likes to have snacks between meals, such as mince and moist textured puddings (cakes with cream, biscuits dissolved in a cream)…Texture modified diet: Resident I has been*

prescribed level 4 (pureed foods) but a speech and language therapist… Cakes and biscuits need to be mixed with the cream to achieve this texture.'

The panel had sight of Ms Baker's witness statement dated 22 May 2024 in which she said:

> '*Mrs Petkova then asked me why I was giving Resident I a yoghurt and I said she could not have the brownie in case she choked. There had already been a choking incident a few weeks prior to this (not involving Mrs Petkova). Mrs Petkova marched off to the kitchen and came back with some brownie with cream. I told Mrs Petkova that if she gave that to Resident I that I was walking away, would not feed her and wanted nothing to do with it. I told Mrs Petkova I was not getting into trouble and then went back into the dining room…I gave her pureed main meal but there was not enough cream in with the brownie for Resident I to make it smooth enough for her to eat'.*

The panel also had sight of Ms Baker's local statement dated 25 October 2023 where she said:

> '*So, I come down and got a yogurt, dished it up into a dish for her so I could help her with it. And Rossi says "why are you giving her yoghurt? Why is she just having yoghurt?" And I said, "because she's a soft diet, she's got something soft." She (Rossi) went marching off into the dining room, got a piece of brownie with the minutest little bit of cream. We always put loads of cream on them. She came back with it. And I just said to her, "Rossi, if you're giving her that, then I don't want to know. It's on your head if she chokes or something." And I walked away…*'

In your witness statement you said:

‘I clarified to [Ms Baker] that Resident I was on a Level 4 puréed diet. As a registered nurse responsible for the resident’s care, I was aware of how foods should be modified to ensure safety. Using cream or milk would mean that the cake could be mashed into a Level 4 preparation… [Ms Baker] returned with a portion of brownie and a small amount of cream and she had not attempted to modify it. She was not happy with my intervention and handed it to me telling me she wasn’t going to do it. I took the bowl into the dining room and modified the food to a puréed consistency, adding fortified milk rather than cream to provide a lighter liquid. [Ms Baker] was nowhere near me.’

Taking all of the evidence into consideration, the panel noted that Resident I’s care plan and/or risk assessment is dated two days after the incident allegedly occurred. There is therefore a complete lack of evidence before the panel of the relevant care plan/risk assessment applicable at the time of the alleged incident. There was insufficient evidence to suggest that there was any sufficiently similar care plan in place on that date. The panel cannot speculate. The panel found that NMC had failed to discharge the burden of proof.

Therefore, on the balance of probabilities, Charge 10 is found not proved.

Charge 11

‘That you, a registered nurse,

11. Failed to work co-operatively with colleagues, in that:

a)…

b)…

c) On 30 September 2023, you shouted at Colleague A in the dining room in response to them giving Resident D marmalade on toast for breakfast

This charge is found proved

In reaching this decision, the panel took into account the documentary and oral evidence of Ms du Toit and your documentary and oral evidence.

In her NMC witness statement dated 21 March 2024, Ms du Toit said:

> '*Mrs Petkova was doing their medication round, and approached me in the dining room and asked me to make toast for Resident D… My recollection is that Mrs Petkova did not specify what to put on Resident D's toast. Based on my understanding of Resident D's preferences, I prepared marmalade on toast and gave this to Resident D who was sitting at the dining table. Resident D immediately started to eat their breakfast… A few minutes later (I cannot recall exactly how long), whilst I was standing behind the hot bar (within the dining room), Mrs Petkova shouted from where she was standing in the dining room, words to the effect of "I told you to give her egg on toast. Why would you give her marmalade?".*

She also said:

> '*Mrs Petkova had an angry tone of voice, and they spoke louder than they needed to. Mrs Petkova was a very loud person, but I felt as though they were trying to intimidate me… I replied to Mrs Petkova with words to the effect of "you didn't tell me to give her eggs. I'm sorry". I felt it was easier to just apologise to Mrs Petkova, even though I did not feel as though I had done anything wrong, as it would not be worth arguing about it with Mrs Petkova. I did not raise my concerns to Mrs Petkova directly*.'

This version of events is confirmed in Ms du Toit's local statement where she said to your response:

‘…*Rossi starts yelling across the room, and she's like, “I told you to give her egg on toast. Why would you give her marmalade?" and this and that and I said: “you didn‘t tell me to give her egg, I'm sorry,”.*

During her oral evidence, Ms du Toit also confirmed her account of the incident. She said, “*I can recall the incidents themselves but I cannot pinpoint every detail*.” Further, she stated that your tone of voice came across as “*angry and frustrated*” and that residents would have heard you shout at her. When asked how your shouting at her made her feel, Ms du Toit told the panel, “*it made me feel unsettled as I was very new in the healthcare industry and in that job as well… I think it was very unsettling and very unprofessional*”.

Ms du Toit when asked if it was definitely a shout confirmed to the panel “*I would say it was shout*”.

Further, Ms du Toit said in regard to speaking up about the incident:

‘" I don't want to be put in that situation again where I have to speak up, but I am 17. She's an adult. 80, what am I supposed to do? Because if I say something, it's going to be like “oh, no, the teenager, she‘s in the wrong" you know? And I understand that if it comes across like that, but I'm just like speaking to you about it rather than going at her and saying something that I shouldn't be saying.’

The panel had sight of your witness statement, where you said:

‘*The allegation that I shouted at Colleague A is not accurate. Our interaction that morning was calm and professional, and I reassured her immediately that she had not done anything wrong. The conversation that followed concerned how we might better support residents’ food choices through the use of the preferences catalogue… My actions on 30 September 2023 were motivated by a desire to ensure that Resident D’s*

preferences were respected and that her nutritional intake was supported.'

In your oral evidence, in regard to Ms du Toit, you said; "*[Ms du Toit] was two months with no work experience at all. Doesn't know anything about dementia, she doesn't know anything about resident preferences."*

When asked by Mr Malik at cross examination if you looked down on other people, you said:

> *"I am not looking down to the people, why should I because we're working all together and we're there to support these people and to do the teamwork to make their daily life good in a daily basis. I never undermined anyone, I never think, doesn't cross my mind that the people working on the kitchen there, less important than other people."*

Taking all of the evidence into consideration, the panel found Ms du Toit's evidence to fair, measured and balanced. Ms du Toit was open, clear and consistent in her evidence in relation to this charge and the panel found her evidence to be credible and reliable. It found that in your response to the allegations you do not fully address that you "*shouted*" at Ms du Toit and instead focus on nutrition and marmalade on toast. You also focus on the age of Ms du Toit and her junior role. The panel found that did not diminish the credibility or reliability of Ms du Toit and found that your implicit criticism of the witness undermined the reliability of your evidence. The panel preferred the evidence of Ms du Toit to your evidence which lacked focus on the charge and appeared to use the nature of Ms du Toit's role to diminish her and undermine her clear evidence.

The panel determined that it is more likely than not, that you did shout at Ms du Toit in response to her giving Resident D marmalade on toast for breakfast.

Therefore, on the balance of probabilities Charge 11c is found proved.

Charge 12

‘That you, a registered nurse,

12) On 30 September 2023 in respect of Resident K:

a) …

b) Raised your voice at Resident K and said “sit down” or words to that effect.

This charge is found proved.

In reaching this decision, the panel took into account the documentary and oral evidence of Ms du Toit and your documentary and oral evidence.

The panel has sight of Ms du Toit’s NMC witness statement dated 21 March 2024 in which she said:

> ‘*Mrs Petkova forcibly tried to get a resident, Resident K, to sit down by raising her voice and forcibly pressing down on Resident K’s body into the chair. This was not needed in my opinion, as another lady that was helping me in the dining room, I cannot recall who this was but it was someone in domestics, had been assisting the resident into a chair under control…It was clear to me that Mrs Petkova was being impatient and becoming frustrated where it was not needed.’*

In her local interview with the investigation she said:

> *‘…but I think if I compare her to all the other carers, she’s very pushy, if I can put it that way. I think, I want to say it was Resident K and one of the domestic girls was trying to get Resident K to sit down, and Rossi would come up behind her and basically like pushed her being all like “sit down, sit down, sit down” and again, I said that might be a cultural thing.’*

'…and then Rossi was getting frustrated because Resident K wasn't sitting down, but she was across the room, and then she came on the other side of Resident K and she was like Resident K sit down.'

In her oral evidence, when asked what she meant by "*it might be a cultural thing*" Ms du Toit said, "…*Because of me coming from a different country, I think I tried to associate those two things together by the way Rossi speaks and holds herself, because I can be a very loud out there person and that can come across to other people*."

When asked by Ms Butler if she was giving you the benefit of the doubt Ms du Toit said, "*Yes, that's what I was saying in that sentence*."

In cross examination, Ms du Toit said:

"I think Rossi was approaching the resident from the left… the domestic was on the right of the resident… She used the word "sit down" is what I recall."

The panel had regard of your witness statement, in which you pass comment on Ms du Toit you said, '*[Ms du Toit] was very new at the time and would have no idea at all about the caring or nursing aspects of care*.'

In your oral evidence, during cross examination you said, "*I didn't raise my voice to Resident K, that Resident K haven't done anything to approach her or raise my voice.*"

Further you said, "*I did not speak to that resident. I never say sit down…No I didn't raise my voice to that resident or any resident"*

The panel noted that Ms du Toit was open and honest in her oral evidence and that she stepped back from her position in her written statement and accepted that it was not a "*push*" and instead was a "*guide*" of Resident K into the chair in regard to the allegations in Charge 12a which fell away at the half time stage.

The panel determined that this made Ms du Toit's evidence in regard to Charge 12b more compelling, credible and cogent. The panel considered that Ms du Toit was measured, fair and balanced in giving her evidence and that in regard to the allegations in this charge, she was not contradictory or vague. She was consistent in her documentary evidence and oral evidence that you raised your voice at Resident K and said, "*sit down*". The panel preferred that clear and cogent evidence to your denial. The panel were mindful that it has found proved other charges of you shouting and raising your voice at colleagues and residents.

Therefore, on the balance of probabilities Charge 12b is found proved.

Cross admissibility of evidence

The panel considered the submissions on cross admissibility and the legal advice. It decided that in this case there was not a proper evidential basis for applying those principles and it found that these issues did not arise in its finding of facts.

Application for adjournment

Ms Butler made an application for the hearing to adjourn after the panel announced its decision on facts. She submitted that there was not sufficient time left to conclude and that there was not sufficient time left for the panel to consider the misconduct and impairment element of this case and write it up. She submitted that it is within the panel's discretion to decide to adjourn and that three days would be sufficient to conclude the case but two days was not sufficient. She submitted she required time to prepare for the next stage and you also needed more time to prepare a reflective statement.

Mr Malik submitted that he opposed any application to adjourn the hearing. He submitted that there are still two full days to get this matter concluded. He submitted that it is not in anyone's interest for this case to be adjourned, especially yours. He submitted that in fairness to the NMC, this matter has been listed for 18 days and an adjournment would not be fair to the NMC to request further delays on a case that was already listed for 18 days.

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

Panel's decision on the application for adjournment

In reaching its decision, the panel considered fairness to you, to the NMC and the public interest. The panel considered that it would need to be a minimum of three days in order to get this matter concluded and that re-listing of cases in the NMC currently fall within a region of six to nine months. In that regard, the panel was of the view that it may not be in your interest to adjourn the hearing. Ms Butler indicated she required further time to prepare her submissions on misconduct and impairment and suggested she may be in a position to proceed tomorrow afternoon. The panel therefore decided to invite Mr Malik and Ms Butler to give further submissions tomorrow at midday. In the interest of fairness to you, the panel indicated to Ms Butler she could renew her application for adjournment at that time if she did not feel that you were ready to proceed.

On Tuesday 24 March 2026, Ms Butler advised the panel that you were not in a position to proceed and intended to give further evidence at the misconduct stage. Mr Malik opposed the adjournment. However, Ms Butler said she could not effectively represent you. On that basis, the panel decided to allow the requested adjournment.

Interim order consideration

Prior to adjourning the panel heard that an interim suspension order was currently in place, expiring 21 May 2026. The panel was satisfied that the public continued to be protected in the meantime.

Decision and reasons on application for panel recusal

The panel resumed the hearing on 1 September 2026. You informed the panel that you were now represented by Ms Karen Carr, a Professor Emeritus in people science, and that she has read the papers and is willing to represent you.

Ms Carr made an application for the panel to recuse itself. This application was supported by a 49 page written argument you had submitted to the panel prior to the resumption of proceedings and Ms Carr summarised the 23 grounds advanced into short oral submissions.

Ms Carr submitted that the basis for the application is in the first instance on the grounds of inherent bias in the NMC's fitness to practise process, and secondly in the particular instances of fraud, malice, and unreliable evidence in your case.

Ms Carr submitted that the entirety of the NMC fitness to practise process has been flawed, with an unsatisfactory investigation and where you were only permitted to make a single brief written response before the substantive hearing commenced. She submitted that the panel as constituted has an inherent bias towards the prosecution side advanced by the NMC case presenter and that this has prevented you from having a fair hearing.

Ms Carr submitted that because of organisational failings and bias within the NMC the panel had been presented with flawed evidence and would therefore have never been able to approach the evidence with a fair and open mind.

Ms Carr submitted that in particular there were a number of external evidential factors which the panel failed to consider properly at its stage 1 process and that this is a

fundamental flaw that prevents you from being able to obtain a fair hearing. She made reference to the case of *Porter v Magill* [2001] UKHL 67, and that a fair minded and informed observer would conclude that there was a real possibility of bias.

Mr Malik submitted that the panel should refuse the application for recusal as the test for apparent bias is not met. He submitted, with reference to *Porter v Magill*, that the subjective feelings of a registrant who has received an adverse finding of fact does not amount to the objective test of a fair minded informed observer that the whole process is biased. He submitted that a disagreement with the panel's findings or reasoning is not in itself sufficient to establish the panel as being biased and that there is nothing within the submitted argument that amounts to a challenge on bias.

Ms Carr submitted in response that the issue is not merely a disagreement with the panel's adverse findings but that the entirety of the NMC process has been biased against you. She submitted the facts were not adequately evaluated and that you had not been afforded sufficient opportunity to present your own evidence against these allegations. She therefore submitted that in light of these systemic errors the panel could never reach an unbiased opinion. She invited the panel to agree to the recusal application and for the investigation to be remitted.

The panel heard and accepted the advice of the legal assessor. This included reference to the case of *Porter v Magill* and to the statutory framework of the fitness to practise process in The Nursing and Midwifery Order 2001 (as amended) (the Order). The legal assessor observed that this was an unusual application and that adverse findings of facts would more properly be challenged at a later stage, by way of appeal.

The panel considered the submissions made by both Ms Carr and Mr Malik, and the documentary evidence and written submissions provided by you in reaching its decision.

The panel has decided to refuse the application to recuse itself.

The panel first considered the first point in your submission that there is a systemic bias in the way fitness to practise proceedings are brought by the NMC that makes panels unable to be unbiased in the consideration of cases. It noted that this panel does not have the ability to alter a secondary act of the UK Parliament and is bound by the current constitution of the NMC under statute, which has gone through the appropriate parliamentary scrutiny to ensure that all persons involved in fitness to practise proceedings are given a fair hearing.

It found that this panel does not have the authority, nor would it wish to, rule on systemic organisational or structural bias as a ground for recusal.

The panel then considered your second point that there has been an unfair bias in its evaluation of the evidence and the opportunities for you to have challenged the evidence presented. It noted that at the sitting days in March 2026 you were represented by counsel, who cross-examined all the witnesses, lead your evidence under affirmation, challenged the hearsay applications, and made a no case to answer submissions.

In its earlier determination the panel set out that it did not accept the applications of Mr Malik to admit hearsay evidence in full, and accepted your representative's position that a number of those documents were unfair and prejudicial. It further noted that the panel had accepted a no case to answer submission on the serious charges of 8, 9, 11a, 11b, and 12a; and determined that charges 3, and 10 could not be found proved on the evidence before it.

The panel therefore considered that there is evidence that it did not accept all the applications and positions advanced by the NMC in a biased manner but applied the appropriate tests at each stage giving due weight to the submission made on your behalf, and in fact found in your favour in a number of instances.

The panel found that before this case reached the substantive hearing, as required under the Order, you were able to present evidence and submissions to the NMC Case

Examiners, as well as the opportunity to complete Case Management Forms which state your position, and that you attended and were represented by counsel at a case management conference in December 2025. You were in receipt of all evidence being used by the NMC, sent to you on the 19 November 2024 with additional evidence being sent to you on 3 December 2025. The panel therefore did not accept your submissions that you have only been able to present evidence and a defence at the substantive hearing in March 2026.

The panel noted that a number of the 23 grounds in your written application were factual points of contention that had not been presented at the hearing in March by your counsel, and therefore do not amount to a challenge of unfair bias. The panel considered that your argument that the removal of Exhibit MP/10 you made in the written submissions undermine the earlier position adopted by you through your representative in March 2026, and as such is not a ground of apparent bias.

The panel concluded that given its reasons set out at stage 1, including the evaluation it carried out on all applications and arguments made on your behalf and by the NMC that a fair minded individual who considered all the facts would be unlikely to conclude there was a real possibility of bias.

The panel believed that it had carefully weighed any inconsistencies in the evidence of witnesses and had attached appropriate weight to those inconsistencies, including in cases where they did not affect the substance of the account given by the witness.

The panel therefore refuses your application for a recusal and will continue hearing this case.

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 and impairment from the case presenter

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.'*

Mr Malik invited the panel to take the view that the facts found proved amount to misconduct. He identified the specific, relevant standards of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code) where your actions amounted to misconduct.

Mr Malik submitted that your actions fell significantly below the expected standards of a registered nurse and that you failed in your professional duty to act in an appropriate manner towards both colleagues, and to vulnerable patients. He referred the panel to the NMC Guidance on misconduct at FTP-2a and FtP-18. He submitted that all of the charges

found proved would likely be considered by a fellow practitioner as deplorable and amount to serious misconduct.

Mr Malik 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 Malik submitted that the first three limbs of the test set out in *Grant*, quoted below, are engaged in your case. He submitted that your actions caused real emotional and psychological harm to vulnerable patients, and that in some instances it amounts to manipulation and abuse of patients who were in your care. He submitted that your actions amounted to a conduct of behaviour whereby there was an unwarranted risk of harm to patients, and additionally a risk of emotional and psychological harm to your colleagues.

Mr Malik submitted that the public expect nurses to act in a caring manner towards all patients and to work professionally and collaboratively with colleagues and that your actions have not achieved this and so breached the fundamental tenets of the nursing profession and brought it into disrepute.

Mr Malik submitted that there has been no remediation, remorse, insight, or strengthening of practice from you. He submitted that this total lack of insight into your actions mean there is still a high risk of repetition and that you will place patients and colleagues at risk of harm in the future. He submitted that this indicates a deep-seated attitudinal concern, which is not easily remediable.

Mr Malik submitted that this attitude was evident during your oral evidence and the written submissions where you tried to deflect blame onto colleagues, and were highly dismissive of junior nursing colleagues or support staff. He submitted that this is a further example of

the highly confrontational approach you demonstrated in shouting at staff colleagues, and vulnerable residents.

Mr Malik submitted that in light of these concerns, the risk of harm, and the absence of any remediation, and the damage to the public confidence in the nursing profession a finding of impairment is necessary on both grounds of public protection and in the public interest.

Submissions from you

At the conclusion of the NMC's case on misconduct and impairment, in the afternoon of 1 September 2026, Ms Carr asked the panel to allow you time to consider want you wanted to say in respect of the issue of misconduct and impairment. She submitted that you would like to take the opportunity to write submissions for the panel and that these could be provided by 09:00 Wednesday, 2 September 2026. The legal assessor reminded you and Ms Carr of the guidance on the NMC website in the fitness to practise library on what points should be addressed at this stage of the hearing, and ensured that the hearing coordinator provided you with the link to DMA-1.

The panel adjourned the hearing until the next day to allow you and Ms Carr time to consider and write your submissions on misconduct and impairment.

At around 08:00 on Wednesday 2 September Ms Carr provided via email a four page written submission from you entitled *'Pre-Hearing Written Submission and Statement of Case'*.

Within these written submissions you submitted that the case against you concerned *'a concentrated burst of malicious allegations supposedly occurring over 9 days within less than a calendar month.'* You further submitted that you contested the panel determination as a '*mischaracterisation of defense evidence*' [sic], when it recorded the submissions of Mr Malik. You submitted that there was a failure of the investigation which resulted in this

fitness to practise case against you, and that the panel had adopted an unfair procedural position.

The panel sought to clarify if these written submissions were the matters you wanted it to consider, and not any response to the issues of misconduct and impairment that the panel were considering. Ms Carr submitted that this was all that you would be providing and that you did not wish to participate further in a hearing that you disagree with. The chair asked if this meant you would still be in attendance and not making any further submissions or if you intended to withdraw from the virtual hearing link. You and Ms Carr confirmed that you would be withdrawing from attendance and considering any future appeals to the High Court of England and Wales, and subsequently left the hearing.

Your written submission did not appear to address any issues of misconduct or impairment.

Note on wording

The panel noted that until this point it has used '*you*' when talking about the registrant as she was present during the hearing. For the remainder of the determination it will use *'Ms Petkova*' as Ms Petkova was no longer present during the hearing.

Decision and reasons on continuing in the absence of Ms Petkova

The panel invited submissions from Mr Malik on whether the hearing should continue in the absence of Ms Petkova.

Mr Malik submitted that, as can be established from her earlier attendance at this hearing, Ms Petkova is aware of the hearing and therefore the issue of service of notice of hearing does not arise. He submitted that Ms Petkova has been afforded multiple opportunities by the panel to engage in the remaining stages of the fitness to practise process and has made the decision to no longer participate. He submitted that there is a strong public

interest in the conclusion of this hearing as the concerns relate to 2023 and that these dates are a resuming period from March 2026. He submitted that any prejudice against Ms Petkova has been as a result of her decision to withdraw from attending and that she would be aware that the panel may continue in her absence.

The panel accepted the advice of the legal assessor.

The panel considered the submissions from Mr Malik, the points Ms Petkova had previously made to the panel, the need to ensure fairness to Ms Petkova and the importance of a hearing reaching a conclusion. It noted that the permission to proceed in the absence of a registrant should be done with the utmost care and caution.

The panel noted the following points:

- This hearing was originally listed for 18 days in March 2026, and this sitting was arranged for 4 days in September 2026;
- The previous hearing dates in March were adjourned two days early on an application by Ms Petkova to allow time for her and her representative to prepare submissions and evidence on misconduct and impairment;
- Ms Petkova was represented by legal counsel during the facts stage at the hearing in March 2026;
- At this hearing Ms Petkova was granted further time to prepare her case and present whatever evidence she wished in support of her position for stage 2;
- The panel and the legal assessor ensured that the NMC Guidance on misconduct and impairment was provided to Ms Petkova and her chosen representative, who was different from the March sittings, to make clear what the panel would be considering;
- Despite this Ms Petkova did not provide any submissions on misconduct and impairment, and her submissions were solely focussed on procedural matters that the panel have already reached a determination on;

- Ms Petkova was told that while she has the right to withdraw the panel may proceed in her absence, although she may request to attend any of the other dates this week until the hearing concludes;
- Ms Petkova stated on the record that she did not wish to participate in the hearing any further;
- The charges found proved relate to concerns from 2023;
- There is a strong public interest in the expeditious conclusion of this case; and
- Any potential judicial appeals are wholly dependent on this hearing reaching a conclusion.

In light of the above the panel considered that it would be fair to proceed with the hearing in the absence of Ms Petkova. The panel noted that there may be some disadvantage to Ms Petkova who will be unable to provide any further evidence or submissions, but the panel concluded that Ms Petkova has been offered numerous opportunities within the hearing dates to do so but she has chosen to withdraw from these proceedings. Therefore, the panel decided to proceed in the absence of Ms Petkova.

Resumption of decision on misconduct and impairment

Having considered the issue of proceeding in the absence of Ms Petkova the panel accepted the advice of the legal assessor on the issues of misconduct and impairment. This included reference to a number of relevant judgments including: *Cohen v GMC* [2008] EWHC 581 (Admin), and *CHRE v NMC and Grant*.

Decision and reasons on misconduct

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

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

'1 Treat people as individuals and uphold their dignity
To achieve this, you must:

1.1 treat people with kindness, respect and compassion

1.2 make sure you deliver the fundamentals of care effectively

1.5 respect and uphold people's human rights

2 Listen to people and respond to their preferences and concerns
To achieve this, you must:

2.6 recognise when people are anxious or in distress and respond compassionately and politely

8 Work co-operatively
To achieve this, you must:

8.1 respect the skills, expertise and contributions of your colleagues, referring matters to them when appropriate

8.2 maintain effective communication with colleagues

17 Raise concerns immediately if you believe a person is vulnerable or at risk and needs extra support and protection
To achieve this, you must*:*

17.1 take all reasonable steps to protect people who are vulnerable or at risk from harm, neglect or abuse

20 Uphold the reputation of your profession at all times
***To achieve this, you must**:*

20.1 keep to and uphold the standards and values set out in the Code

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

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

20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct and considered each charge found proved individually to determine if it amounted to misconduct.

When considering matters of misconduct alongside each proven charge the panel reminded itself that all the residents mentioned in those charges were elderly, frail and being cared for in a dementia care facility. The residents were highly vulnerable due to their dependence on staff for support with various aspects of everyday living. Further the colleagues referred to in the proven charges, were all junior in grade and experience to Ms Petkova.

Charge 1

The panel considered that the use of the word *'shouted'* in this charge suggests something more than merely speaking loudly towards a resident but is indicative of an attitude to hostility and aggression.

The panel also found the use of the words *'shut up'* to an elderly and vulnerable person would have been insulting and demeaning.

The panel considered that it is a fundamental standard of nursing practice to treat patients with dignity and respect, particularly in settings like the Home Ms Petkova was working in where the residents were highly vulnerable. The panel considered that this is not a minor concern but a serious action that would be likely to cause distress to the patient.

The panel found that the action of shouting at a patient with a frustrated voice would be considered deplorable by another registered nurse and is a clear departure from the expected standards of the nursing profession.

The panel therefore found that charge 1 does amounted to misconduct.

Charge 2

The panel considered that it is a fundamental of nursing practice to treat patients with respect, and that this includes not embarrassing residents in a care home when incidents happen that are out of their control.

The panel considered that Ms Petkova speaking harshly to Resident B in an open part of the home would have drawn more attention to their being unwell and likely to further embarrass them in their living space. The panel found this to be a needlessly cruel act that is a serious matter and likely to be considered deplorable and a significant departure from the expected standards of a registered nurse.

Therefore the panel found that charge 2 amounted to misconduct.

Charge 4

The panel considered that it is an important part of the role of a registered nurse in a care home to ensure that all residents are treated with respect and are able to participate in important life events and celebrations.

In her witness statement provided to the panel at an earlier stage of the hearing Mrs Petkova stated:

> *'The panel needs to appreciate that celebrating birthdays is not only for the resident who may have no concept at all, but it is also for the morale of other residents without dementia or those in the early stages who are aware. It is also good for staff morale and is essential for them to be constantly reminded that our residents once upon a time were younger, active individuals. This is why we celebrate all birthdays, even when we know that it may not directly benefit in any meaningful way the person whose birthday it is.'*

However, in the same statement Mrs Petkova expressed the view that the allegation in Charge 4 was trivial:

> *'I find I am questioning the seriousness of this allegation. It demonstrates what I outlined earlier which was that the junior staff and kitchen staff felt they had a clear run into Ben's office to make pointless and childish complaints, particularly about me.'*

The panel found that although Ms Petkova was able to express the importance of occasions such as birthdays she failed to recognise the seriousness of the allegation and the impact this had on everyone living or working in the Home.

The panel also noted that this event occurred seven months after the events in charges 1 and 2.

The panel considered that in making this comment about Resident C Ms Petkova did not treat them with dignity or respect because it trivialised a special occasion. It further demonstrated a dismissive attitude towards the colleague who had prepared the birthday cake. The panel considered that regardless of their cognitive memory a resident is still entitled to celebrate special occasions and it would be an expected part of Ms Petkova's nursing role to actively encourage all colleagues and residents to continue to participate in such celebrations if physically capable.

The panel found that Ms Petkova's actions were a serious departure from this expectation.

Therefore the panel found this charge amounted to misconduct.

Charge 5

The panel noted that this event occurred approximately three weeks after the events in charge 4.

The panel considered that it is an expectation of registered nurses to not threaten physical abuse to patients and to treat them with dignity in providing care.

The panel found that this charge is extremely serious relating to the psychological abuse caused by Ms Petkova threatening to physically abuse a resident. The panel considered that there was no room for ambiguity in the words used by Ms Petkova and that it constituted a clear intentional threat towards a vulnerable resident. The panel found that this was an example of her callous behaviour and attitude towards residents under her care.

The panel considered this amounted to a significant departure from the standards expected of a registered nurse and would be considered deplorable by other registrants.

The panel found this charge amounted to misconduct.

Charge 6

The panel reminded itself of its findings above under charge 1 misconduct in regard to the word '*shouted*' in the charge.

The panel additionally considered that this charge involved not only verbal abuse by that Ms Petkova actually physically pushed a vulnerable resident in order to achieve her desire of the resident to sit.

In her witness statement Mrs Petkova stated:

> *'sometimes determined residents do need physical interventions to make them safe. This is not at all unusual in a dementia setting…*
>
> *Physical interventions are very common place.'*

Ms Baker said in her evidence that:

> '*I think that is one of the only times I've ever seen them [a dementia patient] pushed like that*'

The panel did not accept Ms Petkova's explanation that the use of physical interventions in the way described was an accepted practise of how to treat dementia patients.

The panel considered that this constituted an unjustified use of force against a vulnerable patient, and amounted to abuse that was likely to cause harm to them.

The panel found that this would be considered a serious and significant departure from the expectations of a registered nurse and amounted to misconduct.

Charge 7

The panel noted its earlier findings at the fact stage that the resident was in an exceptionally vulnerable position and valued any time they got to spend with their family as being *'the one thing Resident F did live for*'.

The panel considered that it is a fundamental of nursing practise to not cause unnecessary distress towards vulnerable residents or to threaten to restrict their access to family members. The panel found that Ms Petkova's was, calculated, callous, and cruel in her actions which were highly likely to cause distress and psychological harm to Resident F and their family. The panel found that this is a profound and significant departure from the expected standards of nursing practise and would be considered wholly deplorable by fellow practitioners.

The panel found that this charge amounted to misconduct.

Charge 11c

The panel considered that it is an expectation of a registered nurse to treat colleagues with respect and work collaboratively. It further noted its earlier findings at charge 1 misconduct in regard to the word *'shouted*' in the charge.

The panel found that by acting in an aggressive manner shouting at a colleague in a public part of the Home would be considered highly unprofessional and not acting in a way that showed respect for colleagues. The panel also noted that in their oral evidence Ms Du Toit stated that they were caused distress and emotional harm as a result of Ms Petkova's actions.

The panel found that this is a significant departure from the expected standards of a registered nurse and amounted to misconduct.

Charge 12b

While the panel noted that this action may be considered part of a sustained course of conduct, given the difference in the words used in the charge being that you used a raised voice not shouted there is a distinction in this charge from previous ones.

The panel considered that the sole action of raising a voice towards a patient asking them to be seated is not in and of itself misconduct. The panel noted that here was evidence that the resident may have been hard of hearing and in a busy, noisy space of the home which might therefore require speaking in a louder voice so they can hear.

The panel considered that this may well not have been best practice, but it did not meet the threshold of being sufficiently serious.

Therefore the panel did not find this charge amounted to misconduct.

The panel found that Ms Petkova's actions at charges 1a, 1b, 2a, 2b, 4, 5, 6a, 6b, 7, and 11c which occurred between 11 January 2023 and 24 October 2023 did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

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

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

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

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

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

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

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

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

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

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

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

d) …'

The panel considered that limb a of the *Grant* test is engaged in this case. The panel found that over the course of multiple events that spanned 10 months and impacted several highly vulnerable patients Ms Petkova's actions caused emotional and psychological harm, and risked actual physical harm. Further the panel found that colleagues, especially junior colleagues, were caused emotional and psychological harm as a result of Ms Petkova's actions.

The panel considered that limbs b and c are engaged in this case. The panel found that Ms Petkova's actions brought the nursing profession into disrepute by breaching the fundamental tenets of treating all people with dignity and respect. It found that the misconduct in this case was wide ranging and impinged the fundamental trust that the public has in nurses to provide kind, and safe care to themselves and their families.

The panel considered whether the misconduct was remediable and if so if it is likely to be remediated.

The panel noted that the concerns all related to Ms Petkova's clinical role and in the care of elderly and vulnerable people. These actions would usually be considered to be remediable. However, the panel found that Ms Petkova's actions were underpinned by a serious deep-seated attitudinal issue which would make remediation by her highly unlikely.

The panel noted the NMC Guidance DMA-1 describes deep-seated attitudinal issues as including being resistant to change and posing a risk to those receiving care, with demonstrated behaviours contrary to the values and behaviours set out in the Code. Further FtP-16b states

'A nurse, midwife or nursing associate who shows insight will usually be able to:

- *step back from the situation and look at it objectively*
- *recognise what went wrong*
- *accept their role and responsibilities and how they are relevant to what happened (but decision-makers must recognise that denial of some or all of the facts alleged is not necessarily a bar to demonstrating insight)*
- *appreciate what could and should have been done differently*
- *understand how to act differently in the future to avoid similar problems happening.'*

The panel found that Ms Petkova displayed a deep-seated attitude of being dismissive towards all clinical and caring concerns, attempting to place the blame onto others, and being disparaging towards junior colleagues. Ms Petkova maintained throughout these proceedings that evidence had been manufactured by all the witnesses as a consequence of a deliberate conspiracy to implicate her in wrongdoing. The panel found there was no basis for this suggestion. As an example, Ms Petkova told the panel that:

> *"She [Ms du Toit] is being used like a ventriloquists dummy by Ann Baker, who has screwed up again…."*

As further examples of Ms Petkova's prevailing attitude the panel noted the following statements made by Ms Petkova during these proceedings:

> *"I don't want to waste my time commenting line by line on this statement".*

"again I find I am questioning the seriousness of this allegation…junior staff and kitchen staff, making pointless and childish complaints, particularly about me"

"If a registered nurse was concerned about my professional conduct, despite being there throughout, I would be concerned. However, Carers and kitchen staff are the only witnesses to the events in this case. If it was serious, a registered professional would be here to say so."

"toileting is not my responsibility but preventing falls is"

"I am disappointed that the NMC involves itself in this triviality over cake"

The panel considered that this represented a deep-seated attitude that is entrenched and therefore more difficult to remediate.

The panel considered that Ms Petkova has provided no evidence of remediation, insight, remorse, or strengthening of practice. Notwithstanding her position of denying the charges it could still be possible for Ms Petkova to demonstrate insight, for example through hypothetical assessments of the facts found proved and consideration of the implications, for patients and the nursing profession of such scenarios. However, in her written submissions Ms Petkova stated:

"We are not here to prepare a mitigation statement, and we are not apologizing to this panel…. I am not begging for mercy"

The panel found that this demonstrated an attitude that Ms Petkova has displayed throughout the process and a steadfast indication that she has not and will not remediate.

In light of all of this the panel considered that there is a high risk of repetition.

The panel found that patients would be likely to be put at risk of harm in the future and 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.

The panel determined that a finding of impairment on public interest grounds is required to maintain the public confidence in the nursing profession, declare and uphold the standards expected of registered nurses.

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

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

Sanction

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

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

Submissions on sanction

Mr Malik informed the panel that in the Notice of Hearing the NMC had advised Ms Petkova that it would seek the imposition of a striking-off order if it found Ms Petkova's fitness to practise currently impaired. He submitted that given the seriousness of the concerns identified by the panel and the risk of repetition and harm, no lesser sanction would be appropriate in this case.

The panel accepted the advice of the legal assessor.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Conduct which deliberately or recklessly put vulnerable patients receiving care at risk of suffering psychological and physical harm
- Multiple breaches of the Code
- The misconduct occurred in a clinical setting designed to be a safe and caring environment for vulnerable, elderly patients
- A pattern of misconduct over a period of ten months involving multiple elderly and frail patients suffering with dementia
- Total absence of insight, remorse, strengthening of practice or reflection together with a stated intention to not do so
- Refusal to attend stages 2 and 3 of the fitness to practise hearing without good reason

- A wide-ranging disregard for the physical and mental wellbeing of vulnerable patients which included the use of threatening and intimidatory language
- Intimidation and disrespect of junior colleagues
- An entrenched deep-seated attitude of unkind behaviour towards vulnerable patients and work colleagues

The panel also took into account the following mitigating features:

- Ms Petkova's long career as a nurse

The panel had in mind the positive testimonials from former colleagues, and resident's family members that were submitted at stage 1.

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.

The panel next considered a caution order and had regard to the NMC Guidance on *'Caution order'* (Reference: SAN-2b Last Updated: 28/01/2026) in which the following is stated:

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

The panel considered that Ms Petkova's actions were not at the lower end of the spectrum, and it found that there is a considerable risk to patient and public safety. The panel therefore determined that a sanction that does not restrict Ms Petkova's practise

would not protect the public. The panel also determined that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether to place a conditions of practice on Ms Petkova's registration. In considering whether conditions of practice are appropriate, the panel had regard to the factors set out in the NMC Guidance on 'Conditions of practice order' (Reference: SAN-2c Last Updated: 28/01/2026). Having regard to the nature and seriousness of Ms Petkova's conduct, the panel determined that a conditions of practice order would not be appropriate in the circumstances. The panel considered that there are no relevant, proportionate, workable or measurable conditions that could be formulated to protect patients and to uphold professional standards. The panel considered that in her statements, and subsequent withdrawal from the stage 2 proceedings, Ms Petkova made it absolutely clear that she does not accept any responsibility for the facts found proved or acknowledge the need to strengthen her practise. She has offered no meaningful reflection, remorse, or insight. The NMC Guidance states that conditions of practice may be appropriate if there is no evidence of a deep-seated personality or attitudinal problems; the panel have identified deep-seated attitudinal issues which make a conditions of practice order unsuitable. The panel found it would in any event be highly unlikely that Ms Petkova would comply with any conditions of practice order.

The panel went on to consider whether a suspension order is appropriate in this case. The panel had regard to the NMC Guidance on *'Suspension order'* (Reference: SAN-2d Last Updated: 28/01/2026) in which the following factors on when a suspension order may be appropriate are set out:

- *'the impairment is very serious but not fundamentally incompatible with continuing to be a registered professional*
- *an outcome less severe than strike-off would still satisfy the over-arching objective.'*

The panel also had regard to the key considerations as set out in the NMC Guidance to weigh up before imposing a suspension. It noted the following list of circumstances that may make a suspension order an appropriate sanction:

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

Whilst the panel acknowledged that the risks identified could be managed by Ms Petkova being temporarily removed from the Register, it considered that this approach would not be sufficient to uphold public confidence in the profession and maintain professional standards due to the seriousness and nature of the facts found proved.

In any event the panel had no confidence that a temporary removal from the Register would be embraced by Ms Petkova as an opportunity to reflect, develop her insight into these matters and to strengthen her practice. In fact, to the contrary, Ms Petkova indicated she would do no such thing and that her only intention was to formally appeal whatever sanction this panel might decide.

The panel considered that Ms Petkova had displayed a reprehensible and dismissive attitude towards the NMC as regulator during these proceedings. In her written submissions at stage 1 she referred to a number of the charges, which the panel later found proved, to be *'trivial'* matters and were *'not serious*'. Further the panel considered that despite a break in the hearing dates of some five months Ms Petkova did not produce the evidence for stage 2 that she had indicated would be provided and instead having received an adverse finding of facts ceased to engage with the NMC. The panel considered this to be a continuation of her deep-seated attitude of being dismissive towards concerns, and a failure to act in accordance with the Code and principles of safe nursing practice.

The panel found there was no evidence of insight, and that following the adjournment in this hearing there has been a backward trajectory of her reflection and insight. There is no information of any remediation done, no relevant training courses, or any steps towards strengthening of her practice, no remorse towards the patients and colleagues who were harmed, and no reflection on the impact of her actions on the wider nursing profession.

The panel found that there is no realistic possibility that she would address the concerns to any level where she could return to practise safely.

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

In considering a striking-off order, the panel had regard to the NMC Guidance on *'Sanctions for the highest risk cases'* (Reference SAN-4 Last Updated: 28/01/2026). Having regard to all of the above, the panel determined that this case falls within the definition of being a '*highest risk case'*.

The panel had regard to the following considerations as set out in the NMC Guidance entitled *'Striking-off order'* (Reference: SAN-2e Last Updated; 28/01/2026):

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

The panel found that Ms Petkova's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with her remaining on the register. The panel considered that the public expect their family members to be well cared for if they need to enter a residential care home and that Ms Petkova's actions of abuse and wide-ranging disregard for the wellbeing of the vulnerable patients in her care would fundamentally damage public confidence in the profession.

The panel was of the view that the findings in this particular case demonstrate that Ms Petkova's actions were serious and to allow her to continue practising would not protect the public and would significantly undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Ms Petkova's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves the panel has concluded that nothing short of this would be sufficient in this case.

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

This will be confirmed to Ms Petkova in writing.

Interim order

As the striking-off 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 Ms Petkova's own interests until the striking-off sanction takes effect.

Submissions on interim order

The panel took account of the submissions made by Mr Malik. He submitted that an interim suspension order of 18 months is necessary on the grounds of public protection and otherwise in the public interest to cover any potential appeal period.

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

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 seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's

determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months as being necessary on the grounds of public protection and otherwise in the public interest to cover any potential appeal period.

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

That concludes this determination.