Nursing and Midwifery Council
Fitness to Practise Committee
Substantive Hearing

Monday, 18 January – Wednesday, 20 January 2021
Monday, 25 January – Wednesday, 27 January 2021
Monday, 1 February – Wednesday, 3 February 2021
and
Monday, 8 February – Tuesday, 9 February 2021

Virtual Hearing

Name of registrant:	**Adewale Anifowose**
NMC PIN:	11C0179E
Part(s) of the register:	Registered Nurse – Sub Part 1 - RNMH: Mental Health Nurse, Level 1 (28 October 2011)
Area of registered address:	London
Type of case:	Misconduct/health
Panel members:	Robert Barnwell (Chair, lay member) Susan Field (Registrant member) David Boyd (Lay member)
Legal Assessor:	John Bromley-Davenport QC
Panel Secretary:	Melissa McLean
Nursing and Midwifery Council:	Represented by Sophie Stannard, Case Presenter
Mr Anifowose:	Present and not represented
Facts proved by admission:	9.3, 10 in its entirety, 15.1, 15.2, and 15.4 (partially)
No case to answer:	3, 13, and 20
Facts proved:	1, 4, 5, 7, 8, 9 in its entirety, 11, 14, 15.3, 15.4, 16, 17, 18, and 19
Facts not proved:	2, 6, and 12

Fitness to practise:	Impaired
Sanction:	**Striking-off order**
Interim order:	**Interim suspension order (18 months)**

Application for hearing to be held in private

At the outset of the hearing, Ms Stannard made a request that this case be held in private on the basis that your health is inextricably linked to the majority of this case. She submitted that there is an overlap in the evidence in a number of the witness's evidence in respect of the misconduct and the health concerns. Ms Stannard stated that it would be difficult to separate the evidence and given that you are unrepresented and will be asking questions of the witnesses, the entirety of this hearing should be in private.

The application was made pursuant to Rule 19 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

You indicated that you supported this application.

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

Rule 19 states:

> *19.—(1) Subject to paragraphs (2) and (3) below, hearings shall be conducted in public.*
>
> *(2) Subject to paragraph (2A), a hearing before the Fitness to Practise Committee which relates solely to an allegation concerning the registrant's physical or mental health must be conducted in private.*
>
> *(2A) All or part of the hearing referred to in paragraph (2) may be held in public where the Fitness to Practise Committee—*

(a) having given the parties, and any third party whom the Committee considers it appropriate to hear, an opportunity to make representations; and

(b) having obtained the advice of the legal assessor, is satisfied that the public interest or the interests of any third party outweigh the need to protect the privacy or confidentiality of the registrant.

(3) Hearings other than those referred to in paragraph (2) above may be held, wholly or partly, in private if the Committee is satisfied—

(a) having given the parties, and any third party from whom the Committee considers it appropriate to hear, an opportunity to make representations; and

(b) having obtained the advice of the legal assessor, that this is justified (and outweighs any prejudice) by the interests of any party or of any third party (including a complainant, witness or patient) or by the public interest.

(4) In this rule, "in private" means conducted in the presence of every party and any person representing a party, but otherwise excluding the public.

The panel took into account that your health is inextricably linked to the majority of this case. The panel bore in mind that you are unrepresented in this hearing. It also noted that the evidence of the witnesses link to the alleged misconduct and health in this case. The panel was of the view that it would be detrimental to hold parts of this hearing in private. The panel therefore determined to hold the entirety of the hearing in private.

Details of charge

That you a registered nurse

Whilst working on Willow Ward:

1. On 4 February 2017 said the following to Colleague 1 ‘I would like to know why at 43 your single, not married. Are you a lesbian? Or words to that effect. ***[PROVED]***

2. Your actions set out at charge 1 were intended to cause discomfort and/or embarrass and/or annoy Colleague 1. ***[NOT PROVED]***

3. On 6 February 2017 slept whilst on duty ***[NO CASE TO ANSWER]***

4. On 6 February 2017 stated to Colleague 2 that the trouble with white women is that they don’t work at their marriages. ***[PROVED]***

5. Your comment at charge 4 was racially abusive and/or sexist ***[PROVED]***

6. You intended when commenting as alleged at charge 4 to racially abuse and/or to cause discomfort and/or embarrass /and or annoy Colleague 2 ***[NOT PROVED]***

7. On 6 February 2017 in relation to Patient A who was on 2-1 high observations did not follow the patient to his bedroom. ***[PROVED]***

8. On 7 February 2017 slept whilst on duty. ***[PROVED]***

9. On 7 February 2017 in relation to Patient B
   9.1 Did not check Patient B’s drug card. ***[PROVED]***
   9.2 Did not provide pain relief which was prescribed when requested to do so. ***[PROVED]***
   9.3 Did not check with the duty doctor in order to obtain a verbal prescription for pain relief. ***[PROVED BY ADMISSION]***

10. In or around February 2017 said to Colleague 3

10.1 “I don’t mess around with African women they are hungry for money and they are not loyal to any man” or words to that effect. ***[PROVED BY ADMISSION]***

10.2 “African women were all slags and that they learnt it off their mother”. Or words to that effect. ***[PROVED BY ADMISSION]***

11. Your comments at charge 10.1 and /or charge 10.2 were racially abusive and/or sexist. ***[PROVED]***

12. You intended when commenting as alleged at charge 10.1 and/or charge 10.2 to racially abuse and/or to cause discomfort and/or embarrass/ and or annoy Colleague 3. ***[NOT PROVED]***

13. On 9 March 2017 incorrectly administered 2mg of Lorazepam to Resident C when the correct dose was 1mg. ***[NO CASE TO ANSWER]***

14. On 4 October 2017 attended work at the Redwood Ward whilst under the influence of alcohol. ***[PROVED]***

15. On 16 December 2017 whilst working for St Nicholas House Residential Home

15.1 Left your shift on one or more occasions when you were not permitted to do so. ***[PROVED BY ADMISSION]***

15.2 Did not records and/or administer Resident A’s insulin at bedtime. ***[PROVED BY ADMISSION]***

15.3 Did not provide Resident A with pain relief in a timely manner. ***[PROVED]***

15.4 Did not record and/or administer Resident B’s Matrifen 12 MCG Trans patch ***[PROVED]***

Whilst working for St Nicholas House:

16. Did not notify the Home that you were subject to an interim conditions of practice order placed on your practise by the NMC on 15 November 2017. ***[PROVED]***

17. On 16 and/ or 17 December 2017 worked in breach of the interim conditions of practice placed on your practice by the NMC on 15 November 2017. ***[PROVED]***

18. Your actions at charge 16 were dishonest in that you knew your NMC registration was subject to restrictions but failed to disclose the same. ***[PROVED]***

19. [PRIVATE]

20. [PRIVATE]

And in light of the above your fitness to practise is impaired by reason of your misconduct in relation to charges 1 – 19 and by reason of your health in relation to charges 20.

Schedule 1

- [PRIVATE]

Admissions to charges

At the outset of the hearing, you admitted charges 9.3, 15.1, 15.2 and 15.4. You denied the remainder of the charges.

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

Therefore, the panel found charges 9.3, 15.1, 15.2 and 15.4 (partially) proved by way of admission. The panel noted that it would move on to consider the remainder of the charges in its deliberation on facts, after having all the evidence adduced.

During the hearing, you made admissions to charges 10.1 and 10.2. Therefore the panel also finds charges 10.1 and 10.2 proved by way of your admission.

NMC opening

The allegations relate back to 2017 when you were working predominantly as an agency nurse. The allegations relate to clinical concerns, attitudinal issues and also health. The allegations also took place across a number of months at various locations on different wards and different shifts.

In February 2017, you were working as an agency nurse at Woodloes House, a 15 bed acute psychiatric unit for patients with complex health needs. You had applied for a temporary contract which was offered to bank and agency workers. The placement started on 2 January 2017.

On 4 February 2017, it is alleged that you were speaking to Colleague 1 and another colleague, when you asked Colleague 1 the following question; or words to that effect; ‘I would like to know why at 43 you are single, not married. Are you a lesbian? It is alleged that Colleague 1 was offended and reported it to her manager.

On 6 February 2017, you were working on the Willows Ward at Highbury Hospital, which is a psychiatric intensive care unit, whereby patients tend to be acutely unwell and pose significant risks to themselves or others. As such, a lot of observations are needed to monitor risk and maintain safety of both patients and staff. It is alleged that on 6 February 2017 you fell asleep in the communal areas whilst at work. On the same day, it is alleged that you were talking to staff whilst on your shift, in particular Colleague 2, and remarked that the “trouble with white women is that they do not work at their marriages”. She was taken aback by his comment, as this was the first time she had met you.

On the same shift, it is alleged that you were supposed to be observing a patient who was on high observations. This meant that two members of staff needed to be with that patient

for one hour at a time. The procedure states that the patient should be kept within sight at all times. However it is alleged that you seemed more interested in speaking to staff and allowed a patient to walk out of sight. When it was brought to your attention, it is alleged that you asked a healthcare assistant, Colleague 2, to bring the patient back.

On 7 February 2017, on the same ward, Colleague 2 saw you sleeping once again whilst you were supposed to be on high observations. It is alleged that you were sleeping outside a bedroom, snoring and another colleague had to nudge you to wake up.

On the same shift, Patient B had a dislocated shoulder, and requested pain relief. Colleague 2 alleges that you refused to give the pain relief, stating that it wasn't written on his medication card and the patient might have an allergic reaction to it. It is alleged that you did not check the drug chart. As such, Colleague 2 informed you how you could contact the duty doctor and obtain a verbal order. However, you never contacted the doctor, and the patient went without pain relief. Moreover, it was discovered that on the drug chart, it stated the patient had no known allergies.

In February 2017, two healthcare assistants were speaking with you at the nursing station at Woodloes House. This is the unit where you had a temporary contract. They complained to the ward manager that you said words to the effect of; "I don't mess around with African women they are hungry for money and they are not loyal to any man" and "African women were all slags and that they learnt it off their mother". The healthcare assistants were offended by how you spoke to them and found it to be stereotyping, rude and inappropriate. The NMC say that these comments were plainly racially motivated and when you said these comments, your intention was to racially abuse one of the healthcare assistants.

On 9 March 2017 you were working a nightshift with Colleague C on Hawkins Ward. She alleges that you administered an incorrect dose of lorazepam to a patient. It is alleged that you administered 2mg instead of 1mg.

On 4 October 2017, you were working on the Redwood Ward at Ellingham Hospital. The ward is an acute mental health ward where patients tend to have emotionally unstable personality disorders, psychosis, depression and schizophrenia. Ms 2 was the ward charge nurse, she would work the opposite shift pattern to you and so you would often handover to each other. It is alleged that you arrived on the ward at 8.03pm for your shift. Ms 2 could smell alcohol as she entered the office, where you were. It is alleged that you were acting strangely, and others also thought you were under the influence of alcohol. Ms 2 asked you to take a breathalyser test, which you agreed to do. On two occasions, Ms 2 alleges that you were not properly blowing into the tube, and were doing this on purpose. Ms 2 told you that you needed to blow again and that you needed to do it properly.

At which point you told Ms 2 that you had had a few drinks that morning but 11 hours had passed since then. You then blew again and the reading was 0.40 – the legal limit is 0.25 on the machine that was used, therefore it is alleged that you were significantly over the limit. Ms 2 described you as having bloodshot eyes and smelling strongly of alcohol. Ms 2 called the hospital director and she was directed to tell you to leave and that you could not stay on the shift. She questioned whether you had driven to work, to which you said that you had. As such you agreed that you would take a cab home. By the time Ms 2 had gotten off the phone to the director and gone to the car park, you had already driven off in your car whilst being under the influence of alcohol and the police were contacted.

As a result of the aforementioned allegations, you were made the subject to an interim conditions of practice order on 15 November 2017. [PRIVATE] Through your agency, you obtained a role at St Nicholas House Nursing and Residential Home. The Home provides care for the elderly. Upon working at the home, you failed to disclose to your employer that you were on an interim conditions of practice order. However, you were the only nurse on shift and the nurse in charge which it is alleged to be a breach of your conditions.

On 16 and 17 December 2017, several complaints were made in relation to your practice and behaviour. It is alleged that on 16 December 2017, you left your shift in order to get petrol when you were not permitted to. This meant that the home was left without a

registered nurse on the premises for around 30 minutes, putting them in breach of the conditions of their registration license. Later that day, it is alleged that you failed to record and or administer a resident's insulin at bedtime. It is alleged that the blood glucose results state that the insulin was "not given – unsure if administered as not signed for". This is in reference to The MAR Chart for Resident A. Mr 1, the manager of the home, says that it is his view that it must have been given but not recorded as the resident's glucose presentation was normal in the following days.

On that same shift, you were asked by Colleague A to provide pain relief for a resident suffering from multiple sclerosis, cancer, and is catheterised. As such he is on morphine twice a day at 08:00 and 20:00. When asked, you told Colleague A that you were on your break. Around 40 minutes later, the resident was still asking for pain relief. Colleague A went to you again, and it is alleged that you said you had two minutes left on your break. Half an hour later the resident asked again for pain relief. At which point, he was given the pain relief, at least 70 minutes after first asking.

On the same shift, a resident's analgesic Patch, was not changed during the shift. The manager and Colleague B checked the control drug book as well as the MAR chart, and it showed that no patch had been administered.

[PRIVATE]

You [PRIVATE] told the NMC that you no longer wanted to be contacted by them. You then changed your address numerous times on the register to avoid the NMC sending you letters, changing them to the NMC's own address, and universities. [PRIVATE]

Decision and reasons on application to admit hearsay evidence

The panel heard an application made by Ms Stannard under Rule 31 to allow the hearsay evidence and statements of absent witnesses. She invited the panel to admit the statements of Colleague A, Colleague B and Ms 6. Ms Stannard submitted that the panel

has the discretion to proceed in the absence of a witness and to admit hearsay evidence, but the decision to proceed must be taken with the utmost care and caution.
She stated that both Colleague A and Colleague B provided local level statements and that their statements have been exhibited by Mr 1. Ms Stannard informed the panel that Colleague A made a statement in relation to you not providing pain relief to a resident in a timely manner (charge 15.3), following her telling Mr 1 about the incident, as confirmed in his statement. She submitted that the evidence contained in Colleague A's statement is wholly relevant to the charge. In relation to Colleague B's statement, she stated that her local level statement is relevant to charge 15.4. Ms Stannard stated that Mr 1 comments on the incident in his statement and expands upon the matter by commenting on other supporting evidence.

Ms Stannard submitted that with regard to fairness, the NMC asked Mr 1 to provide contact details for Colleague A and Colleague B and he stated that they no longer worked at St Nicholas House and that he did not have their contact details. She stated that neither Colleague A nor Colleague B are on the NMC register and therefore the NMC are unable to contact them by any other means.

In relation to Ms 6's NMC statement and local level statement, Ms Stannard stated that Ms 6 made a statement for these proceedings and provided a local level statement. She told the panel that Ms 6's evidence relates to charge 15.1, she alleges that you left your shift at the nursing home on 16 December 2017 in order to put fuel in your car. Ms Stannard submitted that despite Ms 6 making a statement for the NMC, the NMC have subsequently had difficulty in contacting her. She informed the panel that the NMC issued a witness summons on 12 January 2020 which was sent to Ms 6's known address. On the 17 January 2020 the summons was returned, stating it was not delivered because "*addressee gone away*". Ms Stannard told the panel that the NMC have made numerous phone calls to Ms 6 with no success. She submitted that all reasonable efforts have been made to secure Ms 6 as a witness.

Ms Stannard reminded the panel that you had admitted the charge in relation to the evidence of Ms 6. She stated that relevant case law concluded that an inability to cross examine a witness did not automatically result in unfairness, but it noted that there must be strong procedural safeguards to alleviate the difficulties caused to the defence. Ms Stannard submitted that the three absent witnesses are health care professionals who have written complaints almost immediately after the incidents took place and provided them to their managers/seniors. She further submitted that they made their statements whilst the events were fresh in their memory. Ms Stannard submitted that the evidence is relevant and fair and ought to be admitted into evidence.

You submitted that not having the opportunity to question witnesses who have made statements is not fair. You further stated that it is not fair for you to be prosecuted when you cannot defend yourself against the witnesses. You further stated that you have accepted what you are guilty of and that it is not fair for you to be charged based on hearsay evidence. You submitted that you should have the opportunity to question all witnesses and defend yourself.

The legal assessor referred the panel to the case of *Nursing and Midwifery Council v Eunice Ogbonna* [2010] EWCA Civ 1216R and to and to *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin). The legal assessor drew the panel's attention to the four principles of *Thorneycroft*. These were:

1. *The admission of the statement of an absent witness should not be regarded as a routine matter and the Fitness to Practise (FTP) rules require the Panel to consider the issue of fairness before admitting the evidence.*
2. *The fact that the absence of the witness can be reflected in the weight to be attached to their evidence is a factor to weigh in the balance, but will not always be a sufficient answer to the objection to admissibility.*

3. *The existence or otherwise of a good and cogent reason for the non-attendance of the witness is an important factor. However the absence of a good reason does not automatically result in the exclusion of the evidence.*

4. *Where such evidence is the sole or decisive evidence in relation to the charges, the decision whether or not to admit requires the Panel to make a careful assessment, weighing up the competing factors. The assessment should involve a consideration of the issues in the case, the other evidence to be called and the potential consequences of admitting the evidence and the Panel must be satisfied having undertaken this assessment that, either the evidence is demonstrably reliable or that there is some means of testing its reliability.*

The legal assessor also referred the panel to the factors and issues that should be considered when deciding whether or not to admit hearsay evidence. Rule 31 provides that, so far as it is 'fair and relevant', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings.

The panel accepted the advice of the legal assessor.

The panel took account of your submissions and those made by Ms Stannard and it determined to allow the application to admit the statements of Colleague A, B and C. In reaching this decision it had regard to the factors set out in Rule 31.

Colleague B

The panel first considered the local level statement of Colleague B. The panel gave the application in regard to Colleague B serious consideration. The panel noted the reasons given as to why Colleague B had not provided a witness statement to the NMC and had not been called as a witness in this matter.

The panel noted that the evidence of Colleague B is in relation to charge 15.4. The panel took into account that the evidence of Colleague B is clearly relevant and is not the sole and decisive evidence in this matter. There is other documentary and other evidence to support what Colleague B alleges, that you did not record and/or administer Resident B's Matrifen 12 MCG Trans Patch and it was part of the bigger picture of evidence presented by the NMC.

The panel considered whether you would be disadvantaged by the change in the NMC's position of moving from reliance upon the live testimony of Colleague B to that of a written statement as hearsay testimony into evidence. In these circumstances, the panel came to the view that it would be fair to accept into evidence the hearsay evidence in Colleague B's local level statement, but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

Colleague A

The panel next considered the local level statement of Colleague A. The panel gave the application in regard to Colleague A serious consideration. The panel noted that Colleague A's written statement relates to charge 15.3. The panel noted the reasons given as to why Colleague A had not provided a witness statement to the NMC and had not been called as a witness in this matter**.** The panel noted that the evidence of Colleague A is the sole evidence in relation to charge 15.3. However, the panel considered the written statement of Colleague A to be relevant to these proceedings, as it concerned matters that were before the panel, specifically in relation to charge 15.3.

The panel considered whether you would be disadvantaged by the change in the NMC's position of moving from reliance upon the live testimony of Colleague A to that of a written statement as hearsay testimony into evidence. In these circumstances, the panel came to the view that it would be fair to accept into evidence the hearsay evidence in Colleague

A's local level statement, but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

Ms 6

Before deliberating on the application to allow Ms 6's written statements into evidence as hearsay, the panel heard further information from Ms Stannard. She informed the panel that after speaking with Mr 1, he had informed her that Ms 6 is still working at St Nicholas House and that she just moved into a new property. Ms Stannard submitted that it would be premature for the panel to make a decision on the application in relation to Ms 6 at this stage. She stated that the NMC will be making further enquiries with Ms 6 and hopefully she will be able to attend this hearing to give evidence.

The panel determined to not make any decision regarding the application to admit Ms 6's written statements as hearsay evidence at this stage.

Decision and reasons on application to admit further hearsay evidence

Ms Stannard made an application to allow the local level complaint statement of Colleague C dated 9 March 2017 into evidence. She submitted that the statement does not have Colleague C's name on it however it is relevant to charge 13. Colleague C alleges that on 9 March 2017 you incorrectly administered 2mg of Lorazepam to Resident C when the correct dose was 1mg. Ms Stannard further submitted that the evidence of Colleague C is the sole and decisive evidence in relation to charge 13, she also stated that there are no patient records or drug charts provided.

In relation to fairness, she stated that the NMC has written to the Colleague C on 13 June 2019, 15 May 2019 and 18 April 2019, however there has been no response. She further stated that the NMC have attempted to retrieve Colleague C's contact details but have been unsuccessful. Ms Stannard told the panel that Colleague C does not appear to be on the NMC register therefore the NMC have been unable to obtain her contact details.

You submitted that the local level complaint statement of Colleague C is unnamed and is unsigned and it would not be fair for you to be prosecuted without proper evidence. You said that charge 13 is in relation to medication administration, however there is no documentation in relation to drug charts or patient records. You submitted that you should have the opportunity to cross examine any witness however you do not have this. You referred the panel to the statement of Colleague C and submitted that she states she has been qualified since 2011 but she cannot be found on the NMC register. You stated that if she is a registered nurse the NMC should be able to contact her. You submitted that the statement of Colleague C does not hold any weight as there is no name, no date and no corroborative evidence to the charge.

The panel heard and accepted the advice of the legal assessor. He referred the panel to the case of *Ogbonna* and *Thorneycroft* and to the factors and issues that should be considered when deciding whether or not to admit hearsay evidence.

The panel took into account your submissions and those of Ms Stannard and refused the application to allow Colleague C's local level statement to be admitted into evidence. In reaching this decision it had regard to the factors set out in Rule 31.

The panel was of the view that the evidence of Colleague C does relate to charge 13, however it considered whether it would be fair to admit it. The panel noted that Colleague C's statement is the sole and decisive evidence against you, it also noted that her account is not corroborated by any other evidence. The panel also noted that the statement of Colleague C is unnamed and unsigned and therefore cannot be attributed to her. The panel was of the view that Colleague C's account is contradictory and together with the absence of any corroborative evidence such as, drug charts or medical records.

The panel noted that in Colleague C's statement she states that she has been qualified since 2011, however Ms Stannard stated that she does not appear to be on the NMC

register. The panel also noted that the statement does indicate the role that Colleague C was in at the time of the alleged incident.

When considering fairness, the panel was of the view that the evidence of Colleague C is unreliable and contradictory and therefore it would be unfair to admit it into evidence. In these circumstances, taking into account fairness to both parties, as well as the interests of justice, the panel determined to refuse the application to admit the local level statement of Colleague C into evidence.

Decision and reasons on application of no case to answer in respect of charge 13

You made an application for the panel to determine that there is no case to answer in respect of charge 13. You submitted that there is no evidence in relation to that charge. You stated that the evidence that was related to the charge, has not been admitted into evidence. You further stated that the evidence was not signed, nor is there any supportive documentation, as such, you invited the panel to find that you do not have a case to answer in relation to charge 13.

Ms Stannard made no positive submissions, however she reminded the panel that the sole evidence of charge 13 has not been admitted into evidence.

The panel accepted the advice of the legal assessor.

The panel took into account all the information before it and noted its previous decision on not admitting the evidence of Colleague C into evidence. The panel also noted that the evidence of Colleague C was the sole and decisive evidence for charge 13. The panel was therefore of the view that there was no evidence in relation to charge 13 and determined that you did not have a case to answer in relation to this charge.

Application for no case to answer

Your submissions

You made an application for the panel to determine that there is no case to answer in respect of the following charges; 2, 3, 5, 6, 7, 8, 9.1, 9.2, 11, 12, 14, 15.3, 16, 17, 18, 19 and 20. You addressed the panel on each individual charge.

Charge 2

You submitted that there is no evidence to suggest that you asked Colleague 1 if she was a lesbian. You said you asked her why she was 43 and not married based on the fact that she asked you the same question. You said that you did not ask her the question to harass her or belittle her. You further stated that you did not make the statement to try to make her feel uncomfortable.

Charge 3

You submitted that there is no evidence to support this charge and stated that when you cross-examined Colleague 1 she did not provide any supporting oral evidence.

Charge 5

You submitted that there is no case to answer in relation to this charge based on the fact that the statement you made in charge 4 was in a conversation with a number of staff members and it was not directed to anybody in particular. You said that it was a statement you made in a general conversation.

Charge 6

You submitted that there is no case to answer in relation to charge 6 on the basis that your comments in charge 4 were not directed at any one person, you said that you are not

racist or sexist. You further stated that there is no evidence to suggest that you directed your comments to any particular member of staff.

Charge 7

You submitted that there is no case to answer in relation to this charge on the basis that you carried out your duties effectively, you stated that there were delays however you were with a patient.

Charge 8

You submitted that there is no case answer in relation to charge 8 on the basis that there is no evidence or insufficient evidence to suggest that you slept on duty. You stated that you cross examined Mr 1 and Colleague 2, however there is not sufficient evidence to suggest that you slept on duty.

Charge 9.1

You submitted that there is no case to answer in relation to this charge. You further submitted that there is no evidence or insufficient evidence to suggest that you did not check the drug card.

Charge 9.2

You submitted there is no case to answer in relation to this charge. You submitted that you did not know Willow Ward's policies and procedures given that you only worked there for two days. You stated that paracetamol can be given as and when required at the discretion of the nurse and based on the presentation of the patient. You said it was a judgement that you needed to make as the nurse in charge, based on the environment and chaotic nature of the ward.

Charge 11 and 12

You submitted that there is no case to answer in relation to these charges. You stated that you made the comments in charges 10.1 and 10.2 in a conversation with other colleagues. You said that it was not directed to anyone, you also stated that there has been no witnesses that said you hurt their feelings or felt disrespected by you. You told the panel that you are not racist or sexist and submitted that there is no case to answer. In relation to charge 12 you stated that you did not mean to cause discomfort to anyone, and submitted that no African woman has given a statement or attended the hearing to give evidence to say that they felt offended by these comments. You submitted that there is no evidence to support these charges.

Charge 14

You submitted that there is no evidence or insufficient evidence to support this charge and as such, there is no case to answer. You stated that when you were with Ms 2 you requested a second opinion in relation to you being intoxicated however this was not granted. You submitted that you did not display any of the symptoms described by Ms 2 when she explained in her evidence how she would recognise an intoxicated person. You further stated that you did not display any symptoms of alcohol in your system on the night of the charge. You told the panel that there is no evidence in the NMC Code or the policy of Redwood Ward that you must maintain eye contact with colleagues when receiving a handover. You said you followed clear instructions from Ms 2 to do a breathalyser test. You said your recollection is that the breathalyser machine was not working as you had to blow three times which you did not object to.

Charge 15.3

You submitted that there is no case to answer on the basis that there is insufficient evidence to support this charge. You told the panel that you were working on a 49 bed unit and the second nurse did not turn up. You told the panel that you had to administer

medication to 49 patients and change patient's catheters. You said there was no way that you could have attended to each patient in a timely manner as you were under pressure.

Charge 16

You submitted that there is no case to answer in relation to this charge. In Mr 1's oral evidence he said that he was available during the shift but you stated that he was not. You said that you gave full disclosure to the agency which was confirmed by Mr 4, you stated that you did not breach your interim conditions of practice order. You told the panel that the agency sent your profile to Mr 1 and he did not check your profile. You submitted that on the evidence available, there is nothing to suggest that you were dishonest or did not disclose your interim conditions of practice order.

Charge 17

You submitted that there is no case to answer in relation to this charge. You submitted that you disclosed everything to the agency. You said you informed Mr 4 that a second nurse had not arrived on the shift. You explained to the panel that you would have been in a bad situation regardless of the outcome on the basis that if you had stayed you would have been in breach of your conditions and if you had left the home you would have left the patient's without a nurse. You said you followed direct orders from Mr 4 which was to remain on site. You told the panel that Mr 1 was not available and you went into panic mode however you still carried out your duties.

Charge 18

You submitted that there is no case to answer in relation to this charge. You said you were honest and transparent. You said that Mr 4 confirmed that you disclosed your interim conditions of practice order to the agency and that your file and profile was given to Mr 1. You submitted that you followed all protocols upon registering with the agency and stated that to the best of your knowledge you were honest and full disclosure was given.

Charge 19

You submitted that there is no case to answer in relation to this charge. [PRIVATE]

Charge 20

You submitted that there is no case to answer in relation to this charge. [PRIVATE].

Ms Stannard's submissions

Ms Stannard provided submissions in relation to the individual applications and addressed the panel on the individual charges.

Charge 2

Ms Stannard stated that the panel heard the evidence of Colleague 1 who explained how she felt by the comments made by you and how she was offended. She reminded the panel that Colleague 1 reported these comments to her senior, Ms 5. Ms Stannard also stated that Colleague 1 in her evidence stated that the comments made by you were out of the blue, not in context of the conversation at the time and that she felt embarrassed. Ms Stannard therefore submitted that there is sufficient evidence in relation to this charge.

Charge 3

Ms Stannard stated that the panel heard evidence from Colleague 2 which stated that she heard snoring and that you were the only person in the lounge. She therefore submitted that there is sufficient evidence in relation to this charge.

Charges 5 and 6

Ms Stannard submitted that Colleague 2 explained the comments you made to her and how she was taken aback by the comments. She submitted that your comments were singling out a race and therefore that is racially abusive. Ms Stannard also referred the panel to Colleague 2's evidence in which she stated that she was the only white woman on the shift and your comments made her feel isolated. She therefore submitted that there is sufficient evidence to support charges 5 and 6.

Charge 7

Ms Stannard submitted that there is sufficient evidence in relation to this charge. She stated that there is evidence of the policies and procedures of Willow Ward as to what should happened when a patient is on high observations. She also stated that the panel heard evidence from Colleague 2 who said that you did not follow the patient to his bedroom. Ms Stannard referred the panel to your submissions in relation to this charge and stated that even based on your submissions alone, there is a case for you to answer.

Charge 8

Ms Stannard submitted that the evidence in relation to this charge is solely from Colleague 2, she alleges that she saw you asleep and asked another colleague to nudge you to wake you up. In Colleague 2's evidence she took the panel through the floor plan of Willows Ward in detail and stated where you were positioned and how she saw you asleep. Ms Stannard submitted that there is no more evidence that could have provided and therefore there is sufficient evidence in relation to this charge.

Charge 9.1

Ms Stannard submitted that the evidence in relation to this charge is from Colleague 2. She alleges that she did not see you leave the office to check Patient B's drug card which was in a separate room. She also stated in her evidence that you shrugged your shoulders

when the patient asked you for pain relief. Ms Stannard submitted that there is sufficient evidence to support this charge.

Charge 9.2

Ms Stannard referred the panel to the evidence of Colleague 2 in which she gives an account of what happened and states that she was with you at the time when the patient requested the pain relief. She explained the actions you could have taken to allow Patient B to have the pain relief. Ms Stannard submitted that there is sufficient evidence in relation to this charge.

Charges 11 and 12

Ms Stannard referred the panel to the local level statements of Colleague 3 and Colleague D. She stated that Colleague 3 said in her statement that she is African and did not appreciate being stereotyped. Ms Stannard submitted that this is corroborated by Colleague D who explains how they both felt and how they responded. She stated that they both give similar accounts as to what happened. Ms Stannard submitted that in respect of charge 12, although it is a different charge, it demonstrates a pattern of behaviour and shows that these are the comments that you think are appropriate to say at work to colleagues. She submitted that there is sufficient evidence in relation to both charges 11 and 12.

Charge 14

Ms Stannard referred the panel to the evidence of Ms 2 and Ms 7 who noticed various signs that you were intoxicated. They both allege that you had bloodshot eyes, you were unstable, you were getting close to Ms 2 and that they smelt alcohol on your breath. Ms Stannard submitted that it is alleged by two separate people that you were not acting normally in handover. She also stated that this happened on a ward with patients who are substance abusers. Ms Stannard explained to the panel that Ms 2 denies that you wanted

a second opinion in relation to the breathalyser machine and alleges that you admitted to her that you had a few drinks that morning. Ms 2 also states that she called the manager at the hospital and the police. Ms Stannard submitted that there is sufficient evidence in relation to this charge.

Charge 15.3

Ms Stannard submitted that in your submissions in relation to this charge you admitted that you administered Resident A's pain relief but not in a timely manner. She stated that the evidence in relation to this charge comes from Mr 1 and is corroborated by the local level statement of Colleague A. Colleague A alleges that you did not want to provide Resident A with pain relief as you were on your break which resulted in the resident waiting 70 minutes for him to receive it. Ms Stannard submitted that there is sufficient evidence in relation to this charge.

Charge 16

Ms Stannard referred the panel to the evidence of Mr 1 who states that you did not tell him you were subject to an interim conditions of practice order. He also states that he did not receive any calls from you, and it was in fact him that called you to check that everything on the shift was ok and you confirmed this. Ms Stannard submitted that, that would have been your opportunity to tell Mr 1 of the problems you were facing and you chose not to. She referred the panel to the evidence of Ms 6 who alleges that you did not mention your conditions to her at the handover. Ms Stannard submitted that it is explicit in the interim conditions of practice order that you must inform your employer. She submitted that there is sufficient evidence to support this charge.

Charge 17

Ms Stannard submitted that you continued to work at St Nicholas House without telling them that you were subject to an interim conditions of practice order. She stated that

despite the fact that you say that there was not a second nurse on the shift, you continued to work the following day without mentioning the conditions or that you were in breach of them.

Charge 18

Ms Stannard submitted that you had ample opportunity to tell Mr 1 whilst on the phone to him that you were subject to an interim conditions of practice order and chose not to. She further submitted that you could have told Ms 6 who was the most senior person on the shift and chose not to. Ms Stannard submitted that there is sufficient evidence in relation to this charge.

Charge 19

Ms Stannard [PRIVATE] referred the panel to the email correspondence between you and the NMC which stated that you did not want the NMC to contact you. She stated that you also had a representative at the time and therefore you could have contacted the NMC through him. Ms Stannard submitted that even if it was the case that you did not have a permanent address, you continued to change your address on the NMC register. She further submitted that when considering all of the information, there is sufficient evidence to suggest that you failed to comply and to support this charge.

Charge 20

[PRIVATE]. Ms Stannard submitted that there is sufficient evidence in relation to this charge.

The panel accepted the advice of the legal assessor, who referred it to Rule 24(7) of the Rules and to the principles set out in the case of *Benham Ltd v Kythira Investments Ltd & Anor* [2003] EWCA Civ 1794. The legal assessor also advised the panel on the burden of proof which lies with the NMC.

Rule 24(7) states:

> 24 *(7) Except where all the facts have been admitted and found proved under paragraph (5), at the close of the Council's case, and –*
>
> *(i) either upon the application of the registrant …*
>
> *the Committee may hear submissions from the parties as to whether sufficient evidence has been presented to find the facts proved and shall make a determination as to whether the registrant has a case to answer.*

Decision and reasons on application of no case to answer

In reaching its decision, the panel made an initial assessment of all the NMC's evidence that had been presented to it at this stage. The panel was solely considering whether any or sufficient evidence had been presented, such that it could go on to find the facts in charges 2, 3, 5, 6, 7, 8, 9.1, 9.2, 11, 12, 14, 15.3, 16, 17, 18, 19 and 20 proved and whether you have a case to answer in respect of them.

Charge 2

The panel considered that there was sufficient evidence at this stage, primarily from Colleague 1, such that it could go on to find this charge proved. The panel noted that Colleague 1 in her evidence states that she was offended and that the question from you was out of the blue and not on a conversational basis. The panel also noted that Colleague 1 reported it to her manager, Ms 5, who also gave evidence. The panel was of the view that there is sufficient evidence to demonstrate that your intentions were to cause discomfort and/or embarrass and/or annoy Colleague 1 on the basis of the nature of how the question was put. The panel therefore determined there is a case to answer in respect of this charge.

Charge 3

The panel considered that there was not sufficient evidence at this stage. The panel took into account the evidence of Colleague 2 and noted that she heard snoring but did not physically see you in the lounge nor was she observing the door at all times. The panel was of the view that based on this, there was not sufficient evidence to support this charge. The panel therefore determined there is not a case to answer in respect of this charge.

Charges 5 and 6

The panel considered that there was sufficient evidence at this stage, such that it could go on to find this charge proved. The panel considered the evidence of Colleague 2 in which she stated that she was the only white woman on the shift and that she felt upset by your comments. The panel was of the view that there is sufficient evidence to suggest that the comments made could be perceived as racially abusive and and/or to cause discomfort and/or embarrass and/or annoy Colleague. The panel therefore determined there is a case to answer in respect of these charges.

Charge 7

The panel considered that there was sufficient evidence at this stage, primarily from Colleague 2, such that it could go on to find this charge proved. The panel noted that Colleague 2 in both her local level statement and her NMC witness statement states that you continued to speak with other colleagues and did not follow Patient A to his bedroom. The panel also took into account that Colleague 2 provided the panel with an explanation as to why some patients require high observations. The panel was of the view that there is sufficient evidence in relation to this charge, and as such, determined there is a case to answer in respect of this charge.

Charge 8

The panel considered that there was sufficient evidence at this stage, primarily from Colleague 2, such that it could go on to find this charge proved. The panel noted that Colleague 2 outlined to the panel how you were positioned and how she saw you sleeping. The panel was of the view that there is sufficient evidence in relation to this charge, and as such, determined there is a case to answer in respect of this charge.

Charges 9.1 and 9.2

The panel considered that there was sufficient evidence at this stage, primarily from Colleague 2, such that it could go on to find this charge proved. The panel noted from Colleague 2's evidence that she states that you did not leave the office to go into the clinic room which is where Patient B's drug card was, she also states that you were dismissive to the patient. In relation to 9.2, the panel noted that there is evidence to suggest that you did not check the drug card and therefore were not in the positon to provide the pain relief to Patient B. The panel was of the view that there is sufficient evidence in relation to both charges, and as such, determined there is a case to answer in respect of these charges.

Charges 11 and 12

The panel considered that there was sufficient evidence at this stage, primarily, the local level statements from Colleague 3 and Colleague D. The panel considered the statement of Colleague 3 and noted that she states that she felt that you were stereotyping all African women and that she felt uncomfortable. The panel was of the view that there is sufficient evidence to suggest that the comments made could be perceived as racially abusive and and/or to cause discomfort and/or embarrass and/or annoy Colleague 3. The panel therefore determined there is a case to answer in respect of these charges.

Charge 14

The panel considered that there was sufficient evidence at this stage, primarily from Ms 2 and Ms 7, such that it could go on to find this charge proved. The panel took into account that there was evidence that two witnesses could smell alcohol on your breath and that your eyes were bloodshot red. The panel bore in mind Ms 2's explanation on identifying someone that is under the influence of alcohol and also noted that she is an experienced nurse with extensive experience [PRIVATE]. It took into account your submissions that the breathalyser machine was not working, however the panel was of the view that there is sufficient and corroborative evidence in support of this charge. The panel therefore determined there is a case to answer in respect of this charge.

Charge 15.3

The panel considered that there was sufficient evidence at this stage, primarily from Mr 1 and Colleague A, such that it could go on to find this charge proved. The panel acknowledged from your submissions that you were not denying this charge but that you were explaining the mitigating circumstances. However, the panel was of the view that there is sufficient and corroborative evidence in support of this charge. The panel therefore determined there is a case to answer in respect of this charge.

Charge 16 and 17

The panel considered that there was sufficient evidence at this stage, primarily from Mr 1 and Ms 6, such that it could go on to find this charge proved. The panel noted that there was evidence that you did not inform either Mr 1 or Ms 6 that you were subject to an interim conditions of practice order. The panel noted your submissions that you informed the agency, however this charge relates to informing the Home. The panel was of the view that there is sufficient and corroborative evidence in support of these charges. The panel therefore determined there is a case to answer in respect of both charges.

Charge 18

The panel considered that there was sufficient evidence at this stage, primarily from Mr 1, such that it could go on to find this charge proved. The panel noted from your submissions that you informed the agency, however there is evidence to suggest that you chose not to disclose that you were subject to an interim conditions of practice order to the Home. The panel therefore determined there is a case to answer in respect of this charge.

Charge 19

The panel considered that there was sufficient evidence at this stage, such that it could go on to find this charge proved. The panel took into account your submissions and the personal difficulties you faced at the time. However the panel noted the evidence of you telling the NMC that you do not wish to be contacted by them and of you changing your address on the NMC register multiple times. It was of the view that this could be perceived as you not complying. The panel therefore determined there is a case to answer in respect of this charge.

Charge 20

The panel considered that there was not sufficient evidence at this stage to support this charge. [PRIVATE]

As such, the panel was of the view that you do not have a case to answer in relation to charges 3, 13 and 20 but that you do have a case to answer in relation to 2, 5, 6, 7, 8, 9.1, 9.2, 11, 12, 14, 15.3, 16, 17, 18, and 19.

Facts

The panel noted that you admitted charges 9.3, 10.1, 10.2, 15.1, 15.2 and 15.4 (partially) at the outset of this hearing. It noted you denied the remainder of the charges.

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence adduced in this case, together with the submissions made by Ms Stannard on behalf of the NMC and the oral evidence from you, in support of your case. It also heard and accepted the advice of the legal assessor.

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. Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor.

The panel heard live evidence of the witnesses called on behalf of the NMC and concluded:

Colleague 2 – Healthcare Assistant at Willows Ward

The panel was of the view that Colleague 2 was a credible witness. The panel noted that Colleague 2 was articulate and provided the panel with a clear description of what she witnessed. It found Colleague 2 to be helpful and that she did her best to assist the panel. Colleague 2 was able to say when she did not know the answer to a question. The panel noted her local level statement did not include the incidents in relation to charge 4 and charge 7, however the panel found that in her oral evidence, she was able to give a clear and indicative explanation of what occurred.

Mr 1 – Registered Home Manager at St Nicholas House

The panel found Mr 1 to be a credible witness. The panel found Mr 1 helpful in that he provided the panel with a clear insight into the staffing levels of St Nicholas House. The panel noted that Mr 1 was able to explain to the panel the impacts and the seriousness of the only registered nurse on duty leaving the Home. The panel took into account the passage of time since the allegations which had an impact on his ability to remember

specific details. It also noted that as the Home Manager, Mr 1 had more of an administrative role in respect of the allegations. However the panel was of the view that Mr 1 did his best to clarify situations and assisted the panel as best as he could.

Ms 2 – Ward Charge Nurse at Redwood Ward

The panel found Ms 2 to be a credible and reliable witness. The panel was of the view that Ms 2 was professional in her approach and was able to speak from experience through managing patients with substance misuse and alcohol abuse. The panel found this to be extremely helpful. It noted that Ms 2 explained in detail the procedures she followed using the breathalyser and provided the panel with a clear description of what she witnessed. The panel also noted that Ms 2 was confident in her answers and was consistent between what she had written in her NMC witness statement and her oral evidence.

Mr 3 – Ward Manager at Willows Ward

The panel found Mr 3 to be a credible and reliable witness. The panel noted that Mr 3 was able to provide the panel with a clear and descriptive background in relation to the Ward, specifically in respect of, how the unit works, what should have happened on the night of the allegations and medicines administration. The panel also noted that Mr 3's oral evidence was consistent with his NMC witness statement. It found Mr 3 to be a professional and helpful witness.

Mr 4 – Manager of SB Medics Recruitment Agency

The panel found Mr 4 to be a less reliable witness. The panel noted the passage of time since the allegations, it also noted that Mr 4 gave evidence from the agency's point of view. The panel was of the view that Mr 4 appeared to be knowledgeable in the areas he could assist the panel. However the panel noted that Mr 4's evidence at times was conflicting and unclear. The panel was of the view that Mr 4 assisted the panel to the best of his ability.

Colleague 1 – Healthcare Assistant at Woodloes House

The panel found Colleague 1 to be a credible witness. The panel was of the view that Colleague 1's evidence was clear and consistent. It noted that she provided a detailed explanation of what had occurred and was confident in her answers, specifically throughout cross-examination. The panel found Colleague 1 to be consistent throughout her local level statement, NMC witness statement and her oral evidence. The panel was of the view that Colleague 1 was a helpful and reliable witness.

Ms 5 – Ward Manager at Woodloes House

The panel found Ms 5 to be a credible witness. The panel was of the view that Ms 5 came across as a professional individual and handled the investigation of the allegations at a local level professionally. The panel noted that Ms 5 provided a clear explanation about the sequence of events and was able to provide clarity throughout her evidence. The panel was of the view that Ms 5 was a clear, confident and reliable witness.

Ms 6 – Senior Practitioner at St Nicholas House

The panel found Ms 6 to be a credible witness. It was of the view that she was knowledgeable in her answers and was able to explain when she did not remember something. The panel found Ms 6 to be helpful in that she came across as experienced and explained to the panel what occurs in the Home and what did not happen at the time of the allegations. The panel found Ms 6 to be a reliable and helpful witness.

Ms 7 – Clinical Support Worker at Redwood Ward

The panel found Ms 7 to be a credible witness. The panel noted that Ms 7 was clear in her evidence and was able to explain to the panel how she believed you appeared to be under the influence of alcohol. Ms 7 was able to provide to the panel a clear recollection of

events from her first encounter with you. The panel also noted that Ms 7 was confident in her answers, specifically throughout cross-examination. The panel found Ms 7 to be a reliable and helpful witness.

Your oral evidence

The panel also heard evidence from you under affirmation. The panel found your evidence to be less credible and less reliable. The panel noted that your evidence changed multiple times and was contradictory. It also noted that you frequently failed to provide clear and direct answers to questions from either Ms Stannard or the panel. The panel was of the view that you appeared to base your answers on hypothetical situations as opposed to what actually happened. The panel had difficulty considering your evidence as reliable on the basis that at times throughout your evidence and cross-examination you were evasive and changed your account a number of times. The panel also noted at times during cross-examination from Ms Stannard you interrupted her on several occasions which meant that she had difficulty in asking you questions and left unclear answers for the panel.

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

Charge 1

Whilst working on Willow Ward

1. *"On 4 February 2017 said the following to Colleague 1 'I would like to know why at 43 your single, not married. Are you a lesbian? Or words to that effect"*

This charge is found proved.

In reaching this decision, the panel took into account the evidence of you, Colleague 1 and the documentary evidence exhibited by Ms 5.

The panel took into account Colleague 1's statement in which she states:

"On the 4 February 2017 I was stood by the nursing station with the Ade and my colleague [Colleague E] was sat down. [Colleague E] and I were having a conversation about holidays and every day issues. Ade said to me can I ask you a question? And then continued with I would like to know why at 43 your single and not Married? Are you a lesbian? [Colleague E] replied and said that's personal and none of your business. I responded and said no but it would be none of your business if I was."

The panel noted this was corroborated in Colleague 1's oral evidence in which she explained how you interrupted her and Colleague E's and conversation to ask her this question. The panel also noted Ms 5's witness statement in which she states:

"I was informed by my deputy manager on 6 February 2017 that Health Care Assistant [Colleague 1] has informed him that the Registrant had made inappropriate remarks to her in regards to her sexuality while on a night shift."

Ms 5's statement was corroborated by her oral evidence and by the documentary evidence she provided. The panel noted the several emails sent from colleagues who worked on the night of the incident, in which they all reported it to their manager, Ms 5.

The panel also noted the contents of an email from Colleague F dated 6 February 2017 which was sent to Ms 5, the email states:

"Whilst on duty on the night of the 4th of February I was asked to check the emergency bag with ade [sic] *and he asked if another member of staff that was on that night was a lesbian to which I replied that is neither my business or yours".*

The panel noted your oral evidence in that you stated that there is no evidence to suggest that you asked Colleague 1 if she was a lesbian and that you only asked her if she was married because she asked you the same question. The panel noted that it found both

Colleague 1 and Ms 5 to be credible and reliable witnesses, the panel also noted that it found you to be less credible. The panel noted that it did not hear live evidence from Colleague's E and F and that their evidence is hearsay, however the panel have given appropriate weight to this evidence and was satisfied that on the balance of probabilities that this incident occurred. The panel was of the view that there is sufficient evidence to establish that you said to Colleague 1 '*I would like to know why at 43 your single, not married. Are you a lesbian?'* Therefore, on the balance of probabilities, the panel find this charge proved.

Charge 2

2. *Your actions set out at charge 1 were intended to cause discomfort and/or embarrass and/or annoy Colleague 1.*

This charge is found NOT proved.

In reaching this decision, the panel took into account your oral evidence and the evidence of Colleague 1.

The panel noted your evidence in that you stated your intentions were not to cause Colleague 1 discomfort or to embarrass her. The panel noted Colleague 1's oral evidence in which she stated that she felt she had to defend herself and that this was something that was personal and none of your business. It took into account her written statement in which she states:

"I responded and said no but it would be none of your business if I was"

The panel carefully considered the wording of the charge. The panel was of the view that your comments in charge 1 did cause discomfort, embarrassment and did annoy Colleague 1, however the panel noted that it did not have any evidence before it to suggest that this was your intention by asking her these inappropriate questions. The

panel heard evidence as to the outcome and the impact of your actions, however it was not satisfied that it had sufficient evidence to prove your intentions. The panel therefore find this charge not proved. Nevertheless, the panel was of the view that these comments are wholly inappropriate to say in a workplace.

Charge 4

Whilst working on Willow Ward

4. *On 6 February 2017 stated to Colleague 2 that the trouble with white women is that they don't work at their marriages.*

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Colleague 2 and your evidence.

The panel took into account the oral evidence and the written statements of Colleague 2. In Colleague 2's witness statement she states:

> *"The registrant was talking about marriages and religion saying the trouble with white women is that they don't work at their marriages a few people heard this. I am a white woman he also mentioned that we all need to find god. I was taken aback by his comment as this was the first time I had met him".*

The panel considered Colleague 2's evidence in which she explained her personal circumstances and stated that she was the only white women on the ward and that it did not strike her as being an appropriate conversation. Taking all of the above into account, and noting that the panel found Colleague 2 to be credible and consistent, the panel was of the view that on the balance of probabilities, it is more likely than not that you said to

Colleague 2 that the trouble with white women is that they don't work at their marriages as alleged. The panel therefore find this charge proved.

Charge 5

5. *Your comment at charge 4 was racially abusive and/or sexist*

This charge is found proved.

In reaching this decision, the panel took into account the evidence of you and Colleague 2.

Having found charge 4 proved, the panel was of the view that this charge is also found proved. The panel considered the wording of charge 4 which states "*the trouble with white women is that they don't work at their marriages*", the panel was of the view that this is stereotyping a race and is racially abusive and sexist. The panel took into account the evidence of Colleague 2 in which she stated in both her witness statement and her oral evidence that she was the only white woman on the ward.

The panel took into account your evidence in which you stated that your comments at charge 4 were not racially abusive or sexist because you did not direct them to anyone, however the panel was of the view that irrespective of whether the comments were targeted at anyone in particular, the comments are clearly racist and sexist. Taking all of the above into account, the panel find this charge proved.

Charge 6

6. *You intended when commenting as alleged at charge 4 to racially abuse and/or to cause discomfort and/or embarrass /and or annoy Colleague 2*

This charge is found NOT proved.

In reaching this decision, the panel took into account your oral evidence and the evidence of Colleague 2.

The panel noted your evidence in that you stated your intentions were not to cause Colleague 2 discomfort or to embarrass her. The panel noted Colleague 2's oral evidence in which she stated that she felt taken aback and that it was inappropriate to discuss this at work. It took into account her written statement in which states:

"I was taken aback by his comment as this was the first time I met him".

The panel carefully considered the wording of the charge. The panel was of the view that your comments in charge 4 did cause discomfort, embarrassment and did annoy Colleague 2, however the panel noted that it did not have any evidence before it to suggest that this was your intention by asking her these inappropriate questions. The panel was satisfied that your comments at charge 4 were racially abusive and sexist, however it was not satisfied that it had sufficient evidence to prove you intended to cause discomfort, embarrassment or to annoy Colleague 2 by these comments. The panel therefore find this charge not proved. However, the panel was of the view that these comments are wholly inappropriate.

Charge 7

Whilst working on Willow Ward

7. *On 6 February 2017 in relation to Patient A who was on 2-1 high observations did not follow the patient to his bedroom.*

This charge is found proved.

In reaching this decision, the panel took into account the evidence from you and Colleague 2.

The panel noted Colleague 2's oral evidence, her witness statement and the documents she exhibited. The panel took into account that Colleague 2 was clear in explaining why a patient would be on high observations and referred the panel to the Ward's policy and procedures when a patient is on high observations. The panel bore in mind her witness statement in which she stated:

> *"Earlier before his break the registrant was in the communal area and was on high observations with another member of staff; he seemed to be very interested in talking to other staff…"*

This was corroborated by Colleague 2's oral evidence in which she assisted the panel with the floor plan of the Ward and explained that where you were positioned, you would not have seen Patient A walk to his bedroom as he was out of your field of vision which was against the Ward's policy. The panel took into account your evidence in which you stated that the patient was calm and not aggressive, you also stated that you completed your duties effectively.

Taking all of the above into account, and noting that the panel found Colleague 2 to be a credible and clear witness, the panel was of the view that on the balance of probabilities, it is more likely than not that in relation to Patient A who was on 2-1 high observations, you did not follow the patient to his bedroom. The panel therefore find this charge proved.

Charge 8

> *Whilst working on Willow Ward*
> *8. On 7 February 2017 slept whilst on duty*

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Colleague 2.

The panel noted Colleague 2's witness statement in which she stated:

> *"On 7th February 2017 I saw the registrant sleeping, he was sleeping outside a bedroom when he was on high observations. He was snoring, I asked a colleague to give the registrant a nudge."*
> *[…]*
> *"On 7 February 2017 I personally saw the registrant sleeping as previously stated in paragraph 8 of my initial statement. At this time the registrant was sitting outside of Patient A's door."*
> *[…]*
> *Patient A was in the bedroom 7 on 2-1 observations; I was sat outside bedroom 4 looking directly at both the registrant and the person assisting him on the left side. I asked the second member of staff to nudge the registrant which he did."*

The panel was of the view that this was consistent with Colleague 2's oral evidence, she was able to explain to the panel using the floor plan where you were sleeping and where she was positioned so that she had sight of you. The panel therefore concluded that on 7 February 2017, you slept whilst on duty and therefore find this charge proved.

Charge 9.1

> *Whilst working on Willow Ward*
> *9. On 7 February 2017 in relation to Patient B*
> *9.1 Did not check Patient B's drug card.*

This charge is found proved.

In reaching this decision, the panel took into account the evidence from you, Colleague 2 and the documents exhibited by Mr 3.

The panel noted the written statement of Colleague 2 in which she stated:

"Patient B asked for pain relief, I cannot remember if he left the room to request this, and the registrant said not to give him any in case he had an allergic reaction."

[…]

"I spoke to the qualified nurse the next morning, [Colleague], in regards to the pain relief and she said Patient B was prescribed pain relief; this was on their drugs card".

[…]

"When the registrant first spoke about potential allergies Patient B [registrant] should have looked on the drugs card as it holds that information. The registrant should have been the person to look at the drugs card as he is the qualified nurse."

The panel noted that Colleague 2's witness statement was consistent with her oral evidence in which she stated that you did not leave the nursing office to check the drugs card which was in the clinic room. The panel also noted Patient B's drug card which showed that there were no allergies. The panel took into account your oral evidence in that some patients can make up scenarios and that you made a clinical judgement to not administer pain relief to the patient, however the panel was of the view that this was not credible or reliable. Taking all of the above into account, the panel was of the view that on the balance of probabilities, it is more likely than not that you did not check Patient B's drug card. The panel therefore find this charge proved.

Charge 9.2

Whilst working on Willow Ward

9. On 7 February 2017 in relation to Patient B

9.2 Did not provide pain relief which was prescribed when requested to do so

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Colleague 2, your oral evidence and your written evidence in your response bundle.

The panel bore in mind it found charge 9.1 proved. The panel took into account the witness statement of Mr 3 which states:

> *"Patient B was admitted to the ward on 1 February 2017 after being restrained in A & E."*
> *[…]*
> *"While he was restrained at the hospital, his shoulder was dislocated."*
> *[…]*
> *"It was documented on the night of 6 February 2017 that he had pins and needles in his shoulder and wanted a doctor to look at it."*

The panel accepted the evidence that Patient B did in fact have an injury to his shoulder and required pain relief. The panel noted Colleague 2's written statement in which she stated:

> *"The type of pain relief Patient B required was Paracetamol as his shoulder was aching; I was in the nursing office at the time. Next door is the clinic room where all medication is kept. Patient B asked for pain relief, I cannot remember if he left the room to request this, and the registrant said not to give him any in case he had an allergic reaction. I explained to the registrant that if he needed to ring the duty doctor to do so via switchboard, this would bleep them and the duty doctor at the time can prescribe over the phone. I do not know the name of the duty doctor that was on duty that night however, the registrant did not follow that information; he just shrugged his shoulders."*
> […]
> *"As the registrant was the only qualified nurse on duty no one else was asked to give Patient B pain relief."*

In your oral evidence you stated that the patient presented complaining of a broken bone which you did not think was correct, however this was completely contrary to the evidence presented that the patient in fact had sustained a dislocated shoulder during restraint prior to admission.

Taking all of the above into account, and noting that the panel found Colleague 2 and Mr 3 to be credible and consistent, the panel was of the view that on the balance of probabilities, it is more likely than not you did not provide Patient B with pain relief when requested as alleged. The panel therefore find this charge proved.

Charge 11

11. Your comments at charge 10.1 and /or charge 10.2 were racially abusive and/or sexist.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of you, Ms 5, Colleague 3 and Colleague D.

The panel noted that you admitted charges 10.1 and 10.2 (as above). It took into account the email from Colleague 3 to Ms 5 dated 7 February 2017 in which she states:

"Regarding the interactions on night shifts, there was one night last week when I was doing some filing in the office and I was speaking to [Colleague D] about something when Ade suddenly interrupted and said something to the effect of 'I don't mess around with African women they are hungry for money and they are not loyal to any man'. He also said African women learn this from their mothers as their mothers are not loyal either. I told Ade that I did not appreciate being put into a stereotype and that this was dependant on people's beliefs and values, he couldn't just

class a whole continent of women as unfaithful to which he said 'no offence to you'. I did not feel the need to take this further as I thought he understood my discomfort and point of view."

The panel noted that this was corroborated by email from Colleague D to Ms 5 dated 21 February 2017 which states:

"Ade made a comment that African women where (sic) all slags and they learnt it off their mother, to [Colleague 3] the HCA. I outlined that it was not appropriate how he was speaking, rude and untrue."

Having found charge 10.1 and 10.2 proved by your admission, the panel was of the view that this charge is also found proved. The panel considered the wording of both charges, the panel was of the view that this is stereotyping a race and is racially abusive. The panel took into account your evidence in which you stated that your comments at charge 10.1 and 10.2 were not racially abusive or sexist because you did not direct them to anyone, however the panel was of the view that irrespective of whether the comments were targeted at anyone in particular, the comments are clearly racist and sexist. Taking all of the above into account, the panel find this charge proved.

Charge 12

12. *You intended when commenting as alleged at charge 10.1 and/or charge 10.2 to racially abuse and/or to cause discomfort and/or embarrass/ and or annoy Colleague 3*

This charge is found NOT proved.

The panel considered this charge and was of the view that similar to charges 2 and 6, it did not have sufficient evidence before it to prove your intentions. The panel was satisfied that your comments at charges 10.1 and 10.2 were racially abusive and sexist, however it

was not satisfied that it had sufficient evidence to prove you intended to be racially abusive, cause discomfort, to embarrass or to annoy Colleague 3 by these comments. The panel therefore find this charge not proved.

The panel highlighted that there is a pattern of behaviour throughout the charges, the panel noted that although it had not found sufficient evidence to prove that your comments intended to cause offence, the context of the comments made can only be perceived as offensive.

Charge 14

14. On 4 October 2017 attended work at the Redwood Ward whilst under the influence of alcohol.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of you, Ms 2 and Ms 7. The panel noted the witness statement of Ms 2 in which she stated:

"I asked Ade to come to the office with me and asked if he'd been drinking. Ade said no, but he had been drinking Red Bull."

[…]

"I told Ade that it was evident he'd had an alcoholic drink, but he said no. I told him I was sure he'd been drinking and asked him to take a breathalyser test. Ade agreed to do this."

[…]

"Ade didn't put his mouth on the tube properly – he tried blowing through the tube as if he was blowing dust off or something. I asked him to try a second time, which he failed. I asked him to do the test a third time and told him to do it properly."

At this point he turned around and told me he'd had an alcoholic drink that morning. He then said he'd had a few drinks. I asked him if it was one, or a few? I told him

his eyes were bloodshot and he smelled of alcohol. Ade told me that he'd had a few that morning and that 11 hours had passed since he'd had a drink.

When I got Ade to blow into the machine the third time, the reading was 0.40. The legal limit is 0.25, so he was well over the limit."

The panel also took into account Ms 7's witness statement in which she states:

"We walked to the patient's door and Ade walked away, between Sarah and me. I asked if she smelled alcohol, which she said she did."
[…]
"During handover, Ade's body language was slumped. He was looking at the table and not engaging with [Ms 2] at all."
[…]
"Ade had bloodshot eyes that night..."

The panel heard the live evidence of Ms 2 and Ms 7 who both explained to the panel how they could tell that you were under the influence of alcohol. The panel was of the view that the accounts of Ms 2 and Ms 7 were consistent with each other. The panel also noted their experiences of working with patients [PRIVATE], and was of the view that they have the knowledge and experience to be able to assess when someone is under the influence of alcohol.

The panel noted that Ms 2 explained in detail during her oral evidence how the breathalyser machine works and the steps she took when she used it to test you. The panel took into account that your evidence in relation to this charge has changed multiple times, it noted that in your documentary evidence you stated that you had a steak and ale pie which caused you to smell of alcohol. In your oral evidence to the panel, you stated that you did drink spirits during the day, however you later stated that it was the anti-bacterial gel that you used on the shift that may have caused you to smell of alcohol. The panel was of the view that it had clear and comprehensive evidence from Ms 2 and Ms 7

to be satisfied that on the balance of probabilities, it is more likely than not that you attended work at the Redwood Ward whilst under the influence of alcohol as alleged. The panel therefore find this charge proved.

Charge 15.3

> *15. On 16 December 2017 whilst working for St Nicholas House Residential Home*
> *15.3 Did not provide Resident A with pain relief in a timely manner.*

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence of you, the local level statement of Colleague A and the evidence of Mr 1.

The panel noted Colleague A's statement which stated:

> *"Went to ask agency nurse if (Ade) if resident could have some pain relief as he was requesting paracetamol. Nurse explained he was on his lunch break. Around 40 mins later Resident A rang his bell and was still asking for pain relief again I went to the nursing station to ask could [Resident A] have pain relief nurse explained he had 2 minutes left of his break then he would go. Half an hour later Resident A rang again requesting pain relief, he became quite rude with me as he was in pain. I asked had the nurse been in as I had passed on previous requests for pain relief. Resident A was then given his pain relief after third request (sic)."*

The panel noted that Colleague A did not give oral evidence and that her local level statement is hearsay, however the panel have given appropriate weight to this evidence and was satisfied that on the balance of probabilities this incident occurred. The panel took into account your oral evidence in which you stated that you were responsible for 49 patients who all required nursing care. The panel also heard the evidence of Mr 1 who

stated that due to Resident A not receiving his pain relief in a timely manner, it resulted in him waiting 70 minutes.

Taking all of the above into account, the panel was of the view that on the balance of probabilities, it is more likely than not that you did not provide Resident A with pain relief in a timely manner as alleged. The panel therefore find this charge proved.

Charge 15.4

> *15. On 16 December 2017 whilst working for St Nicholas House Residential Home*
> *15.4 Did not record and/or administer Resident B's Matrifen 12 MCG Trans patch*

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence from you and Mr 1 and the local level statement from Colleague B.
The panel noted that you partially admitted this charge on the basis that you did administer Resident B's patch but did not record it. The panel found this charge proved in its entirety. The panel noted the written statement of Mr 1 in which he states:

> *"It also transpired that ("Resident B") analgesic patch was not changed during Ade's shift on Saturday 16 December 2017. Resident B had cancer, the patch was for pain relief and should have been present on Resident B the whole time."*
> *[…]*
> *"Ade should have known to change the patch as it is highlighted on the MAR chart. Ade signed for the Budesonide Nebuliser, the Levothyroxine, the Macrogol, and the Mirtazapine but missed out administering the patch."*
> *[…]*
> *"The patch is to be replaced every 72 hours…, it was administered on Wednesday 13 December 2017 and it should have been replaced on Saturday 16 December 2017. [Colleague B] noticed the MAR chart had not been signed*

and checked Resident B for the patch. When we administer the patch to a resident we date and sign the patch. I assume when [Colleague B] checked Resident B she found the patch applied from 13 December 2017. [Colleague B] also checked the stock levels which accord with the patch on Saturday 16 December 2017 not having been given."

The panel also noted the local level statement of Colleague B dated 18 December 2017. This referred to the failure of the administration of Resident B's Matrifen 12 MCG Trans patch.

The panel noted that it did not hear live evidence from Colleague B and that her evidence is hearsay, however the panel have given appropriate weight to this evidence and was satisfied that on the balance of probabilities this incident occurred. Taking all of the above into account the panel was satisfied on the balance of probabilities, you did not administer Resident B's Matrifen 12 MCG Trans patch as alleged. The panel therefore find this charge proved in its entirety.

Charge 16

Whilst working for St Nicholas House

16. Did not notify the Home that you were subject to an interim conditions of practice order placed on your practise by the NMC on 15 November 2017.

This charge is found proved.

In reaching this decision, the panel took into account your oral evidence, the evidence of Mr 1, Mr 4 and Ms 6.

The panel noted the written statement of Mr 1 in which he stated:

"When I book a nurse through the Agency, they would send me that individual's profile. The profile includes details of the nurse's training and their NMC PIN number. We used to take the information from the Agency at face value as the expectation was that the Agency had checked the nurse's PIN number and the staff they were sending were clear to work. However since the incidents with Ade took place, we now check the PIN of all agency staff before we accept them to work at the Home. The Agency did not inform me that Ade was subject to an interim conditions of practise order ("ICOPO"). They just sent us his profile and everything appeared to be okay".

[…]

"The shifts Ade worked during the time he was at the Home were Saturday 16 December 2017 and Sunday 17 December 2017 from 07:15 to 14.30 in the nursing unit. A second nurse was not expected to work the shifts alongside him. It was made clear verbally to the Agency that Ade would be the nurse in charge on the shift. There was an error on my part as I overbooked a second agency nurse. I was 'on call' on the weekend and received a call stating that two agency nurses had turned up. The second agency nurse did not complete a full shift and was sent home."

The panel noted Ms 6's witness statement where she states:

"On Saturday, 16 December 2017, I was working the long shift at the Home (07:30 – 21:30). I was working with the registrant. This was the first shift I had worked with him – I did not know him at all. The registrant was the only nurse on duty during this shift. He was the Nurse in Charge."

The panel also took into account Mr 4's written statement in which he stated:

"Regarding this particular incident with the registrant we did not communicate the conditions of the registrant to the client. However, we sent the registrants profile to

the client who had the responsibility in ensuring that they were content with the candidate supplied to their care home."

The panel took into account the interim conditions of practice order that you were subject to and noted that it specifically states:

"You must immediately tell the following parties that you are subject to a conditions of practice order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (8) above, to them:

a. Any organisation or person employing, contracting with, or using you to undertake nursing work;
b. Any agency you are registered with or apply to be registered with (at the time of application) to provide nursing services;"

The panel considered your oral evidence and noted that you stated that you informed the agency which was confirmed by Mr 4, however the interim conditions of practice order clearly states that you must also tell any organisation using you to undertake nursing work which you failed to do. The panel found that it was your responsibility to inform the Home that you were subject to an interim conditions of practice order. Taking all of the above into account, the panel was satisfied that on the balance of probabilities, it is more likely than not you did not notify the Home that you were subject to an interim conditions of practice order as alleged. The panel therefore find this charge proved.

Charge 17

Whilst working for St Nicholas House
17. On 16 and/ or 17 December 2017 worked in breach of the interim conditions of practice placed on your practice by the NMC on 15 November 2017

This charge is found proved.

In reaching this decision, the panel took into account your oral evidence, the evidence of Mr 1 and Mr 4.

Given that the panel found charge 16 proved, the panel found charge 17 proved on the basis that you did not inform the Home that you were subject to an interim conditions of practice order and that you worked both shifts on 16 and 17 December 2017 without informing them. The panel took into account your evidence in that you stated that you called Mr 4 immediately once you realised that you were the only nurse on the shift and that he instructed you to remain on site.

The panel heard oral evidence from Mr 1 who stated that he did not receive any calls from you on 16 December 2017, however he called you and you confirmed everything was ok. This was consistent with Mr 1's witness statement in which he states:

> *"I was on call on the day of Ade's first shift, however he could have rung me if he needed help or guidance whilst on shift by himself. I called him late in the day between 19:00 and 20:00 to check how the day had been, as I had not heard anything I assumed everything was okay. When I spoke to Ade during this phone call he reported that everything was absolutely fine. He sounded really confident on the phone and I felt reassured that he was in control."*

The panel was of the view that this was your opportunity to inform Mr 1 that you were subject to an interim conditions of practice order and that you would have been in breach if you remained on site as the nurse in charge. It also noted that you returned to the Home on 17 December 2017 knowing that you were in breach of a number of your interim conditions. Taking all of the above into account, and noting that the panel found Mr 1 and Ms 6 to be credible and consistent witnesses, the panel was of the view that on the balance of probabilities, it is more likely than not that on 16 and/or 17 December 2017 worked in breach of the interim conditions of practice placed on your practice as alleged. The panel therefore find this charge proved.

Charge 18

18. Your actions at charge 16 were dishonest in that you knew your NMC registration was subject to restrictions but failed to disclose the same

This charge is found proved.

In reaching this decision, the panel took into account your oral evidence and the evidence of Mr 1.

The panel considered whether your actions were dishonest in that you did not inform the Home that you were subject to an interim conditions of practice order. The panel accepted your evidence that you called Mr 4 to inform him that you were in breach of your restrictions, this was corroborated by Mr 4 in his oral evidence. However the panel was of the view that you could have informed Mr 1 of the difficulties you were facing when he called the Home. The evidence of Mr 1 is that:

> *"I was on call on the day of Ade's first shift, however he could have rung me if he needed help or guidance whilst on shift by himself. I called him late in the day between 19:00 and 20:00 to check how the day had been, as I had not heard anything I assumed everything was okay. When I spoke to Ade during this phone call he reported that everything was absolutely fine. He sounded really confident on the phone and I felt reassured that he was in control."*

Based on this evidence, the panel was of the view that you had the opportunity to inform Mr 1 that you were subject to restrictions and that you were in breach by being the nurse in charge. The panel is satisfied that you sought to hide your restrictions as you told Mr 1 that everything was absolutely fine. The panel also noted that you returned to the Home on 17 December 2017, again without informing them that you were subject to restrictions. The panel was satisfied that you knew you should not be working on your own, that you

failed to inform the Home of this restriction and that knowing this you continued to work. The panel was satisfied, in these circumstances, ordinary and decent people would regard your behaviour as dishonest.

Taking all of the above into account, and noting that the panel found Mr 1 to be credible and consistent, the panel was of the view that on the balance of probabilities, your actions at charge 16 were dishonest in that you knew your NMC registration was subject to restrictions but failed to disclose this to the Home as alleged. The panel therefore find this charge proved.

Charge 19

19. [PRIVATE]

This charge is found proved.

In reaching this decision, the panel took into account your oral evidence and the witness statement of Ms 8 who is a NMC Case Coordinator.

[PRIVATE]

The panel took into account the witness statement of Ms 8 which states:

"In this case the Registrant [PRIVATE] informed the NMC that he no longer wanted us to contact him. He stated that he only wanted us to contact him through representative"
[…]
"On the 30 July 2019 the Registrant gave his registered address as 23 Portland Place, an NMC registered building in London. On the 4 September 2019 the Registrant gave their new address as 10 10001 London, an address which does not exist. Following this on the 12 September 2019 the Registrant gave their

address as 2000000 Bakers London a further address which does not exist, and then went back to change it to 10 10001 London on the 11 October 2019."

Taking into account your oral evidence, the witness statement of Ms 8 and the documentary evidence she provided, the panel was of the view that if you were able to inform the NMC that you did not want to be contacted and to change your address multiple times on the NMC register, you could have co-operated with the NMC [PRIVATE]. The panel also noted the NMC Code of Conduct (The Code 2015), specifically section 23, which states:

*"**Cooperate with all investigations and audits***
This includes investigations or audits either against you or relating to others, whether individuals or organisations.
23.1 cooperate with any audits of training records, registration records or other relevant audits that we may want to carry out to make sure you are still fit to practise"

Taking all of the above into account, the panel was of the view there is sufficient evidence to suggest that you failed to co-operate with the NMC regulatory process [PRIVATE]. The panel was therefore satisfied that on the balance of probabilities that this occurred. You also provided false addresses on multiple occasions which meant the NMC were unable to contact you. The panel therefore find this charge proved.

As such, the panel found charges 1, 4, 5, 7, 8, 9.1, 9.2, 11, 14, 15.3, 15.4 in its entirety, 16, 17, 18 and 19 proved. The panel found charges 2, 6 and 12 not proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether your fitness to practise is currently impaired. There is no statutory definition of fitness to

practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

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

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

Ms Stannard provided the panel with written submissions. In her written submissions she referred the panel to the case of *Roylance v GMC* and said that Lord Clyde in the case of *Roylance* stated that '*it is not any professional misconduct which would qualify. The professional conduct must be serious.'*

Ms Stannard invited the panel to consider the NMC's Code of Conduct and any relevant employer policy documents. She drew the panel's attention to the sections within the Code that are relevant in this case. Ms Stannard submitted that the numerous charges before the panel represent a time period of just under one year, where you acted inappropriately to colleagues in a manner which was racist and or sexist. She submitted that there were failures to administer medication in a timely manner or at all, not fulfilling your duties whilst

on shift by sleeping, failing to carry out observations and leaving without permission. Ms Stannard reminded the panel that you were found to be under the influence of alcohol on your shift before driving home, you worked in breach of your interim conditions of practice order, failed to disclose the interim conditions and acted dishonestly in doing so. Moreover, you failed to cooperate with the NMC regulatory process.

Ms Stannard submitted that these charges, both individually and collectively, were inappropriate, unprofessional, irresponsible, and are serious and significant departures from the acceptable standards of a registered nurse.

Ms Stannard 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. She referred the panel to the test for impairment first propounded by Dame Janet Smith in the Fifth Shipman Report, and subsequently endorsed by Cox J in case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin), and concluding that the Registrant has in the past and/or is liable to the future to do any of the following:

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) *has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

Ms Stannard submitted that all four sections are engaged in this case. She stated that by your failings as found proved, you put patients at unwarranted risk of harm. She submitted that your actions were so reprehensible that the reputation of the profession has been brought into disrepute. She further submitted that a member of the public would be appalled to learn that a nurse travelled to work under the influence of alcohol, intending to provide care to patients, and then put members of the public and yourself at risk by driving home. Moreover, that a nurse acted dishonestly, and against the carefully considered conditions put in place to restrict their practice.

Ms Stannard submitted that as a result of your behaviour towards female colleagues, your disregard for patient care and safety, your dishonesty to your employer and the NMC, you have breached fundamental tenets of the profession and acted dishonestly. She further submitted that you failed to observe professional boundaries, you didn't act in the best interests of your patients, and you acted in an untrustworthy and unreliable manner. In considering if there is a risk of you behaving in a similar way in the future, Ms Stannard invited the panel to consider the following areas:

a. These charges demonstrate an attitudinal problem exhibited over a period of time, in different work places, on at least nine separate occasions;
b. The fact that charges 16 onwards occurred after your practice was restricted;
c. Whether or not you have demonstrated any remorse and / or insight;
d. Whether or not you have undertaken sufficient training to remediate the areas of professional deficiency;
e. Whether or not you have reflected on the harm caused/potentially caused to patients and the nursing profession.

Ms Stannard invited the panel to consider the case of *Pillai v GMC [*2009] EWHC 1048 when determining impairment. She stated that as a result of the nature of these charges, you were originally on an interim conditions of practice order. As a result of the breaches, the order was replaced with an interim suspension order on 27 February 2018. Therefore, you have not practised as a nurse for almost three years. She stated that at this stage it is

unknown whether you have any intentions to practise as a nurse again or whether you have been working in a role since the order was imposed which could demonstrate any remediation or reflection. She stated that it is unknown what lengths you may have gone to keep up to date with current nursing practice, or to undertake any training. Ms Stannard further stated that at present no certificates or testimonials have been provided to the NMC from you. She submitted that a public protection finding would be appropriate when considering impairment.

In relation to public interest, Ms Stannard submitted that this is a case where public confidence in the profession would be undermined if a finding of impairment were not made. She submitted that if the public were to learn of the charges, they would find them to be deplorable, particularly in light of the fact that you worked with particularly vulnerable and mentally unwell patients. Ms Stannard submitted that a finding of impairment should be made on public interest grounds in order to declare and uphold the professional standards expected of a registered nurse, and to maintain public confidence in the profession and the NMC as a regulator. Ms Stannard therefore invited the panel to make a finding of current impairment on both public protection and public interest grounds.

You also provided the panel with written submissions. You stated that although some of the charges have been found proved, they do not amount to misconduct. You stated that you did not intend to be racist or to discriminate anybody, and that since you have been qualified since 2011 you have always been kind and respectful to your colleagues regardless of their age or beliefs. You said that you have always delivered care in the most professional manner however you have made mistakes which you cannot change, you said that you are willing to improve and do training to better yourself in moving forward. You said that you have reflected on the situations.

You stated that it was not your intention to not inform the Home that you were subject to an interim conditions of practice order, you said that you told the agency and that was you telling your employer. You said that upon reflection you will ensure that wherever you are deployed to by your agency, you will make them fully aware of any restrictions.

You submitted that you did what you thought was right and that you acted honestly and responsibly as a registered nurse. You said that you have admitted your mistakes and understand that there are areas of improvements to better yourself. You apologised and stated that you are ashamed by your actions.

In relation to impairment, you submitted that although you have made mistakes you have never been a risk to the public or to patients. You stated that you did not cause harm to the public or to any patients in your care. Upon reflection you stated that you apologise for all of your mistakes and are willing to take the necessary steps to ensure that you do not repeat your actions.

You stated that no further training has been taken so far, however you regularly self-educate with regards to the skills and knowledge you acquired whilst studying at university. You submitted that your fitness to practise is not impaired, you stated that you have reflected upon your actions and if given the opportunity you will complete further training to ensure there is no repetition. Based on all the above, you submitted that your fitness to practise is not impaired on both public protection and public interest grounds.

Decision and reasons on misconduct

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments.

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015' (the Code) in making its decision. The panel was of the view that your actions did fall significantly short of the standards expected of a registered nurse, and that your actions amounted to a breach of the Code. Specifically:

1.1 treat people with kindness, respect and compassion

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

2.1 work in partnership with people to make sure you deliver care effectively

8.2 maintain effective communication with colleagues

8.5 work with colleagues to preserve the safety of those receiving care

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

13.1 accurately identify, observe and assess signs of normal or worsening physical and mental health in the person receiving care

13.2 make a timely referral to another practitioner when any action, care or treatment is required

13.4 take account of your own personal safety as well as the safety of people in your care

20 Uphold the reputation of your profession at all times

20.2 act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment

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

20.7 make sure you do not express your personal beliefs (including political, religious or moral beliefs) to people in an inappropriate way

23 cooperate with all investigations and audits

23.3 tell any employers you work for if you have had your practice restricted or had any other conditions imposed on you by us or any other relevant body

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel considered the charges individually and collectively, and was of the view that they amount to serious misconduct. The panel noted that not only do the charges amount to misconduct but they are inappropriate and wholly unprofessional.

The panel bore in mind your submissions on why your actions do not amount to misconduct and that you stated that your comments were not intended to cause offence. However the panel heard evidence from the witnesses who outlined to the panel the outcome and impact of your comments. The panel noted that other professionals would find this behaviour to be deplorable.

The panel took into account the charges relating to patient safety and noted that although it had no evidence of actual harm, your actions caused an unwarranted risk of harm. The panel was of the view that not providing pain relief to a patient, attending work under the influence of alcohol, sleeping whilst on shift and leaving your shift when you were the only registered nurse on duty, working in breach of your restrictions and acting dishonestly all amount to serious misconduct. Taking all the information into account, the panel found that your actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

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

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

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

> *'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only*

whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

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

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

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

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

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

d) *has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel found that all four limbs were engaged in this case. The panel was of the view that although there was no patient harm, your actions placed patients at unwarranted risk of harm, in that withholding pain relief, not administering pain relief in a timely manner, not administering pain relief all have the potential to cause unnecessary distress to those patients who were in your care. It was also of the view that your misconduct had breached

the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel took into account the charges found proved and noted that there are a number of incidents which took place over a period of time across various Homes. It was of the view that there is a pattern of behaviour in your attitudes towards female colleagues and towards patient safety.

The panel considered your written submissions. The panel was of the view that you have demonstrated little insight into your actions. It noted that you state that you are willing to undergo training, however the panel considered the passage of time since the incidents to which you have not been practising as a nurse and have not completed any training within this time. The panel also noted from your written submissions that you did not state what training would be necessary or how you can improve your practice going forward.

The panel noted your submission in which you state that some of your actions were due to pressures from work, the panel also noted the charges which involve inappropriate and unprofessional comments, sleeping whilst on shift and attending work under the influence of alcohol. The panel was of the view that it has not been demonstrated by you that these actions were caused by undue pressures from the workplace. It was therefore of the view that further training in your practice would add little value to your pattern of behaviour.

When considering your written submissions, the panel noted that you did not address how your actions put patients at a risk of harm. Nor did you address the impact your actions and behaviour had on the patients in your care or the colleagues you were working with. The panel noted that you state that you have reflected upon your actions however the panel had no evidence of this. Taking all the above into account, the panel is of the view that there is a risk of repetition based on your lack of remediation and your lack of reflection, remorse and insight.

The panel therefore decided that a finding of impairment is necessary on the grounds 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 in order to declare and uphold the professional standards expected of a registered nurse. In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that your 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 you off the register. The effect of this order is that the NMC register will show that you have 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 careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

Submissions on sanction

Ms Stannard provided the panel with written submissions. She informed the panel that prior to this hearing, the documentation sent to you advised that it would seek the imposition of a strike off if it found your fitness to practise currently impaired. Ms Stannard submitted to the panel that a strike off is the only proportionate and appropriate sanction in light of the facts of this case.

Ms Stannard first addressed the panel on the aggravating and mitigating features, she submitted that these were:

The aggravating factors submitted were:

- These charges represent two sets of regulatory complaints; one of which was born out of the conditions of practice put into place and not complied with. You demonstrated a blatant disregard to your regulator, were dishonest and breached the order. You put patients and colleagues at risk in doing so;
- You have shown a lack of insight into your failings;
- These charges have shown a pattern of misconduct over a period of time, in a variety of areas;
- Your conduct put patients at a risk of harm.

The mitigating factors submitted were:

- Some charges were admitted.

In relation to which order would be appropriate, Ms Stannard submitted that imposing a caution order is not appropriate as the panel has decided that there is a risk to the public and patients. She submitted that a caution order would not reflect the seriousness of this case.

In relation to a conditions of practice order, Ms Stannard submitted that it would not sufficiently protect patients or address any concerns regarding public confidence. She submitted that you have not demonstrated any remorse and have not demonstrated to the

panel that you would not act in the same way again. You failed to comply with your conditions originally, and this resulted in you putting patients at risk, and acting dishonestly. Ms Stannard therefore submitted that any further training would not alter your pattern of behaviour.

Ms Stannard submitted that a suspension order would not be reflective of the seriousness of this case. She stated that these charges involve multiple and repeated instances of misconduct, demonstrating attitudinal problems and dishonesty. She submitted that you have not shown insight or demonstrated any evidence of remediation. You have not attempted to address these concerns, she therefore submitted that you pose a significant risk of repeating the behaviour.

Ms Stannard submitted that a strike off is appropriate because your actions are fundamentally incompatible with continuing to be a registered professional. She reminded the panel of the charges which include racism, sexism, failure to administer medication, sleeping whilst on shift, attending work under the influence of alcohol, breaching your interim conditions of practice order and acting dishonestly in doing so. She submitted that the charges, both individually and collectively, raise fundamental questions about your professionalism. Ms Stannard finally submitted that public confidence could not be maintained in nurses if you were to remain on the register, and that striking off is the only sanction which will be sufficient to protect patients, members of the public and maintain professional standards.

You apologised to the panel for your actions and stated that you are remorseful. You said that during the last three years you have been reflecting and have been working hard to retain your knowledge. You told the panel that you have had the opportunity to consider all of the sanctions available to the panel and submitted that a striking off order would be too harsh, however you acknowledged that a caution order would be too lenient. You invited the panel to consider a conditions of practice order or a suspension order. You submitted that you are willing to undergo further training to correct your previous actions.

You said in the past three years you have had time to grow and reflect upon your mistakes, you apologised to the panel and said that you would love to return to nursing practice. You invited the panel to consider that you have reflected, you are remorseful and that you are willing to complete training to improve your practice. You said that you have kept up your knowledge and skillset by reading books and completing online training. You said you understand there is training to be done in order for you to move forward which you are happy to do. You also explained to the panel what you have been doing since you have been out of nursing practice.

In response to the panel, you stated that you are willing to do any further training required, you said that you happy to improve your performance so that you will not make any more mistakes. In relation to the pattern of behaviour in your comments towards colleagues, you stated that you have had three years to reflect and you are very remorseful to everyone who has been affected. You told the panel that moving forward you will respect everyone and be professional, you assured the panel that these actions would not happen again.

Decision and reasons on sanction

The panel accepted the advice of the legal assessor.

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

The panel took into account the following aggravating features:

- A pattern of racist and or sexist behaviour towards colleagues over a period of time;

- A pattern of conduct which demonstrated a lack of professionalism in respect of the care delivered to patients, sleeping whilst on duty and presenting for duty on one occasion under the influence of alcohol. All of these actions put patients at risk of harm;
- Abuse of a position of trust;
- These charges represent two sets of regulatory complaints; one of which was born out of the conditions of practice put into place and not complied with. You demonstrated a blatant disregard to your regulator, were dishonest and breached the order. You put patients and colleagues at risk in doing so;
- You have shown a lack of insight into your failings and a lack of insight into the impact your actions had on patients and colleagues;
- These charges show a pattern of misconduct over a period of time, in a variety of areas;
- Your conduct put patients at a risk of harm.

The panel also took into account the following mitigating features:

- Some charges were admitted

The panel first considered whether to take no action but concluded that this would be inappropriate in this case. The panel was of the view that taking no action would be insufficient to mark the seriousness of the charges. To take no further action would fail to address the public protection concerns in this case. In addition, it would be inadequate to address the wider public interest considerations arising from the nature and circumstances of the misconduct. The panel was also of the view that taking no action would undermine the public confidence in the NMC as a regulator.

For the same reasons, the panel considered that imposing a caution order would not mark the seriousness of the charges or address the wider public interest considerations.
The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the*

behaviour was unacceptable and must not happen again.' The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate, nor in the public interest to impose a caution order.

The panel next considered whether placing a conditions of practice on your registration would be a sufficient and appropriate response. The panel noted that any conditions must be workable and measureable. The panel noted that the concerns in this matter are attitudinal and behavioural in nature. The panel took into account that you were subject to an interim conditions of practice order previously which did not appear to address the concerns nor did you comply with them which then led to a referral.

The panel noted your submissions in which you stated that you would undertake training to improve your practice. However when questioned by the panel regarding what training you felt would be relevant, you could not detail specific training relevant to the charges found proved. In any event, the panel was of the view that the misconduct identified in this case was not something that can be addressed through retraining which would be related to your clinical practice. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public. The panel therefore concluded that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case.

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

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*

- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel was of the view that the above factors have not been engaged in this case. The panel noted that there has been a pattern of racist and sexist behaviour towards female colleagues. You have demonstrated to the panel throughout this hearing deep-seated attitudinal problems and a lack of insight into your failings. The panel also found a significant risk of repetition given the fact that the incidents occurred over a period of time across various homes.

The panel took into account that you stated that you have reflected and that you are remorseful, however the panel did not have any evidence which demonstrates that you have taken the necessary steps to address or remediate your failings. The panel noted that you said you have completed training courses, however it had no evidence of this. The panel took into account the facts found proved and noted that they are attitudinal and behavioural in nature. The panel was of the view that it gave you the opportunity to address what training would be required to address your failings, however you failed to provide the panel with anything specific that would address your conduct and professionalism.

The panel took into account that there is a pattern of misconduct which resulted in you putting patients at a risk of harm. This demonstrates a lack of insight and that you have chosen to behave in a way that is not consistent with the NMC Code. In the panel's view, a member of the public would be extremely concerned to hear that a nurse repeatedly is acting outside of the NMC Code. The panel was of the view that the conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by your actions is fundamentally incompatible with you remaining on the register. In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

The panel took into account the charges and was of the view that individually and collectively they demonstrate a lack of professionalism and inappropriate behaviour. The incidents also took place on a number of occasions across various homes. The panel also noted your lack of insight into your failings and into the impact your actions had on patients and colleagues. This demonstrates deep-seated attitudinal issues and issues with your behaviour and professionalism.

The panel was of the view that the public confidence in nurses would not be maintained should you not be removed from the register. Finally, the panel concluded that a striking-off order is the only sanction that would sufficiently protect patients, members of the public and maintain professional standards. It was of the view that your actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with you remaining on the register. This demonstrates that your actions were serious and to allow you to continue practising would 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, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of your actions in bringing the profession into disrepute by adversely affecting the public's view of how registered nurses should conduct

themselves, the panel has concluded that nothing short of this would be sufficient in this case.

The panel noted that the imposition of the striking-off order may have a negative financial impact on you. However, in applying the principle of proportionality, the panel determined that, in any event, the need to protect the public, maintain professionalism and the wider public interest outweighs your interests in this regard.

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 you 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 is in your own interests until the striking-off sanction takes effect.

Submissions on interim order

Ms Stannard submitted that an interim order is necessary to uphold the panel's substantive decision. She submitted that an interim suspension order is necessary for the protection of the public and is otherwise in the public interest. She stated that not imposing an interim suspension order would be incompatible with the panel's previous findings.

You made no positive submissions, however you told the panel that an interim suspension order would not make a difference to you as you have been struck off.

Decision and reasons on interim order

The panel accepted the advice of the legal assessor.

The panel had regard to the seriousness of the facts found proved and the reasons for its findings on the issues of misconduct, impairment and sanction set out in its substantive determination. 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 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 considered that it was necessary to impose an interim suspension order, it was of the view that not doing so would be inconsistent with its earlier findings. The panel considered that the appropriate duration of the interim suspension order was for a period of 18 months, because of the length of time likely to be required for any appeal, if brought, to be determined or otherwise finally disposed of.

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

That concludes this determination.