

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

**Substantive Hearing
Friday 26 August 2022
Tuesday 30 August – Thursday 1 September 2022
Monday 5 September – Wednesday 7 September 2022**

Virtual Hearing

Name of registrant:	Darren Knowles
NMC PIN:	91A1820E
Part(s) of the register:	Registered Mental Health Nurse (28 March 1994)
Relevant Location:	Bath and North East Somerset
Type of case:	Misconduct
Panel members:	Fiona Abbott (Chair, lay member) Angela O'Brien (Registrant member) June Robertson (Lay member)
Legal Assessor:	Fiona Moore
Hearings Coordinator:	Alice Byron (26 August 2022; 30 August – 1 September 2022) Jennifer Morrison (5 – 7 September 2022)
Nursing and Midwifery Council:	Represented by Raj Joshi, Case Presenter
Mr Knowles:	Not present and unrepresented
Facts proved:	Charges 1a, 1b, 1c, 1d, 1e, 1f, 2b, 2c, 2d, 3 in its entirety, 4a, 4b, 5b, 5c, and 5d
Facts not proved:	Charges 1g, 2a, 4c and 5a
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim order:	Interim suspension order (18 months)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Knowles was not in attendance and not represented, and that the Notice of Hearing letter had been sent to Mr Knowles' registered address by email on 21 June 2022.

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

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegations, the time, dates and link to the virtual hearing and, amongst other things, information about Mr Knowles' right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In the light of all of the information available, the panel was satisfied that Mr Knowles has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mr Knowles

The panel next considered whether it should proceed in the absence of Mr Knowles. It had regard to Rule 21 and heard the submissions of Mr Joshi who invited the panel to continue in the absence of Mr Knowles. He submitted that Mr Knowles had voluntarily absented himself.

Mr Joshi invited the panel to consider the registrant's response bundle before it and submitted that, although Mr Knowles had initially engaged with the NMC and provided responses to the allegations previously, it appears that Mr Knowles disengaged in 2021.

Mr Joshi advised the panel that there had been no engagement at all by Mr Knowles with the NMC in relation to these substantive proceedings and, as a consequence, there was no reason to believe that an adjournment would secure his attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*' as referred to in the case of *R v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel has decided to proceed in the absence of Mr Knowles. In reaching this decision, the panel has considered the submissions of Mr Joshi, and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mr Knowles;
- Mr Knowles has not engaged with the NMC and has not responded to any of the letters sent to him about this substantive hearing;
- Mr Knowles has not provided the NMC with details of how he may be contacted other than his registered address;
- There is no reason to suppose that adjourning would secure his attendance at some future date;
- Three witnesses are due to attend to give live evidence in respect of this matter;
- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred in 2020;

- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There may be some disadvantage to Mr Knowles in proceeding in his absence. Although the evidence upon which the NMC relies was sent to him at his registered email address on 18 August 2022, he has made no response to the allegations to the NMC. He will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on his own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Mr Knowles' decisions to absent himself from the hearing, waive his right to attend, and/or be represented, and to not provide evidence or make submissions on his own behalf in person.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Mr Knowles. The panel will draw no adverse inference from Mr Knowles' absence in its findings of fact.

Details of charge

That you, a registered nurse:

1. Verbally abused patients, in that you;
 - a. Told Patient A "you're fucking pissing me off now, I'm not going to help you and you can stay there", or words to that effect; **[PROVED]**
 - b. Called Patient B a "coward and a bully", or words to that effect; **[PROVED]**
 - c. Shouted at Patient B; **[PROVED]**
 - d. Called Patient B "stupid", or words to that effect; **[PROVED]**

- e. In response to Patient B saying “ow you’ve hit my head”, said “did I hit your head? Or did you hit your head?” or words to that effect; **[PROVED]**
 - f. In front of, and in respect of, Patient D, told a colleague “see this is how you need to be I don’t take no shit from him”, or words to that effect; **[PROVED]**
 - g. Said to Patient D, “I’m fucking sick of you, treating my staff and my girls like this, you know exactly what you’re doing”, or words to that effect; **[NOT PROVED]**
 - i. In an aggressive tone;
 - ii. Whilst stood over Patient D;
2. Physically abused Patient B, in that you;
- a. Roughly moved them from behind by gripping their shoulders; **[NOT PROVED]**
 - b. Grabbed Patient B by their arm and flipped them onto their back on the floor; **[PROVED]**
 - c. Dragged Patient B across the floor; **[PROVED]**
 - d. Let Patient B’s arm go, resulting in them hitting their head on the floor; **[PROVED]**
3. Physically abused Patient D, in that you; **[PROVED]**
- a. Pulled them over in bed onto their side;
 - b. In a rough manner;
4. Failed to treat patients with dignity and/or respect, in that you;
- a. Referred to Patient A as “frikkin’ crazy” and/or “totally mad”, or words to that effect; **[PROVED]**
 - b. Refused to assist Patient A when they were on the floor, requesting assistance to get up, when there was no clinical reason for refusing to assist them; **[PROVED]**
 - c. Failed to assist Patient C to the toilet when there was no clinical reason for refusing to assist them; **[NOT PROVED]**
5. Failed to follow medication policy, in that you;

- a. Potted medication for HCAs to administer; **[NOT PROVED]**
- b. Left said pots of medication unattended; **[PROVED]**
- c. Signed to say that said medication had been administered prior to administration; **[PROVED]**
- d. Failed to adequately supervise HCAs administering medication; **[PROVED]**

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

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

Mr Joshi made a request that the evidence of Witness 2 be held in private, and any reference to such evidence in the subsequent written determination be marked as private, in order to protect the identity of Witness 2. He said that this application is necessary as Witness 2 has become incredibly distressed at the prospect of being identified as a result of the evidence that they may give to the panel. The application was made pursuant to Rule 19.

[PRIVATE]

[PRIVATE]

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 (including a complainant, witness or patient) or by the public interest.

The panel bore in mind that Mr Knowles was not aware that this application would be made and therefore did not have the opportunity to respond. However, having found that Mr Knowles has voluntarily absented himself from the hearing, the panel determined that he has waived his opportunity to respond to this application.

[PRIVATE]

Accordingly, the panel concluded that the interests of Witness 2 outweighed the public interest for their evidence to be heard in public. It therefore granted the application and directed that the evidence of Witness 2 be heard in private, and any reference to such evidence be made private in the written determination.

Decision and reasons on facts

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

The panel has drawn no adverse inference from the non-attendance of Mr Knowles.

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

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

- Witness 1: Health Care Assistant at the Avon and Wiltshire Mental Health Partnership NHS Trust at time the charges arose
- Witness 2: [PRIVATE]

- Witness 3: Registered Social Worker and Investigating Officer for the Local Level Investigation

Background

The charges arose whilst Mr Knowles was employed by the Avon and Wiltshire Mental Health Trust ('the Trust') as a registered nurse on Dune Ward ('the Ward'), a dementia specialist ward.

It is alleged that, on a number of occasions, he verbally and physically abused patients in his care, and failed to treat those patients with dignity and respect, as outlined in the charges.

It is further alleged that Mr Knowles failed to adhere to the Trust's medication policy in that he left potted medications unsupervised for healthcare assistants to administer to patients without adequate supervision, and that he signed to say that medication had been administered to patients prior to its administration.

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

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

Charge 1a.

1. Verbally abused patients, in that you:
 - a. Told Patient A "you're fucking pissing me off now, I'm not going to help you and you can stay there", or words to that effect;

This charge is found proved.

In reaching this decision, the panel took into account all of the documentary evidence before it. It had particular regard to the witness statement and live evidence of Witness 1.

The panel found that Witness 1's NMC witness statement and oral evidence were consistent with her contemporaneous statement, which she wrote the day following the incident, in which she states:

'However, I found that throughout the course of the night Duncan's behaviour and language towards the service users on the ward was not appropriate and sometimes rude/humiliating. At times he would call a particular patient, Patient A, "frikkin' crazy" or "totally mad" or would say things like "you're fucking pissing me off now, I'm not going to help you and you can stay there". Everytime she asked for help he would simply say "NO".

The panel noted that, in this statement, Witness 1 refers to Mr Knowles by the name 'Duncan'. It bore in mind that Mr Knowles' given name is Darren. It had regard to Witness 1's subsequent NMC witness statement in which she clarified:

'I refer to the Nurse as "Duncan" in [the contemporaneous statement]. This was a misunderstanding, as I had only met the Nurse for the first time on the day of the incidents, and I now know the Nurse's real name, Darren Knowles.'

The panel noted that Witness 1 repeated this clarification in her oral evidence. It bore in mind that, although Mr Knowles has largely denied the allegations, he has not suggested that Witness 1 was mistaken as to who was working on the shift in question. Accordingly, the panel was satisfied that Witness 1 is referring to Mr Knowles when naming 'Duncan' in her contemporaneous statement.

The panel had regard to Mr Knowles' response to this allegation during his interview for the Trust investigation on 11 December 2020, in which he stated he would never use such language on shift.

The panel found Witness 1's evidence in respect of this charge to be credible. It considered that she was confident in her account of what was said by Mr Knowles to Patient A, and could clearly recall the words as set out in the charge 1a, and became distressed when recounting what she had seen and heard on the ward.

The panel also found Witness 1's oral evidence in respect of this charge to be consistent with her contemporaneous statement and her NMC witness statement. The panel noted that, although Witness 1 was an inexperienced healthcare assistant at the time of the charges and has since completed her training as a mental health nurse, she described that she would still consider Mr Knowles' actions as inappropriate were she to witness them now.

Accordingly, the panel determined that, on the balance of probabilities, Mr Knowles told Patient A "you're fucking pissing me off now, I'm not going to help you and you can stay there", or words to that effect.

The panel went on to consider if this act was one of verbal abuse towards Patient A. The panel accepted Witness 1's evidence that the tone used was inappropriate for the workplace. The panel concluded that such comment is verbally abusive due to the inherently offensive swear words and the tone used, in the context of such language being directed at a vulnerable patient with limited capacity to respond.

Accordingly, the panel found this charge proved.

Charge 1b.

1. Verbally abused patients, in that you:

b. Called Patient B a “coward and a bully”, or words to that effect;

This charge is found proved.

In reaching this decision, the panel took into account all of the documentary evidence before it. It noted that there were no eyewitnesses who could speak to this charge and the words or tone adopted by Mr Knowles.

The panel had regard to the notes of the local level investigation interview, carried out on 11 December 2020, but noted that these do not represent a verbatim record of the questions asked of Mr Knowles or the responses given. It bore in mind, in relation to this allegation, the interview notes state:

‘Mr Knowles: Told Patient B his behaviour was unacceptable – called Patient B a coward and a bully.

Interviewer: Is that an appropriate use of language on a Dementia ward?

Mr Knowles: Yes

Interviewer: On Dementia ward calling someone a coward and a bully?

Mr Knowles: If I didn’t know Patient B I would have said it wasn’t appropriate. In hindsight perhaps it wasn’t but my adrenalin was pumping.’

The panel further noted that, in respect of this allegation, in the early responses provided by Mr Knowles at an interim order hearing on 18 March 2021 he denied this allegation and stated that he said:

‘your actions were that of a coward and a bully’

The panel noted the inconsistency in the accounts given by Mr Knowles, however noted that it is accepted by Mr Knowles that he used the words 'coward' and 'bully' towards Patient B. Accordingly, the panel determined that, on the balance of probabilities, Mr Knowles called Patient B a "coward and a bully", or words to that effect.

The panel went on to consider whether such language was verbally abusive towards Patient B. The panel noted that Mr Knowles accepted, with hindsight, that this comment was not appropriate. The panel concluded that such comment is verbally abusive in the context of such language being directed at a vulnerable patient in a dementia ward with limited capacity to respond.

Accordingly, the panel found this charge proved.

Charge 1c.

1. Verbally abused patients, in that you:
 - c. Shouted at Patient B;

This charge is found proved.

In reaching this decision, the panel took into account all of the documentary evidence before it. It had particular regard to the witness statement and live evidence of Witness 1.

The panel had regard to Witness 1's NMC witness statement, which it found to be consistent with her contemporaneous statement in respect of this allegation, which states:

'At this point, Patient B and Duncan are out of my viewpoint and around the corner towards the mens [sic] corridor. I can hear Patient B wailing and Duncan is shouting quite loudly and aggressively "You can either sit down here quietly or you can go back to your bedroom". As Patient B continues to

wail and call out in distress, I hear Duncan continue to shout at him “Right, I’ve asked you nicely so now you can go back to your room”. It sounded like there was a physical altercation to remove him and drag him down the corridor, although as mentioned it was technically out of my eyesight.’

The panel had regard to the notes of the local level investigation interview, carried out on 11 December 2020, but noted that these do not represent a verbatim record of the questions asked of Mr Knowles or the responses given. It bore in mind, in relation to this allegation, the interview notes state that Mr Knowles denies this allegation and said that:

‘It is much louder on the ward at night – my voice can travel especially when tired.’

The panel found Witness 1 to be a credible witness in respect of this charge. It noted that her documentary evidence is consistent with her live evidence, and that she was clear in her explanation of where she was standing at the time of the incident; including the distance between her, Mr Knowles and Patient B. The panel accepted Witness 1’s evidence, that Mr Knowles’ tone of voice changed from talking in a loud and authoritative tone which was appropriate and necessary in the circumstances, to shouting at Patient B. The panel noted that Witness 1 was certain that Mr Knowles was shouting and could clearly recall that the ward was quiet at the time as most of the patients were asleep. The panel therefore preferred Witness 1’s account of this allegation and determined that, on the balance of probabilities, Mr Knowles shouted at Patient B.

The panel went on to consider whether such language was verbally abusive towards Patient B. The panel accepted Witness 1’s evidence that Mr Knowles’ voice escalated from an appropriate loud and authoritative tone to inappropriate shouting. The panel had regard to the circumstances of this escalation in volume and tone and concluded that there was no evidence of risk to staff or other patients which would make shouting a necessary or proportionate response to the situation. The panel therefore determined that shouting at a vulnerable patient without justification of risk or emergency is verbal abuse.

The panel therefore finds this charge proved.

Charge 1d.

1. Verbally abused patients, in that you:
 - d. Called Patient B “stupid”, or words to that effect;

This charge is found proved.

In reaching this decision, the panel took into account all of the documentary evidence before it. It had particular regard to the witness statement and live evidence of Witness 1.

The panel noted that this allegation was not contained within the contemporaneous statement of Witness 1, but she described Mr Knowles manoeuvring Patient B whilst calling him “stupid” in her NMC witness statement.

The panel heard the evidence of Witness 1, who was specifically questioned on the context and nature of Mr Knowles’ use of the word “stupid”. It found that she was clear that she heard Mr Knowles call Patient B “stupid”, and was certain that he was not describing the context of the situation or Patient B’s actions as “stupid”.

The panel bore in mind that it had no information before it of Mr Knowles’ response to this specific allegation, which was not directly put to him during the local Trust investigation meeting on 11 December 2020. However, the panel noted that Mr Knowles denied that he would use abusive language towards patients during this meeting.

The panel found Witness 1’s evidence in respect of this charge to be clear, credible and consistent with her NMC witness statement, and preferred her account to Mr Knowles’ denials of abusive language. In light of this, it was satisfied, on the balance of probabilities, that Mr Knowles called Patient B “stupid”.

The panel went on to consider whether such language was verbally abusive towards Patient B. The panel accepted Witness 1's evidence that Mr Knowles' directly called Patient B "stupid", and was not referring to the patient's actions. The panel determined that directly calling a vulnerable patient "stupid" is verbal abuse.

The panel therefore finds this charge proved.

Charge 1e.

1. Verbally abused patients, in that you:

- e. In response to Patient B saying "ow you've hit my head", said "did I hit your head? Or did you hit your head?" or words to that effect;

This charge is found proved.

In reaching this decision, the panel took into account all of the documentary evidence before it. It had particular regard to the witness statement and live evidence of Witness 1.

In respect of this allegation, the panel found Witness 1's contemporaneous statement to be consistent with her NMC witness statement, which sets out:

'I could both hear and see Patient B's head hit the floor, and they said words to the effect of "ow you've hit my head" to which the Nurse responded sarcastically "did I hit your head? Or did you hit your head?"'

The panel found that Witness 1 could clearly recall the words and tone used by Mr Knowles when making these comments. Witness 1 described Mr Knowles as speaking "sarcastically" and "smarmily" towards Patient B.

The panel bore in mind that it had no information before it of Mr Knowles' response to this specific allegation, which was not directly put to him during the local Trust investigation meeting on 11 December 2020. However, the panel noted that Mr Knowles denied that he would use abusive language towards patients during this meeting.

The panel found that Witness 1 was clear and credible in her evidence in respect of this charge. It found that she could clearly recall both the words and tone used by Mr Knowles towards Patient B, which she considered to be inappropriate. It noted that Witness 1's evidence in respect of the words and tone used has remained consistent with the initial complaint she raised following the shift in question. The panel therefore found, on the balance of probabilities, that, in response to Patient B saying "ow you've hit my head", Mr Knowles said "did I hit your head? Or did you hit your head?" or words to that effect.

The panel went on to consider whether such language was verbally abusive towards Patient B. The panel accepted the evidence of Witness 1 that the comment was made by Mr Knowles in a "sarcastic" or "smarmy" tone, which was inappropriate. The panel considered that adopting this tone and using the words found proved, or words to that effect, towards a vulnerable and elderly patient was derogatory, insulting and demeaning and demonstrated a lack of respect for Patient B. In light of this, the panel found that Mr Knowles asking the patient "did I hit your head? Or did you hit your head?" or words to that effect was verbal abuse.

The panel therefore finds this charge proved.

Charge 1f.

1. Verbally abused patients, in that you:
 - f. In front of, and in respect of Patient D, told a colleague "see this is how you need to be I don't take no shit from him", or words to that effect;

This charge is found proved.

In reaching this decision, the panel took into account all of the documentary evidence before it. It had particular regard to the witness statement and live evidence of Witness 2.

[PRIVATE]

The panel had regard to the notes of the local level investigation interview, carried out on 11 December 2020, but noted that these do not represent a verbatim record of the questions asked of Mr Knowles or the responses given. It bore in mind, in relation to the allegation of offensive language being used towards Patient D, the interview notes state that Mr Knowles said that he got on well with Patient D and denied that he would be offensive towards him.

[PRIVATE] The panel therefore found, on the balance of probabilities, that, in front of, and in respect of, Patient D, told a colleague “see this is how you need to be I don’t take no shit from him”, or words to that effect.

The panel went on to consider if this comment was verbally abusive. [PRIVATE] The panel concluded that in this context that the words used by Mr Knowles were inappropriate and contained threatening undertones which would likely intimidate a patient in his care. Accordingly, the panel found that the words used, as specified in the charge, were verbally abusive to Patient D.

The panel therefore found this charge proved.

Charge 1g.

1. Verbally abused patients, in that you:
 - g. Said to Patient D, “I’m fucking sick of you, treating my staff and my girls like this, you know exactly what you’re doing”, or words to that effect;
 - i. In an aggressive tone;

- ii. Whilst stood over Patient D

This charge is found NOT proved.

In reaching this decision, the panel took into account all of the documentary evidence before it. It had particular regard to the witness statement and live evidence of Witness 2.

[PRIVATE]

The panel noted that there was no evidence that this allegation had been put to Mr Knowles in the course of the Trust investigation, but noted that he denied that he would act in an offensive way towards Patient D.

[PRIVATE]

[PRIVATE] In light of this, the panel could not be satisfied that the NMC had provided sufficient evidence to demonstrate, on the balance of probabilities, that Mr Knowles said to Patient D, “I’m fucking sick of you, treating my staff and my girls like this, you know exactly what you’re doing”, or words to that effect.

The panel therefore found this charge not proved and did not go on to consider the tone used by Mr Knowles, or his position in relation to Patient D.

Charge 2a.

2. Physically abused Patient B, in that you:
 - a. Roughly moved them from behind by gripping their shoulders

This charge is found NOT proved.

In reaching this decision, the panel took into account all of the documentary evidence before it. It had particular regard to the witness statement and live evidence of Witness 1.

The panel found Witness 1's oral evidence in respect of this charge to be consistent with her NMC witness statement and contemporaneous statement, which sets out:

'Around 04:30am another service user, Patient B, woke up from his bedroom and came into the communal area. Patient B tried to remove the pillow and blanket from Patient A whilst she was still sleeping on the floor, so I politely intervened and asked Patient B to leave Patient A alone whilst she was resting. Patient B then tried to grope Patient A's breasts to which I tried to stop by moving his arms away. Patient B slapped my hands away, which didn't hurt but alerted RMN Duncan from across the communal area to intervene. Duncan grabbed Patient B by his shoulders and walked him away from the area telling him to not "touch anyone" which seems appropriate. However, Patient B was crying out "ow ow ow ow" the entire time.'

The panel heard Witness 1's oral evidence, in which she described Mr Knowles as roughly gripping Patient B by the sides of the shoulders and walking with Patient B at such speed that Patient B was scuffling his feet and struggling to keep up with Mr Knowles' speed.

The panel had regard to the notes of the local level investigation interview, carried out on 11 December 2020, but noted that these do not represent a verbatim record of the questions asked of Mr Knowles or the responses given. It took into account, that in response to the account given in Witness 1's contemporaneous statement, as detailed above, the interview notes state that Mr Knowles said *'I never flung anyone – I put my hands on Patient B's shoulders. When he tried to punch Witness 1 I took his wrists to move from Patient A. I had to move backwards'*.

The panel noted that Witness 1's evidence was that she was not aware that Patient B had allegedly attempted to punch her, as she had not seen it and Mr Knowles had not told her.

The panel concluded that it is not in dispute by the NMC or Mr Knowles that he gripped Patient B by his shoulders. It had regard to the evidence before it and found the evidence of Witness 1, that Mr Knowles was gripping and/or grabbing Patient B's shoulders to be credible and compelling. It accepted Witness 1's description of how Patient B was moved by Mr Knowles, and was satisfied that, on the balance of probabilities, Mr Knowles roughly moved Patient B from behind.

The panel went on to consider whether this amounted to physical abuse of Patient B. It noted that it is accepted that shortly before this incident Patient B had attempted to sexually assault Patient A by groping her breast. The panel also bore in mind Mr Knowles' explanation that he had seen Patient B attempt to punch Witness 1 and manoeuvred him in the way in which he did as a result of these incidents.

The panel heard Witness 1's oral evidence that she was not aware that Patient B had attempted to punch her but expected that Mr Knowles would have told her about it subsequently. The panel considered that it was not unreasonable for Mr Knowles not to inform Witness 1 of Patient B's failed attempt to punch her as she was a relatively young and inexperienced healthcare assistant who had never worked on the ward before, and it was likely that Mr Knowles did not want to cause Witness 1 to feel frightened or intimidated.

In the context of these previous incidents as a result of the actions of Patient B, the panel was satisfied that Witness 1's description of Mr Knowles gripping Patient B by the shoulders and directing him away from the common area fits with a clinically appropriate technique of manoeuvring a patient in response to such a situation. The panel therefore concluded that Mr Knowles did not physically abuse Patient B.

The panel therefore found this charge not proved.

Charge 2b.

2. Physically abused Patient B, in that you:
 - b. Grabbed Patient B by their arm and flipped them onto their back on the floor;

This charge is found proved.

In reaching this decision, the panel took into account all of the documentary evidence before it. It had particular regard to the witness statement and live evidence of Witness 1 and the evidence in relation to the investigation carried out by Witness 3.

The panel found the oral evidence of Witness 1 to be consistent with her NMC witness statement and contemporaneous statement, which sets out:

'About twenty minutes later, Patient B returns to the communal area and tries to step over Patient A's legs to enter the lounge. There is another HCA present sitting on the armchair next to Patient A and I am standing opposite. We both advise Patient B not to try and go near Patient A or step over her as she is resting, however he takes a step and stands right on top of her, putting his foot in her groin. Patient B falls on top of Patient A and slightly into the armchair she was resting against. Both service users cry out in pain and distress. I am trying to remove Patient B's foot from Patient A's body when I call out to Duncan who is sitting nearby "Can you come and help me move please?".

When Duncan arrives, he forcibly moves Patient B's foot and then grabs his right forearm, flinging him onto his back and away from Patient A. This is quite obviously not the correct way to lift someone.'

The panel noted that, during Witness 1's oral evidence, she provided a very clear description of where the patients and staff were positioned and confirmed that Mr Knowles manoeuvred Patient B in a "fast backward movement".

The panel bore in mind the evidence contained in the registrant response bundle. Mr Knowles set out that:

'At the time of this event, I was the only other member of staff present. I was required to act immediately, and I believe I utilised the techniques that I have previously been taught in UPMA correctly. At no point during this incident did I use excessive force, nor did I use any techniques I have not previously been demonstrated during my mandatory training.'

The panel found Witness 1's evidence in respect of this charge to be clear, consistent, and credible, and preferred this to Mr Knowles' account. Accordingly, the panel found that, on the balance of probabilities, Mr Knowles grabbed Patient B by their arm and flipped them onto their back on the floor.

The panel went on to consider if this action was physical abuse. Having accepted Witness 1's evidence that at least two other healthcare assistants were present at the time of this incident, and Mr Knowles proceeded to move Patient B on his own in a clinically inappropriate manner without any requests for assistance, the panel determined that this action amounted to physical abuse.

The panel therefore found this charge proved.

Charge 2c.

2. Physically abused Patient B, in that you:
 - c. Dragged Patient B across the floor;

This charge is found proved.

In reaching this decision, the panel took into account all of the documentary evidence before it. It had particular regard to the witness statement and live evidence of Witness 1 and the evidence in relation to the investigation carried out by Witness 3.

The panel found the oral evidence of Witness 1 to be consistent with her NMC witness statement and contemporaneous statement, which sets out:

'However, even though the two service users are now apart, RMN Duncan grabs Patient B's arm again and continues to drag [Patient B] by the arm with him on his back across the whole length of the lounge.'

The panel heard Witness 1's oral evidence that Patient B was a large man who was too big for her to move on her own. She also provided the panel with details as to the layout of the room and spoke with certainty that she observed Mr Knowles drag Patient B across the floor.

The panel had regard to the notes of the local level investigation interview, carried out on 11 December 2020, but noted that these do not represent a verbatim record of the questions asked of Mr Knowles or the responses given. It took into account, that in response to the allegation of dragging Patient B across the room, the interview notes state that Mr Knowles said:

'Mr Knowles: I'm tall but couldn't drag Patient B along the floor. I got on well with him when I was on 3 or 4 nights I would have a chat with him, it was banter. Help him back to bed. Nothing untoward – only night there was an issue was this one with Patient A. Seen Patient B angry and retaliate but it would be towards objects like windows and doors not people.'

Witness 3: Witness 1 states you had to drag Patient B away from Patient A

Mr Knowles: I did drag Patient B away from Patient A but not across room.'

The panel considered that Witness 1's evidence was clear, detailed, and credible, and therefore preferred this evidence to the account provided by Mr Knowles. Accordingly, the panel found on the balance of probabilities, Mr Knowles dragged Patient B across the floor.

The panel went on to consider whether this action constituted physical abuse. The panel had regard to the context of the incident. It accepted Witness 1's evidence that there was no active risk to staff or patients which required Patient B to be removed from the area quickly, and there were healthcare assistants present whom Mr Knowles could have, but did not ask for assistance in appropriately moving Patient B. The panel determined that dragging Patient B was disproportionate and not clinically appropriate and amounted to physical abuse.

The panel therefore found this charge proved.

Charge 2d.

2. Physically abused Patient B, in that you:

d. Let Patient B's arm go, resulting in them hitting their head on the floor

This charge is found proved.

In reaching this decision, the panel took into account all of the documentary evidence before it. It had particular regard to the witness statement and live evidence of Witness 1 and the evidence in relation to the investigation carried out by Witness 3.

The panel considered Witness 1's account of this incident as contained in her contemporaneous statement, drafted for the purpose of a complaint to the Trust in the days following the alleged incident, which states:

'Finally, he lets go from a height and Patient B's upper back/head drop to the floor with a bang. I watched Patient B's head bounce off the floor.'

The panel noted that this account was shorter than that contained in her NMC witness statement, which reads:

'Once the Nurse had dragged Patient B by their right forearm and on their back to the other end of the communal area, which would be around 8 feet in length, and with Patient B still raised off the ground by virtue to the Nurse holding his forearm up so that Patient B's shoulders and head were raised off the floor, the Nurse dropped them so that their head hit the floor. I could both hear and see Patient B's head hit the floor.'

The panel heard Witness 1's oral evidence in respect of this matter, in which she confirmed that Patient B's upper body was off the floor when being dragged, until the point at which Mr Knowles let go of him and Patient B hit his head.

The panel bore in mind the evidence contained in the registrant response bundle. Mr Knowles set out that:

'At the time of this event, I was the only other member of staff present. I was required to act immediately, and I believe I utilised the techniques that I have previously been taught in UPMA correctly. At no point during this incident did I use excessive force, nor did I use any techniques I have not previously been demonstrated during my mandatory training

Again, I refute the allegation that I forcibly moved service users.'

The panel considered all the evidence before it. It noted that the account initially given by Witness 1 in her statement to the Trust is shorter than that provided in her NMC witness statement and her oral evidence at the hearing. Despite this, the panel found her evidence

to be clear, credible, and consistent, and found her to clearly express what she saw and how distressed she felt in response to seeing Patient B hitting his head on the floor. In light of this, the panel was satisfied that, on the balance of probabilities, Mr Knowles let Patient B's arm go, resulting in them hitting their head on the floor.

The panel went on to consider if this act amounted to physical abuse. The panel was mindful that such action raised potential for a serious injury to Patient B. In light of this, the panel concluded that, in letting go of Patient B's arm, resulting in them hitting their head on the floor, Mr Knowles physically abused Patient B.

Charge 3

3. Physically abused Patient D, in that you:
 - a. Pulled them over in bed onto their side;
 - b. In a rough manner

This charge is found proved in its entirety.

In reaching this decision, the panel took into account all of the documentary evidence before it. It had particular regard to the witness statement and live evidence of Witness 2.

[PRIVATE]

The panel bore in mind the evidence contained in the registrant response bundle. Mr Knowles set out that:

'With regards to my care of Patient D, I cannot understand the statement that I "pulled him over to the bed". Patient D was an elderly gentleman with frontal temporal lobe dementia, his care plan clearly stated that Patient D was to be nursed on the bed and that staff were not to hoist or remove him from bed.'

For this reason, I would have had no need to pull him to the bed as he was already in it and I therefore refute this allegation.'

[PRIVATE] In light of this, the panel was satisfied, on the balance of probabilities, that Mr Knowles pulled Patient D over in bed onto their side in a rough manner.

The panel went on to consider whether this action amounted to physical abuse and considered the totality of the incident. The panel determined that Mr Knowles adopted an unnecessary and clinically inappropriate method to pull a bedbound, elderly, and vulnerable patient over in their bed, [PRIVATE] In light of this, the panel concluded that Mr Knowles' actions as specified at charge 3 amounted to physical abuse.

The panel therefore found this charge proved in its entirety.

Charge 4a.

4. Failed to treat patients with dignity and/or respect, in that you;
 - a. Referred to Patient A as "frikkin crazy" and/or "totally mad", or words to that effect;

This charge is found proved.

In reaching this decision, the panel took into account all of the documentary evidence before it.

The panel first considered whether there was a duty imposed upon Mr Knowles to treat patients with dignity and/or respect. It had regard to Mr Knowles' job description, which set out his duties as a registered nurse employed by the Trust. The panel noted that one of Mr Knowles' Clinical Practice Management Objectives was to:

'Be familiar with the NMC's 'The Code': Standards of Conduct, Performance and Ethics for Nurses and Midwives. Recognise own competencies and to address any limitations to ensure safe practice.'

The panel reminded itself of the duties imposed on Mr Knowles by 'The Code: Professional standards of practice and behaviour for nurses and midwives' (2015) ('the Code'), which includes:

'1. Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion'

In light of this duty imposed by Mr Knowles' job description, and the expectations of registered nurses to follow the Code, the panel was satisfied that Mr Knowles had a duty to treat patients with dignity and/or respect.

In respect of the words alleged to be used by Mr Knowles in charge 4a, the panel had particular regard to the witness statement and live evidence of Witness 1. It noted that Witness 1 had consistently described Mr Knowles as using the terms "frikkin' crazy and totally mad" in her contemporaneous statement to the Trust, her NMC witness statement and again in her oral evidence.

The panel bore in mind that there was no evidence before it of Mr Knowles position in respect of this specific allegation, but for his broad denial that he would use inappropriate language towards or about patients in his care.

The panel preferred the evidence of Witness 1, which it found to be clear, consistent and compelling. It found that she spoke with certainty when describing how Mr Knowles used the words "frikkin' crazy" and "totally mad" in respect of Patient A and was clear about how she found this language to be inappropriate, rude, and humiliating. Accordingly, the panel

found, on the balance of probabilities, that Mr Knowles referred to Patient A as “frikkin’ crazy” and/or “totally mad”, or words to that effect.

The panel went on to consider whether the use of such words amounted in a failure on Mr Knowles’ part to treat Patient A with dignity and/or respect. It accepted Witness 1’s evidence that this comment was rude and humiliating and considered that it was an unprofessional thing to say which would likely cause upset to Patient A and/or her family were they to learn she was referred to in such a way. In all the circumstances the panel concluded that Mr Knowles’ use of words as specified in charge 4a constituted a failure to treat Patient A with dignity and/or respect.

Charge 4b.

4. Failed to treat patients with dignity and/or respect, in that you;
 - b. Refused to assist Patient A when they were on the floor, requesting assistance to get up, when there was no clinical reason for refusing to assist them;

This charge is found proved.

In reaching this decision, the panel took into account all of the documentary evidence before it. It had particular regard to the witness statement and live evidence of Witness 1.

The panel found Witness 1’s contemporaneous statement to the Trust to be consistent with her NMC witness statement, which states:

‘Patient A was quite distressed throughout the night and would call out for help, or slide on and off the sofa. The Nurse would walk through the corridor and ignore Patient A’s calls for help, or they would make horrible remarks about them such as calling Patient A “frikkin’ crazy” or “totally mad”. The Nurse would also dismiss Patient A’s calls for help, and at one point said

“you’re fucking pissing me off now, I’m not going to help you and you can stay there”. I was able to hear this remark because the Nurse was standing next to myself and Patient A when they said it, and the Nurse clearly raised their voice when they said this.

In response to the Nurse, Patient A would moan out of desperation, and ask for help again. I do not recall if Patient A had capacity to understand the Nurse’s verbal frustration.

[...]

In this situation, the Nurse should have tried to assist Patient A and find out what is wrong so that they could help them. The Nurse should have treated Patient A in a caring and compassionate manner, rather than losing their patience with Patient A and treating them in a demeaning way. If the Nurse was too busy, they should have been able to delegate care to another staff member.’

The panel also heard oral evidence from Witness 1, which was consistent with her contemporaneous statement, that Patient A had a “sore undercarriage” and should not have been sitting on the floor at the time.

The panel noted that there is no specific response provided by Mr Knowles in respect of this charge, however he denied that he said the things he is accused of in respect of Patient A.

In respect of this charge, the panel preferred the evidence of Witness 1, which it found to be clear, consistent, and compelling. The panel noted that Witness 1 accepted that it may be clinically appropriate for certain patients to be left to sit on the floor if they are capable of standing, however she was certain that Patient A should be seated on a chair or sofa due to the presence of other clinical issues. The panel found Witness 1 to be candid about

how witnessing Mr Knowles' treatment of Patient A, including this incident, had a detrimental effect on her and made her feel uncomfortable and scared. The panel noted that Witness 1 became visibly distressed when giving her evidence. Accordingly, the panel found on the balance of probabilities, that Mr Knowles refused to assist Patient A when they were on the floor, requesting assistance to get up, when there was no clinical reason for refusing to assist them.

The panel went on to consider whether this refusal amounted to a failure on Mr Knowles' part to treat Patient A with dignity and/or respect. It accepted Witness 1's evidence that Mr Knowles lost his patience and swore at Patient A, a vulnerable and elderly adult, when refusing to assist them when they were on the floor. In all the circumstances, the panel determined that Mr Knowles failed to treat Patient A with dignity and respect.

Charge 4c.

4. Failed to treat patients with dignity and/or respect, in that you;
 - c. Failed to assist Patient C to the toilet when there was no clinical reason for refusing to assist them;

This charge is found NOT proved.

In reaching this decision, the panel took into account all of the documentary evidence before it. It had particular regard to the witness statement and live evidence of Witness 1.

The panel found Witness 1's contemporaneous statement to the Trust to be consistent with her NMC witness statement. Witness 1's contemporaneous statement sets out:

'Last thing in the morning before the end of my shift, after doing 1 to 1 care with a service user, I entered the communal area and bump into Duncan with Patient C. He is assisting her walking, and he says to me "Witness 1, can you take Patient C to the toilet please – I would normally but I don't like the way

she walks.” Obviously, I carry out the task with dignity and care, but I can’t quite believe he said that in front of the service user herself.’

The panel found Witness 1’s oral evidence in respect of this charge to be consistent with her statements. It noted that she said that she felt that Mr Knowles had ‘dumped’ Patient C on her.

The panel had no evidence before it of Mr Knowles’ response to this allegation.

The panel had regard to the wording of the charge and the actions taken by Mr Knowles. It accepted Witness A’s evidence and considered Mr Knowles’ behaviour and comments about Patient C to be inappropriate, however it did not consider that the evidence before it supported the allegation that Mr Knowles failed to assist Patient C to the toilet, as he had commenced assisting Patient C to the toilet before he delegated the task to Witness 1.

The panel therefore found this charge not proved.

Charge 5a.

5. Failed to follow the medication policy, in that you;
 - a. Potted medication for HCAs to administer

This charge is found NOT proved.

In reaching this decision, the panel took into account all of the documentary evidence before it. It had particular regard to the witness statement and live evidence of Witnesses 2 and 3 and the Trust medication policy, including the Trust document entitled ‘Procedure for the Administration of Medicines (Med01)’, version 7.1 before it.

[PRIVATE]

The panel also accepted the oral evidence of Witness 3, that it was “good practice” for nurses to pot and administer medications but accepted that it was not a failure to follow the medication policy were Mr Knowles to pot the medications and allow healthcare assistants to administer the medications.

The panel went on to have regard to the medications policy, which reads:

‘Medicines must only be prepared and/or administered to a patient by the following categories of healthcare staff:

- *Registered Nurse*
- *Registered Medical Practitioner*
- *Registered authorised Pharmacy Staff*

The panel bore in mind the wording of the charge alongside the medications policy document before it. It bore in mind that it is not alleged that Mr Knowles allowed healthcare assistants to prepare medications in pots but administer those which he had prepared. The panel also considered the wording in section 5.4 of document ‘Med01’, which states *‘The practitioner who has administered or supervised the administration...’* which implies that it does not need to be the practitioner who administers medication. The panel had not been taken to, and could not identify, any section of the medications policy where this was forbidden, and therefore found this charge not proved.

This charge is found NOT proved.

Charge 5b.

5. Failed to follow the medication policy, in that you;
 - b. Left said pots of medication unattended;

This charge is found proved.

In reaching this decision, the panel took into account all of the documentary evidence before it. It had particular regard to the witness statement and live evidence of Witness 2 and the medication policy, including the Trust document entitled 'Procedure for the Administration of Medicines (Med01)', version 7.1 before it.

[PRIVATE]

The panel noted Mr Knowles has not provided a direct response to this allegation, however he refutes that he allowed healthcare assistants to deliver medication from the clinic room to the service users and administer medication unsupervised.

The panel went on to look at document 'Med01', which states:

'The practitioner who has administered or supervised the administration of the medicine must, at the time of administration, sign with initials in the appropriate column of the drug prescription and administration chart. The practitioner must observe that the patient has taken their medicines. Prepared medicines must never be left unsupervised.'

[PRIVATE]

The panel was satisfied that the terms "unsupervised" and "unattended" are synonymous in this context and, having accepted the evidence of Witness 2, found that, on the balance of probabilities Mr Knowles left pots of medication unattended.

The panel therefore found this charge proved.

Charge 5c.

5. Failed to follow the medication policy, in that you.

- c. Signed to say that said medication had been administered prior to administration;

This charge is found proved.

In reaching this decision, the panel took into account all of the documentary evidence before it. It had particular regard to the witness statement and live evidence of Witness 2 and the medication policy, including the Trust document entitled 'Procedure for the Administration of Medicines (Med01)', version 7.1 before it.

[PRIVATE]

The panel noted Mr Knowles has not provided a direct response to this allegation, however he refutes that he allowed healthcare assistants to deliver medication from the clinic room to the service users and administer medication unsupervised.

The panel went on to look at document 'Med01', which states:

'The practitioner who has administered or supervised the administration of the medicine must, at the time of administration, sign with initials in the appropriate column of the drug prescription and administration chart.'

[PRIVATE]

The panel was satisfied that the medication policy established a clear duty for Mr Knowles to sign against medication only after it had been administered, which he failed to adhere to. Accordingly, the panel determined that, on the balance of probabilities, Mr Knowles signed to say that said medication had been administered prior to administration.

The panel therefore found this charge proved.

Charge 5d.

5. Failed to follow the medication policy, in that you;
 - d. Failed to adequately supervise HCAs administering medication;

This charge is found proved.

In reaching this decision, the panel took into account all of the documentary evidence before it. It had particular regard to the witness statement and live evidence of Witness 2, the medication policy, including the Trust document entitled 'Procedure for the Administration of Medicines (Med01)', version 7.1 before it.

[PRIVATE]

The panel noted Mr Knowles has not provided a direct response to this allegation, however he refutes that he allowed healthcare assistants to deliver medication from the clinic room to the service users and administer medication unsupervised.

The panel went on to look at document 'Med01', which states:

'Before administering medicine, a practitioner must check

[...]

- *The identity of the patient - extreme care is required to ensure that visual recognition and verbal questioning are applied so the practitioner is confident in the patient's identity. Until the practitioner is absolutely sure that they recognise the patient, they must always ask them to tell them their full name and date of birth, where appropriate. If the practitioner is unfamiliar with the patient, they should seek support from a colleague who can verify the patient's identity.'*

And:

'The practitioner must observe that the patient has taken their medicines.'

[PRIVATE]

The panel was satisfied that the medication policy established a clear duty for Mr Knowles to identify patients and observe the administration of their medications, which he failed to adhere to. Accordingly, the panel determined that, on the balance of probabilities, Mr Knowles failed to adequately supervise healthcare assistants administering medication.

The panel therefore found this charge 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 Mr Knowles' 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, Mr Knowles' 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.*'

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

Mr Joshi submitted that determining misconduct involves considering the context of what happened, and fitness to practise is about keeping the public safe, rather than punishing wrongdoing. However, he submitted that Mr Knowles' actions were not reflective of poor practice or something that could be blamed on systemic failures, but were serious misconduct both individually and collectively.

Mr Joshi submitted that despite the nearly three years that have passed since the incidents in this case, it is telling that the two eyewitnesses were still distressed by what happened. He submitted that Mr Knowles has not acknowledged any of his failings, and whilst Mr Knowles had accepted using inappropriate language during the local investigation, he did not accept that such language could have an effect on the recipient or on any witnesses.

Mr Joshi submitted that the patients on the ward were elderly with complex mental health conditions, and by virtue of these characteristics, are some of the most vulnerable people in society. He submitted that it was most telling that Mr Knowles was described by Witness 1 as the sort of nurse she didn't want to be.

Mr Joshi submitted that in considering seriousness, the panel must consider whether the harm caused to patients was avoidable. He submitted that dragging someone across a floor was deliberate harm, and watching someone's head bounce off of the floor could not be attributable to an accident or characterised as a momentary lapse of control or attention. Mr Joshi submitted that the harm the patients in Mr Knowles' care experienced could have been avoided by Mr Knowles showing a standard of care and humanity expected of any human being, let alone that of a registered nurse. He submitted that the patients would not have been able to respond to Mr Knowles' abusive language or retaliate, and that Mr Knowles' actions amounted to nothing more than bullying.

Mr Joshi proposed a number of paragraphs of the Code that Mr Knowles's actions had breached. He also referred the panel to the NMC's published guidance on seriousness ('How we determine seriousness', reference FTP-3, last updated 1 July 2022), which indicated that conduct involving patients being placed at risk of harm or experiencing actual harm is considered to be more serious.

The panel accepted the advice of the legal assessor, which included reference to *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Decision and reasons on misconduct

The panel found that Mr Knowles' actions amounted to breaches of the Code, specifically:

'1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 *treat people with kindness, respect and compassion.*

1.2 *make sure you deliver the fundamentals of care effectively.'*

'2 Listen to people and respond to their preferences and concerns

To achieve this, you must:

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

'8 Work cooperatively

To achieve this, you must:

8.2 *maintain effective communication with colleagues.*

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

'11 Be accountable for your decisions to delegate tasks and duties to other people

To achieve this, you must:

11.2 *make sure that everyone you delegate tasks to is adequately supervised and supported so they can provide safe and compassionate care.'*

'18 Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations

To achieve this, you must:

18.1 *prescribe, advise on, or provide medicines or treatment, including repeat prescriptions (only if you are suitably qualified) if you have enough knowledge of that person's health and are satisfied that the medicines or treatment serve that person's health needs.*

18.4 *take all steps to keep medicines stored securely.'*

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

To achieve this, you must:

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

‘20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

20.2 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.

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel found that Mr Knowles’ actions, both individually and cumulatively, amounted to serious misconduct. It considered the charges to be reflective of a sustained pattern of wide-ranging physical and verbal abuse towards highly vulnerable patients who could not protect themselves. The panel found that the potential harm the patients in Mr Knowles’ care experienced could have been avoided by the extension of basic human compassion, which was lacking, notwithstanding Mr Knowles being a trained and highly experienced registered mental health nurse. The panel had regard to the NMC’s published guidance on seriousness, which indicates that behaviour that could be characterised as bullying is particularly serious:

‘Bullying can be described as unwanted behaviour from a person or a group of people that is either offensive, intimidating, malicious or insulting. It can be an abuse or misuse of power that undermines, humiliates, or causes physical or emotional harm to someone.’

The panel found Mr Knowles’ conduct towards patients to be bullying, and that fellow registered nurses would consider his behaviour to be deplorable. It noted that the witnesses who gave live evidence were shocked, distressed and badly affected by what they had witnessed, even two years after the events.

In all the circumstances, the panel found that Mr Knowles' actions did fall seriously short of the conduct and standards expected of a registered nurse and amounted to serious misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mr Knowles' 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. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, they must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

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

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

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or

determination show that his/her fitness to practise is impaired in the sense that s/he:

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) ...'*

The panel finds that limbs (a), (b) and (c) of the test are engaged. With respect to the past, patients were caused physical and emotional harm as a result of Mr Knowles' misconduct. The panel acknowledged that mental health nursing is a challenging specialist area, and that the language used between nurses and patients may be more informal than in other settings with the aim of building trust. However, the panel found that Mr Knowles' language towards his patients was clearly abusive and could not be dismissed as banter.

The panel found that Mr Knowles' misconduct had breached the fundamental tenets of the nursing profession and brought its reputation into disrepute. It considered Witness 1's evidence that at first, she was excited to work with Mr Knowles, and trusted and respected him because of his experience. However, by the end of her shift, she felt unsafe and could not wait to get home because of what she had witnessed. The panel found it particularly poignant that in her oral evidence, Witness 1 said that she learned from the experience that she did not want to be a nurse like Mr Knowles. It wished to acknowledge Witness 1's integrity in coming forward after her shift and supporting both the Trust's and the NMC's investigations.

In its consideration of whether Mr Knowles' fitness to practise is currently impaired, the panel found that Mr Knowles has demonstrated little to no insight into his behaviour. In his interview for the local investigation, Mr Knowles acknowledged that his use of offensive language may have been inappropriate, but in his response to the NMC prior to his interim order hearing, he denied using the language at all. The panel considered that Mr Knowles has not accepted any of the concerns about his practice at any stage of these proceedings, or acknowledged how his actions affected patients, their families or colleagues. He has disengaged from the NMC proceedings. Therefore, Mr Knowles could not be said to have shown remorse or regret.

The panel noted that Mr Knowles had provided a list of relevant training courses that he commenced in 2021. However, he has not provided evidence of completing the courses, and the panel has no information about how he may have applied his learning to his practice. The panel therefore found this to be of limited value in its assessment of whether Mr Knowles has strengthened his practice.

The panel found that the references Mr Knowles had provided in 2021 did not align with its findings on the facts. It heard evidence that the behaviours exhibited by Mr Knowles were considered to be commonplace and acceptable on the ward, and noted that the ward had been shut down for three months due to safeguarding concerns. This supported the conclusion that the harm patients had experienced had been endemic and the result of a culture on the ward that normalised abusive behaviour. The panel had no evidence that all of the referees were aware of the charges against Mr Knowles, and did not have the benefit of being able to explore the contents of the references with live witnesses.

In all the circumstances, the panel has concluded that there is a real risk of repetition and of consequential harm to patients. The panel therefore determined that a finding of impairment is necessary on the grounds of public protection.

The panel has borne in mind the overarching objectives of the NMC: to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold

and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

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 Mr Knowles' fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mr Knowles' fitness to practise is currently impaired by reason of his misconduct.

Sanction

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

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance ('SG') published by the NMC. The panel accepted the advice of the legal assessor.

Submissions on sanction

Mr Joshi informed the panel that in the Notice of Hearing dated 21 June 2022, the NMC had advised Mr Knowles that it would seek the imposition of a striking-off order if it found Mr Knowles' fitness to practise currently impaired.

Mr Joshi submitted that no sanction other than a striking-off order would sufficiently address the real harm that was caused to the individuals in this case. He submitted that Mr Knowles' highly vulnerable patients had mobility problems and needed assistance with

personal care, and any member of the public fully aware of this case would be shocked and appalled.

Mr Joshi proposed a number of aggravating factors in accordance with the SG. He submitted that patients came to harm, and their vulnerable nature meant that they were unable or unwilling to articulate what had happened to them, or may not have had awareness of what had occurred. Mr Joshi submitted that the allegations were in turn supported by a full and thorough investigation, which showed that clear practices and procedures were in place but were being disregarded. Furthermore, Mr Joshi submitted that Mr Knowles was a senior nurse in a position of power and trust, which he abused. He also submitted that Mr Knowles' initial responses to the allegations were generic and did not address the substance of the concerns.

Mr Joshi submitted that there were no mitigating factors applicable to this case. He submitted that Mr Knowles' actions raised fundamental questions about his professionalism and were fundamentally incompatible with him remaining on the register. Mr Joshi further submitted that to allow Mr Knowles to remain on the register would seriously undermine public confidence in the nursing profession.

Decision and reasons on sanction

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

The panel found that the following aggravating factors were engaged:

- Mr Knowles' actions placed particularly vulnerable patients at risk of suffering harm.

- Mr Knowles was a senior nurse in a position of trust, which he abused.
- As a senior nurse in charge of a ward, Mr Knowles failed to be a role model for the healthcare assistants who aspired to be nurses.
- Mr Knowles' misconduct was part of a pattern over a period of time.
- Mr Knowles has demonstrated little to no insight into his failings.

The panel found that no mitigating factors were engaged. Mr Knowles had chosen to disengage in 2021, and he has not submitted any further information to the NMC since then. The panel noted that Mr Knowles had provided a number of testimonials from 2021, but considered them to have limited value for the reasons previously outlined.

The panel first considered whether to take no action, but concluded that this would be inappropriate in the light of the serious misconduct of this case. It has found that Mr Knowles presents a continuing risk to patients, was responsible for conduct that undermined the public's trust in nurses, and breached the fundamental tenets of the profession. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order, but determined that, for the reasons previously outlined, an order that does not restrict Mr Knowles' practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel has determined that Mr Knowles' misconduct was not at the lower end of the spectrum, and as such, a caution order would be neither proportionate nor in the public interest.

The panel next considered whether placing conditions of practice on Mr Knowles' registration would be an appropriate and proportionate response. Whilst the panel considered that conditions of practice may have been able to address Mr Knowles' medication administration failings, it did not find that practical or workable conditions could

be formulated to address the concerns about his mistreatment of patients. Furthermore, as Mr Knowles has disengaged from the NMC, the panel has seen no evidence that he would be willing to comply with any conditions imposed. Finally, the panel found that placing conditions on Mr Knowles' registration would not adequately address the seriousness of this case and uphold the public interest.

The panel then considered whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where the following relevant 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;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour.*

The panel found that none of these factors was engaged.

Mr Knowles' misconduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel found that the serious breaches of the fundamental tenets of the profession as evidenced by Mr Knowles' actions are fundamentally incompatible with Mr Knowles remaining on the register.

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

Finally, in considering a striking-off order, the panel had regard to 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?*

Mr Knowles' actions were significant departures from the standards expected of a registered nurse, and raised fundamental questions about his professionalism. They are fundamentally incompatible with him remaining on the register. The panel found that to allow Mr Knowles 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 considering all the evidence before it, the panel has determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Mr Knowles' actions in bringing the profession into disrepute by physically and verbally abusing vulnerable patients, and by adversely affecting the public's view of how a registered nurse should conduct himself, the panel has concluded that nothing less than a striking-off order would be sufficient in this case.

The panel found this order to be necessary to protect the public and 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 Mr Knowles in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, or after the conclusion of any appeal that may be lodged, 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 Mr Knowles' own interests until the striking-off sanction takes effect.

Submissions on interim order

Mr Joshi asked the panel to impose an interim suspension order of 18 months to cover the duration of the appeal period.

The panel accepted the advice of the legal assessor.

Decision and reasons on interim order

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

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to allow sufficient time for any appeal that may be lodged to conclude.

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

That concludes this determination.