Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Tuesday 3 January 2023 – Friday 6 January 2023
Monday 9 January 2023 – Friday 13 January 2023
Monday 16 January 2023 – Tuesday 17 January 2023

Virtual Hearing

Name of Registrant:	**Robert Charles Lovis**
NMC PIN	75J0345W
Part(s) of the register:	Registered Nurse – Sub Part 1 RN3 Mental Health Nurse L1 – December 1975
Relevant Location:	Blaenau Gwent
Type of case:	Misconduct
Panel members:	Richard Weydert-Jacquard (Chair, registrant member) Judith McCann (Registrant member) David Newsham (Lay member)
Legal Assessor:	Michael Levy
Hearings Coordinator:	Shela Begum
Nursing and Midwifery Council:	Represented by Ms Leathem, Case Presenter
Mr Lovis:	Not present and unrepresented
Facts proved:	All
Fitness to practise:	Impaired
Sanction:	**Striking-off order**
Interim order:	**Interim suspension order**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Lovis was not in attendance and that the Notice of Hearing letter had been sent to Mr Lovis's registered email address by secure email on 1 December 2022.

Ms Leathem, 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 allegation, the time, dates and link to the hearing and, amongst other things, information about Mr Lovis's 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 Lovis has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

The panel noted that the Rules do not require delivery and that it is the responsibility of any registrant to maintain an effective and up-to-date registered address.

Decision and reasons on proceeding in the absence of Mr Lovis

The panel next considered whether it should proceed in the absence of Mr Lovis. It had regard to Rule 21 and heard the submissions of Ms Leathem who invited the panel to continue in the absence of Mr Lovis.

Ms Leathem informed the panel that Mr Lovis's registered email address is managed by and belongs to his wife. She referred the panel to an email dated 16 June 2022 from Ms 1 which states:

"[PRIVATE]... Robert hasn't worked since leaving Plasgellor &… [PRIVATE]… so I have no intention of him being involved."

A further email from Ms 1 dated 17 June 2022 states:

"[PRIVATE]… & we have respectfully requested that we are left alone as we have no intention of attending or contributing to this farce & are going to seek legal advice over this matter."

The panel were concerned that although notice had been correctly served there was a lack of evidence that Mr Lovis was in fact aware of the hearing and had given consent to Ms 1 to communicate on his behalf. Considering fairness to Mr Lovis and to ensure that an unrepresented registrant had every opportunity to participate in this hearing the panel requested that a further attempt was made by the NMC to contact Mr Lovis.

Ms Leathem informed the panel that on 3 January 2023, Mr Lovis's case officer made a call to the registered contact number. Ms Leathem referred the panel to the documentation signed by the case officer which exhibits the summary of the phone call. The case officer quotes:

"Mr Lovis is given the phone to speak to me. I confirmed his DOB and home address with him. He said he agree to all three points. I confirmed for the purposes of the hearing that:

1) You aware of your NMC hearing taking place from today, 3 January, until 26 January 2023;
2) You are content for the hearing to proceed in your absence; and
3) You have consented to [Ms 1], communicating with the NMC and making decisions on your behalf previously, and that you are happy for [Ms 1] to continue to do so.

He said yes to each point I stated above."

Ms Leathem invited the panel to proceed with this hearing in the absence of Mr Lovis. She submitted that based on the conversation between Mr Lovis and the case officer, the panel can conclude that Mr Lovis had voluntarily absented himself.

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 Lovis. In reaching this decision, the panel has considered the submissions of Ms Leathem, the representations made on Mr Lovis's behalf, 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 Lovis;
- Mr Lovis has informed the NMC that he is aware of this hearing taking place and confirmed he is content for the hearing to proceed in his absence;
- There is no reason to suppose that adjourning would secure his attendance at some future date;
- Four witnesses have been warned to give live evidence at this hearing;
- 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 2017 and 2018;
- 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 is some disadvantage to Mr Lovis in proceeding in his absence. Although the evidence upon which the NMC relies will have been sent to him at his registered email address, 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 could be mitigated to a certain extent. 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, any disadvantage is the consequence of Mr Lovis decisions to absent himself from the hearing, waive his rights to attend, and/or be represented, and to not provide any further evidence or make submissions on his own behalf.

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

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

At the outset of the hearing, the panel, of its own volition, determined to hold parts of this case in private on the basis that there will be some reference to matters relating to Mr Lovis's health. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms Leathem supported the decision that any reference to Mr Lovis's health should be heard in 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 or by the public interest.

The panel determined to go into private session in connection with Mr Lovis's health as and when such issues are raised in order to protect his privacy.

Details of charge

That you, a registered nurse, employed at Plasgellar Care Home

1. On 13 April 2018, pushed Resident 1 by her shoulders

2. On 13 April 2018, applied force to the chin of Resident 5 to wake him up

3. On 13 April 2018, pushed Resident 2 forcefully to his shoulder/upper back area

4. On 28 April 2018, shouted at Resident 3 'don't shout at my girls like that' or words to that effect

5. On an unknown date, recklessly pulled Resident 2 out of a room

6. On an unknown date shouted at Resident 4 to sit down

7. On one or more occasions, instructed or allowed non-registered nurses, to administer medication to residents

8. Around 19 December 2017 failed to adequately assess and/or escalate the condition of Resident 6

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

Background

The charges arose whilst Mr Lovis was employed as a registered nurse by Plasgellar Care Home (the Home). The Home provides care for residents most of whom were living with from some form of dementia. Mr Lovis had been the sole nurse on shift on permanent night duty supported by a team of carers.

The NMC received a referral on 21 February 2019 from the Operations Director at the Home. The referral raised concerns about Mr Lovis's behaviour and actions towards residents of the home, including using forceful approaches to handle and/or awaken patients. The referral also raised concerns about Mr Lovis raising his voice and shouting

at residents. Further concerns were also raised relating to Mr Lovis's administration of medication and his failure to adequately assess and/or escalate the condition of a resident.

As a result of the concerns a disciplinary hearing took place at the Home which Mr Lovis did not attend but submitted written representations which outlined his response to the allegations. The outcome of the disciplinary hearing was that Mr Lovis was given a final written warning.

Mr Lovis resigned from his role at the Home due to the circumstances of his health and has not returned to nursing since.

Decision and reasons on application to admit written statement as hearsay evidence

The panel heard an application made by Ms Leathem under Rule 31 to allow the written statement of Witness 5 into evidence. Witness 5 was not present at this hearing and, whilst the NMC had made sufficient efforts to ensure that this witness was present, she was unable to attend… [PRIVATE].

Ms Leathem accepted that the panel would need to consider admissibility before going onto evaluate any weight to attach to the evidence if it is to be allowed into evidence.

Ms Leathem informed the panel that Witness 5 is a healthcare assistant of the Home, and that there is a signed witness statement from her dated 29 September 2020 which was around 2 years after the alleged incidents. She informed the panel that Witness 5's evidence relates to charges 4 and 7.

[PRIVATE].

Ms Leathem referred the panel to the case of El Karout v NMC (2020) EWHC 3079 which adopted the principles of Ogbonna (2010) EWCA Civ 1216. She invited the panel to consider whether Witness 5's evidence is the sole or decisive evidence specifically in

respect of charge 4 and 7. She submitted that in relation to charge 4, Witness 5 was the only direct eyewitness but that her evidence is not sole or decisive in respect of charge 7.

Ms Leathem submitted that the key consideration for the panel is one of fairness. She invited the panel to take account of the case of El Karout and Thorneycroft v Nursing and Midwifery Council [2014] EWHC 1565 (Admin) and for it to carry out a balancing exercise.

In the preparation of this hearing, the NMC had indicated to Mr Lovis, that it was the NMC's intention for Witness 5 to provide live evidence to the panel. Despite knowledge of the nature of the evidence to be given by Witness 5, Mr Lovis made the decision not to attend this hearing. On this basis Ms Leathem advanced the argument that there was no lack of fairness to Mr Lovis in allowing Witness 5's written statement into evidence.

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

The panel gave the application in regard to Witness 5 serious consideration. The panel noted that Witness 5's statement had been prepared in anticipation of being used in these proceedings and contained the paragraph, 'This statement … is true to the best of my information, knowledge and belief' and signed by her.

The panel considered whether Mr Lovis would be disadvantaged by the change in the NMC's position of moving from reliance upon the live testimony of Witness 5 to that of a written statement.

The panel considered that as Mr Lovis had been provided with a copy of Witness 5's statement and, as the panel had already determined that Mr Lovis had chosen voluntarily to absent himself from these proceedings, he would not be in a position to cross-examine this witness in any case. There was also public interest in the issues

being explored fully which supported the admission of this evidence into the proceedings.

The panel considered that the unfairness in this regard worked both ways in that the NMC was deprived, as was the panel, from reliance upon the live evidence of Witness 5 and the opportunity of questioning and probing that testimony.

The panel considered the relevance of Witness 5’s evidence and it determined that the statement is relevant to charges 4 and 7. The panel noted that Witness 5 was the only direct eyewitness that can speak to charge 4, but it also noted that Witness 2 was not a direct eyewitness but was within auditory range and still speaks to charge 4. It could therefore not be satisfied that Witness 5 is wholly the sole or decisive witness that speaks to charge 4.

However, the panel noted that there was also public interest in the issues being explored fully which supported the admission of this evidence into the proceedings. Further, the panel noted that there is good reason for Witness 5’s non-attendance [PRIVATE].

Additionally, the panel considered that Witness 5's evidence was the only witness testimony that supported Mr Lovis's version of events concerning charge 4. Therefore, the panel considered inclusion of Witness 5's hearsay evidence to be in the fairness of the Mr Lovis.

In these circumstances, the panel came to the view that it would be fair and relevant to accept into evidence the written statement of Witness 5, but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

Decision and reasons on facts

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

The panel also had regard to the registrant's response bundle which included Mr Lovis's response to the allegations. The panel took this into account in reaching its decision on all of the facts and gave it careful consideration.

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

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: Formerly Operations Manager, Plasgellar Care Homes
- Witness 2: Healthcare Assistant, Plasgellar Care Homes
- Witness 3: Healthcare Assistant Plasgellar Care Homes
- Witness 4: Formerly Registered Nurse, Plasgellar Care Homes

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 1

1. On 13 April 2018, pushed Resident 1 by her shoulders

This charge is found proved.

In reaching this decision, the panel took into account the live evidence of Witnesses 2 and 3 as well as the documentary evidence provided by the NMC.

The panel heard from both Witnesses 2 and 3 that Mr Lovis pushed resident 1. Both witnesses claimed that Resident 1 had almost fallen as a result of the push but had managed to stabilise herself.

The panel noted that Witness 2 and Witness 3 had differing accounts as to how Resident 1 was pushed and that Witness 3 stated that she couldn't be certain on how Resident 1 was pushed. Witness 3 reported seeing the resident become destabilised and 'taking some steps' following the push. Similarly, Witness 2 stated that Resident 1 *"stumbled and caught herself before she could fall*".

Further, both witnesses stated that Mr Lovis had told Resident 1 to 'go away' in an unpleasant tone which undermines the possibility that Mr Lovis was assisting the resident with stabilising themselves.

The panel noted that the live evidence of Witnesses 2 and 3 is consistent with the contemporaneous statements they had provided at the local investigation closer to the time of the incident.

The panel noted Mr Lovis's account of the incident which he provides in his response to the allegations dated 24 June 2018. Mr Lovis states: "*…this issue was brought to the attention of [Person 2] on 19 April 2018. The details of this complaint were not shared with me yet raised by [Witness 1] rather casually on 25 May 2018; 35 days after the issue was reported and recorded… Her lack of transparency and clarity prevented me from responding fully to a situation…"*

In further correspondence, Mr Lovis suggested that he was only guiding Resident 1 away from the hazardous medication trolley similarly to how other staff members would.

The panel determined that it could not accept this reasoning for how this incident occurred as Witnesses 2 and 3 described seeing the resident become destabilised after a push. The panel is of the view that if Resident 1 was being guided away then it would be unlikely for her to become destabilised.

The panel gave careful consideration to the evidence before it. It found that the evidence of Witnesses 2 and 3 are consistent with their earlier accounts and with each other. The panel determined that it is more likely than not that, on the balance of probabilities, Mr Lovis did push Resident 1. It therefore finds this charge proved.

Charge 2

2. On 13 April 2018, applied force to the chin of Resident 5 to wake him up

This charge is found proved.

In reaching this decision, the panel took into account the live evidence of Witness 3 and the documentary evidence provided by the NMC.

The panel heard from Witness 3 that Mr Lovis applied force to Resident 5's chin and that she could hear Resident 5's teeth clattering together. She further informed the panel that, when Resident 5 was woken up, he was shocked by the manner which he was awoken.

Witness 3 stated that this method of waking up residents was not used by other nurses.

In Mr Lovis's local response to the allegations dated 24 June 2018 he states:

“if I wake up patients this is done delicately to ensure they are awake and can be safely escorted to bed so they are able to sleep during the night; a key component to any patient’s physical and mental well-being.”

Mr Lovis comments on only being made aware of this reporting of the incident 41 days later and claimed that Witness 3 has a history of *‘whistleblowing on every aspect of someone’s work’*.

The panel found Witness 3’s account of the incident to be credible. It noted that she was able to provide clear detail on her account of the incident including what she could hear. The panel noted Mr Lovis’s account and that he states he would wake patients up delicately. However, the panel determined that, on the balance of probabilities this incident did occur as alleged and, it is more likely than not, that Mr Lovis applied force to the chin of Resident 5 to wake him. The panel therefore finds this charge proved.

Charge 3

3. On 13 April 2018, pushed Resident 2 forcefully to his shoulder/upper back area.

This charge is found proved.

In reaching this decision, the panel took into account the live and documentary evidence of Witness 3.

Witness 3 explained that she was in the lounge area which was a distance from Resident 2’s room. However, she stated that the incident occurred within her eyesight and that she could see clearly from where she was standing. She recalled hearing the Mr Lovis shouting at Resident 2 that he needed to leave. Once outside the room, Witness 3 stated that she observed Mr Lovis push Resident 2 on his shoulders/upper back.

Witness 3 further explained that following the push, Resident 2 had taken quick steps back so as not to fall back and to regain balance. Witness 3 accepted that Mr Lovis was

directing residents in a forceful manner as opposed to going around and pushing residents but nevertheless that he should have been more gentle.

The panel had regard to the contemporaneous statement produced by Witness 3 closer to the time of the incident and found it to be consistent with her live evidence.

Mr Lovis's response to this allegation states:

> *"…this was hard to answer because the investigating officer failed to provide me with details… I will guide patients away from potentially hazardous areas and I will ensure my hand is behind their backs should they be unsteady on their feet"*

In Mr Lovis's response, he also suggests that the reports of this incident have been elaborated as part of an "*paranoid agenda*".

The panel considered Mr Lovis allegation that witness 3 was 'paranoid' but in both her written and live oral testimony did not find any evidence that the witness was in fact 'paranoid', and when questioned Witness 3 herself denied this allegation.

The panel reviewed the evidence before it and it determined that on the balance of probabilities, it is more likely than not, that this incident occurred as alleged, and that Mr Lovis did forcefully push Resident 2 by his shoulder/upper back area. The panel found the evidence of Witness 3 to be clear, consistent and concise. It therefore found this charge proved.

Charge 4

4. On 28 April 2018, shouted at Resident 3 'don't shout at my girls like that' or words to that effect

This charge is found proved.

The panel heard from all the NMC's witnesses that Resident 3 was someone who was likely to become agitated or aggressive. The witnesses suggested that Mr Lovis, as a

nurse in charge, would be aware of this and would be aware of his potential need to intervene at any given instance.

The panel heard from Witness 2 that she overheard Mr Lovis shouting at Resident 3. She also stated that an agency healthcare assistant had reported concerns to her about how Mr Lovis was speaking to Resident 3 during this shift.

Witness 2, although far from the incident, could hear Mr Lovis raising his voice at Resident 3. She states being able to hear Mr Lovis "*giving [Resident 3] a row and being very mean*".

Mr Lovis's response to the allegation states:

> *"… I raised my voice because [Resident 3] is hard of hearing. I did remonstrate to the patient to ensure he stopped threatening my staff. My actions were appropriate to the circumstances ensured the safety of patients and staff."*

The panel found that the evidence provided by the NMC's live witnesses were all consistent with each other. However, it noted that Witness 5's evidence was not consistent with this as she stated that Mr Lovis did not raise his voice and said to the resident '*don't talk to my staff like that please*'. It determined that the evidence before it satisfies that the incident did occur as alleged and that it is more likely than not that Mr Lovis shouted the words as set out in the charge at Resident 3. The panel therefore finds this charge proved.

Charge 5

5. On an unknown date, recklessly pulled Resident 2 out of a room

This charge is found proved.

In reaching this decision, the panel took into account Witness 2's evidence. She told the panel that she saw Mr Lovis pulling Resident 2 out of the room and that Resident 2 hit his head on the door frame. Witness 2 explains that the incident occurred in clear view, and she could recall observing Mr Lovis's hands on Resident 2's arms.

However, Witness 2 did state that she cannot be certain as to whether this action was taken by Mr Lovis due to there being hazards in the room. She nonetheless stated that regardless of the reasons for escorting a Resident out of a room, Mr Lovis could have gently guided Resident 2 instead of recklessly pulling him out.

The panel noted that Witness 2's account of this incident during her evidence is consistent with her earlier account which was provided closer to the time of the incident. The panel found that Witness 2 was able to provide clear detail about what occurred, where she was standing and what she could see.

The panel therefore determined that, on the balance of probabilities, it is more likely than not that Mr Lovis did recklessly pull Resident 2 out of a room. The panel therefore finds this charge proved.

Charge 6

6. On an unknown date shouted at Resident 4 to sit down

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witnesses 2 and 3.

Witness 2 gave evidence that Mr Lovis would ask other carers to ensure residents were sat down during his shift and that this was unique to Mr Lovis. She informed the panel that she heard Mr Lovis shouting at Resident 4 to sit down. She suggested that it was common for Mr Lovis to raise his voice and that she was "used to it" but that on this occasion Mr Lovis's raised voice was worse than usual and found it to be 'scary' for herself and possibly 'scary' for residents.

Witness 3 informed the panel that Mr Lovis generally displayed a controlling and aggressive demeanour. She explained that Mr Lovis would always tell patients to sit

down when they would stand up and would often instruct healthcare assistants to sit the patients down. The panel found that this was consistent with Witness 2's testimony.

Mr Lovis states in his response to allegations that:

> "*I am assertive and experience which leads to a level of confidence and certainty in how I present… I am not inappropriate and speak to patients in a manner that will understand and be able to respond to so they can act safely and are away from hazards."*

The panel finds that the accounts of this incident provided by the NMC's witnesses are consistent with each other. It determined that this incident did more than likely occur as alleged, and that Mr Lovis did shout at Resident 4 to sit down. This charge is therefore found proved.

Charge 7

7. On one or more occasions, instructed or allowed non-registered nurses, to administer medication to residents

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witnesses 1, 2 3 and 4.

The panel heard from Witnesses 1 and 2 that the Home's Policy was that health care assistants are not allowed to administer medications. Witness 2 stated that under instructions from Mr Lovis, she herself did administer medications to residents.

Witness 4 informed the panel that at the time of the incidents, healthcare assistants who had passed the necessary exams were permitted to administer medications under the supervision of nurses. However, Witness 2 confirmed that she did not receive any training to administer medication at this Care Home. The panel was aware that Witness 4's testimony was mainly concerned with charge 8 and her recollection of the

medication administration policy did not appear as firm as that of Witness 1's recollection of same as Operations Manager at the time. Consequently, on this particular matter, the panel prefers Witness 1's evidence.

Witness 5 wrote in her written statement:

> *"I would help Rob give the residents their medication. Rob would put the tablets in the medicine pot (a little pot to put tablets in) one resident at a time and then he would watch me while I would go to the resident in the lounge area and give them their tablets. I would give the medication to residents who were in the lounge and needed the medication. Rob would tell me who to give the medication to.*
>
> *I wasn't qualified to give tables to patients. I found out some time later that I was not allowed to give residents their medication."*

The panel heard from Witness 1 that this was the second occasion that Mr Lovis had been in trouble in relation to medication administration and that he had previously been disciplined for pre-dispensing medications.

The evidence of Witness 3 was consistent with this as she claimed that she remembered Mr Lovis pre-dispensing medication and selected 'certain trusted carers' to administer at a later time to residents.

Witness 4 claimed that she had never worked with Mr Lovis but that she understood that Mr Lovis would arrive an hour earlier to the prepare medications trolley and clean up the medication room but not to 'pre-pot' the medications.

The panel has reviewed the evidence before it and it determined that the evidence of the NMC's witnesses is sufficient to satisfy that Mr Lovis did allow non-registered nurses to administer medication to residents as alleged. The panel determined that Mr Lovis did instruct, or allow non-registered nurses, to administer medication to residents on one or more occasions. The panel therefore finds this charge proved.

Charge 8

8. Around 19 December 2017 failed to adequately assess and/or escalate the condition of Resident 6

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witnesses 1 and 4 as well as a computerised record (Daily Notes) for Resident 6 for the period of 19 December 2017 to 20 December 2017.

The panel heard from Witness 4 that Mr Lovis had given her a handover as she was taking over to begin the day shift. She recalled being told by Mr Lovis that Resident 6 was 'being unwell' and in her written statement stated: *"but not in a manner that raised concerns 'he told us in the normal way that she was not very well..[sic]he didn't make it seem that it was anything serious at all".* She told the panel that Mr Lovis had not informed her of the arm weakness or disjointed speech. She informed the panel that Mr Lovis told her that he had put Resident 6 back to bed and that there was no further assessment or escalation.

Mr Lovis's notes relating to this incident are consistent with Witness 4's account and set out the same actions taken as described above.

The panel also had sight of the records for Resident 6, and it noted the entry made by Mr Lovis on 19 December 2017 at 22:04. The note stated:

> *"At 10 pm staff asked for me to look at R6 as she was displaying "odd" behaviour. On investigating, R6 was obviously half awake, her left arm appeared to be lacking any strength but was feeling sensation, she was able to speak although the content was disjointed, my assessment was that she has possibly been lying on her left side sleeping for some time, at least three and a half hours which may have deadened her side, she is known to have TIAs so I decided to put her to bed and observe and review in the morning."*

The panel heard that Resident 6 was known to have a history of TIAs. The panel noted that left sided weakness and disjointed speech are both signs of a TIA or stroke and would have expected a registered nurse to have identified these concerns at the time and taken prompt action. The panel would have expected a registered nurse to have assessed Resident 6 further including vital sign observations and immediately escalate to the ambulance service.

Witness 4 noted that Resident 6 did not have speech difficulties prior but occasionally needed prompting due to the diagnosis of dementia. Ms Thomas informed the panel that she suspected a Transient Ischaemic attack (TIA) given the previous medical history and immediately called the GP who advised to call an ambulance immediately. She further clarified in her evidence that at 'night-time, especially, if I had seen that episode or experience, especially with that patient, I would call 999 straight away'.

Resident 6 was subsequently admitted to hospital and diagnosed with having a stroke.

Based on all the evidence before it, the panel determined that Mr Lovis did fail to adequately assess and/or escalate the condition of Resident 6. It therefore finds 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 Lovis's 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 Lovis's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

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

Ms Leathem invited the panel to consider whether the facts found proven amount to misconduct, and further, whether Mr Lovis's practise is currently impaired. She reminded the panel that in considering misconduct and impairment, there is no burden of proof on either the NMC or Mr Lovis and is a matter for the panel's judgement.

Ms Leathem referred the panel to the relevant case law. She referred to the case of Roylance. The case of Roylance sets out that the misconduct must be professional and that the professional misconduct in question must be serious. It states that negligence does not constitute misconduct, but that negligent acts or omissions may amount to misconduct. The case of Roylance goes onto state that a single act of negligence or omission is less likely to cross the threshold of misconduct than multiple acts or omissions.

Ms Leathem referred the panel to the case of Nandi v General Medical Council [2004] EWHC 2317 (Admin).

Ms Leathem invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The NMC code of professional

conduct: standards for conduct, performance and ethics (2004)' (the Code) in making its decision.

Ms Leathem identified the specific, relevant standards where Mr Lovis's actions amounted to misconduct.

Ms Leathem submitted that the charges found proved are serious in nature both individually and cumulatively. She submitted that they fall well below the standards expected of a registered nurse. She stated that Mr Lovis's actions as set out in the charges are deplorable relating to verbal and physical aggression toward residents in Mr Lovis's care.

Ms Leathem submitted that Mr Lovis was the lead nurse at the time of the incidents and is also a registered nurse. She submitted that Mr Lovis should not have used physical violence and given the level of experience and Mr Lovis's mental health expertise, he should have known how to handle such situations without resorting to verbal or physical violence.
In respect of charge 7, Ms Leathem submitted that not only should Mr Lovis have been aware of the Home's policy at the time, but also known from common knowledge that those unqualified to administer medications should not be able to do so.

In closing, Ms Leathem invited the panel to find that the charges found proven do amount to misconduct and that they are sufficiently serious.

Submissions on impairment

Ms Leathem moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Ms Leathem invited the panel to consider whether in light of Mr Lovis's misconduct, whether his fitness to practise is currently impaired. She referred the panel to the case of Grant and Dame Janet Smith's 'test' which sets out 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*

Ms Leathem submitted that limbs a to c of Dame Janet Smith's "test" as set out in the case of Grant are engaged in this case.

Ms Leathem submitted that irrespective of Resident 6, no actual harm was caused to any other residents. However, she submitted that there was a risk of harm to those in Mr Lovis's care as a result of his actions. She further submitted that given that the patients were living with dementia, they were placed at a risk of harm given the way that Mr Lovis had communicated with them.

In respect of allowing non-registered nurses to administer medications, Ms Leathem submitted that there is an inherent risk of harm with this approach given that the person administering the medications has not received the appropriate training.

In respect of charge 8, Ms Leathem submitted that there is always going to be a risk of harm by not adequately assessing or escalating the condition of a patient particularly when the patient is susceptible to TIA's. Ms Leathem submitted that a stroke requires time critical action to be taken and having not escalated the condition of Resident 6, Mr Lovis placed the patient at a risk of harm.

In light of the above, Ms Leathem invited the panel to make a finding of impairment on public protection grounds.

Ms Leathem submitted that a finding of impairment is also required on public interest grounds. She submitted that it is necessary to maintain public confidence in the profession. She submitted that there would be reputational damage to the profession as a result of Mr Lovis's conduct and a member of the public would be concerned if a finding of impairment were not made.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin).

Decision and reasons on misconduct

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

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

> ***'1 Treat people as individuals and uphold their dignity***
> *1.1 treat people with kindness, respect and compassion*
> *1.2 make sure you deliver the fundamentals of care effectively*

1.3 avoid making assumptions and recognise diversity and individual choice
1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay
1.5 respect and uphold people's human rights

2 Listen to people and respond to their preferences and concerns
2.6 recognise when people are anxious or in distress and respond compassionately and politely

3 Make sure that people's physical, social and psychological needs are assessed and responded to
3.1 pay special attention to promoting wellbeing, preventing ill health and meeting the changing health and care needs of people during all life stages

7 Communicate clearly
7.2 take reasonable steps to meet people's language and communication needs, providing, wherever possible, assistance to those who need help to communicate their own or other people's needs

8 Work cooperatively
8.5 work with colleagues to preserve the safety of those receiving care
8.6 share information to identify and reduce risk

11 Be accountable for your decisions to delegate tasks and duties to other people
11.1 only delegate tasks and duties that are within the other person's scope of competence, making sure that they fully understand your instructions

13 Recognise and work within the limits of your competence

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

15 Always offer help if an emergency arises in your practice setting or anywhere else
15.2 arrange, wherever possible, for emergency care to be accessed and provided promptly

19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice
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
20.1 keep to and uphold the standards and values set out in the Code
20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people
20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that Mr Lovis's actions as set out in the charges demonstrated a serious departure from the Code and fundamental tenets of nursing.

The panel found that Mr Lovis's actions in charges 1, 3 and 5, which all relate to a use of force, whilst not done maliciously or with the intent of violence, lacked compassion and respect toward the residents in his care. It is of the view that the behaviours as set out in the charges found proved are wholly unacceptable from a registered nurse.

In respect of charges 4 and 6, the panel is of the view that Mr Lovis did not act professionally and failed to communicate appropriately in the way that would have been expected of a registered nurse.

With regard to charge 7, the panel noted that Mr Lovis placed residents at a risk of harm by allowing untrained staff to administer medication. The panel was aware that Mr Lovis had previously been disciplined on errors around drug administration and should therefore have been acutely aware of the need to act within the drug administration policy of the Home.

In considering whether charge 8 amounts to misconduct, the panel noted that Mr Lovis's failure to escalate the condition of the resident placed the patient at real risk of harm and that she was likely to have experienced actual harm due to the delay in receiving time critical medical care. Furthermore, the panel found that risk of harm was increased due to the fact that Mr Lovis did not perform any vital sign observations on Resident 6 in his initial assessment and did not return to check on her throughout the course of the night shift. The panel found that this did amount to misconduct.

The panel found that Mr Lovis's 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, Mr Lovis's 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. 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:

d) 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

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

f) 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

g) …’

The panel found that in respect of all the charges, Mr Lovis put patients at a risk of harm. Pushing and pulling residents and causing them to stumble placed them at risk of

falls which could have had serious consequences for their health. Shouting at residents put them at risk of emotional harm and upset. Allowing non trained staff to administer medication put residents at risk of harm due to medication errors. The panel found that Resident 6 was put at significant risk of harm as a result of Mr Lovis's failure to adequately assess or escalate the condition of the patient as set out in charge 8.

The panel noted that Mr Lovis was working amongst vulnerable residents, many of whom struggled to communicate and lacked capacity to make decisions in their own interests, during the period of the incidents. Further, the panel found that Mr Lovis's misconduct breached fundamental tenets of nursing and that his actions demonstrate a serious departure from what is expected of a registered nurse.

Regarding insight, the panel considered that Mr Lovis has not demonstrated any insight into his actions or failures. The panel had sight of Mr Lovis's written response to the internal investigation at the Home. The panel were concerned that Mr Lovis focused on the attitudes and behaviours of other members of staff and did not address the failings in his own behaviour. The panel was also concerned that Mr Lovis focused a great deal on clerical errors in the investigation process and did not demonstrate remorse or insight into his actions. Mr Lovis has not demonstrated an understanding of how his actions put residents at a risk of harm or an understanding of why his actions were wrong. Further, Mr Lovis has not demonstrated an understanding of how this impacted negatively on the reputation of the nursing profession. Mr Lovis has not sufficiently addressed his misconduct and has not demonstrated how he would handle things differently in the future. Taken as a whole, it was the panels view that Mr Lovis had a deep-seated attitudinal problem relating to his capacity to reflect on his own actions, evaluate the appropriateness of the care he delivered and the manner in which he treated vulnerable residents.

The panel was satisfied that the misconduct in this case is capable of being addressed. However, due to the numerous breaches of the Code, incidents and the panels view that Mr Lovis has an attitudinal issue, the panel found that redressing misconduct would be a significant challenge for Mr Lovis. Therefore, the panel carefully considered the evidence before it in determining whether or not Mr Lovis has taken steps to strengthen

his practice. The panel noted that there is no evidence before it to demonstrate that Mr Lovis has taken steps to strengthen his practice. The panel took into account that Mr Lovis had pervious disciplinary action taken by the Home to address the medication administration concern but continued to allow non-registered nurses to administer medication. The panel therefore determined that there is a risk of repetition of the charges found proved and further, it is of the view that Mr Lovis's actions and failure to demonstrate insight or remorse for his actions demonstrate deep-seated attitudinal concerns.

The panel found that Mr Lovis did bring the nursing profession into disrepute and breach fundamental tenets of nursing and due to his lack of reflection, remorse and insight that he is at a high risk of doing so in the future.

In light of all of the above, the panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

In 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 Lovis's fitness to practise impaired on the grounds of public interest.

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

Sanction

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

Ms Leathem informed the panel that in the Notice of Hearing, dated 1 December 2022, the NMC had advised Mr Lovis that it would seek the imposition of a striking-off order if it found Mr Lovis's fitness to practise currently impaired. She informed the panel that the NMC's position is that a striking-off order remains the most appropriate order given the panel's findings on facts, misconduct and impairment.

Ms Leathem reminded the panel that it must consider each sanction starting with the least restrictive. She referred the panel to the SG which sets out that the panel must consider aggravating and mitigating features.

Ms Leathem outlined the four main points that the NMC say are aggravating features in this case. Firstly, repeated acts of unkindness to vulnerable residents. Secondly, Mr Lovis's was the lead nurse on shift and had a level of responsibility. Thirdly, Mr Lovis's lack of insight and lastly, this was conduct which placed residents at a risk of harm.

Ms Leathem submitted that the mitigating feature in this case is that there have been no previous regulatory proceedings against Mr Lovis.

Ms Leathem submitted that taking no further action and a caution order are both not the appropriate sanction for this case given the lack of engagement from Mr Lovis and the seriousness of the concerns. She submitted that these sanctions would not meet the overarching objective to protect the public or meet the wider public interest. She further

submitted that this is not a case where the misconduct is at the lower end of the spectrum.

Ms Leathem submitted that a conditions of practice order would also not be the appropriate sanction in this case. She submitted that given the concerns are so serious, a conditions of practice order would not be proportionate. She submitted that it would not address the lack of insight and that any supervision conditions that could be formulated would be ineffective given the conduct occurred in front of colleagues. Further, she submitted that there was previously disciplinary action taken by the Home to address medication administration concerns and those were still repeated by Mr Lovis as found proved in charge 7.

Ms Leathem submitted that a suspension order is also not an appropriate sanction. She submitted that this would not address the longer-term risk due to the lack of insight. She referred the panel to the sanctions guidance which sets out what circumstances in which a suspension order may be appropriate. She submitted that these factors are not present in this case. in particular, she highlighted the panels finding that Mr Lovis has a deep-seated attitudinal problem and given this finding she submitted the panel should impose a striking-off order. She submitted this is not a case where concerns arise from a single incident and that there were repeated medication administration concerns. Ms Leathem submitted that a suspension order would not meet the wider public interest.

Ms Leathem submitted that the misconduct in this case was a serious departure from the standards expected of a registered nurse and that there were a number of breaches of the Code. She submitted that a striking-off order is the most appropriate order in this case. She referred the panel to the SG and the key considerations when looking at a striking-off order. She submitted that in this case, a striking-off is the only appropriate order that would protect the public and meet the wider public interest. She reiterated the complete lack of insight, remorse and reflection or any evidence to demonstrate steps taken to strengthen nursing practice by Mr Lovis.

In closing, Ms Leathem submitted that Mr Lovis's actions were a significant departure from the standards expected of a registered nurse and are fundamentally incompatible with remaining on the register.

Decision and reasons on sanction

Having found Mr Lovis's 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:

- Lack of insight and remorse into failings;
- Evidence of deep-seated attitudinal issues;
- Lead nurse on shift during the incidents;
- An experienced nurse, who had knowledge of a resident's previous medical history, did not adequately assess or escalate the condition of the resident;
- A pattern of misconduct over a period of time;
- Previous disciplinary action was taken at a local level to address medication administration concerns and yet they re-occurred;
- Mr Lovis's training was up-to-date and yet his actions were antithetical to that training as regards both medication administration and supporting people living with dementia; and
- Conduct which put vulnerable residents living with dementia at risk of suffering harm.

The panel did not find that there were any mitigating features in this case. The panel did note that Mr Lovis has not had any NMC referrals previous to this. However, it bore in mind NMC guidance which does not identify this feature as an approved source of

mitigation. The panel reflected that given the numeracy of the charges and their severity, in any case, that no previous regulatory incidents did not constitute mitigation.

The panel considered the fact that the Home were willing for Mr Lovis to return to his employment following their local investigation with a final written warning as potential mitigation. However, the panel determined that from a regulatory concern perspective, having found all eight charges to be proved, that such an action would not be in line with the severity of those charges found proved.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that taking no action would not be proportionate and would not protect the public or be in the public interest.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mr Lovis's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mr Lovis's 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 not be proportionate and would not protect the public or be in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mr Lovis's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct involving deep-seated attitudinal issues identified in this case was not something that can be addressed through retraining. While the panel noted that some of the charges might be addressed in some circumstances by conditions of practice the panel noted that Mr Lovis had shown no insight into his behaviour nor shown remorse thus negating the impact of any conditions

of practice. The panel noted that Mr Lovis was up to date with training, including on dementia and medication, yet had failed to put into practice the learning from that training. The panel noted that the actions of Mr Lovis occurred in sight of colleagues and would therefore not be likely to be remedied by supervision. Furthermore, the panel concluded that the placing of conditions on Mr Lovis's registration would not adequately address the seriousness of this case and would not protect the public.

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

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*
- *In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

The panel noted that the factors as set out above do not apply in this case and therefore determined that a suspension order would not be the appropriate sanction in this case. The panel were concerned that Mr Lovis provided no evidence of remorse, insight or a desire to strengthen his practice in the 5 years since the first charge occurred and was of a view that a period of suspension would not result in any material change in the above. Consequently, the panel found that a suspension order would not be in the interests of the expeditious disposal of justice.

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 Mr Lovis's actions is fundamentally incompatible with Mr Lovis 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?*

Mr Lovis's actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with him remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mr Lovis's actions were serious and to allow him to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body and fail to protect the public.

Including in its consideration to impose the highest sanction available to it, the panel considered that in relation to charge 8 which resulted in actual harm to a resident later conveyed to hospital with a stroke, that Mr Lovis had included no response whatsoever to this charge. The panel determined, given the severity of this charge, that this was another example of Mr Lovis total lack of insight in his failings.

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

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

Interim order

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

Submissions on interim order

The panel took account of the submissions made by Ms Leathem. She submitted that an interim suspension should be imposed for a period of 18 months. She submitted that an interim order is necessary on the grounds of public protection and in the wider public interest to cover the 28-day appeal period during which an appeal can be made. Ms Leathem submitted that an 18-month interim order would cover the period for which the appeal may be upheld.

Decision and reasons on interim order

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

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

an interim suspension order for a period of 18 months due in order to cover the period which any appeal may lodged and upheld.

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

This will be confirmed to Mr Lovis in writing.

That concludes this determination.