Nursing and Midwifery Council

Fitness to Practise Committee

Substantive Hearing
Monday, 27 March 2023 – Thursday, 6 April 2023
Tuesday, 11 April 2023 – Thursday, 13 April 2023
Tuesday, 2 May 2023 – Wednesday, 3 May 2023
Monday, 30 October 2023 – Thursday, 2 November 2023
Tuesday, 7 November 2023

Virtual Hearing

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Nursing and Midwifery Council
2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of Registrant:	**Mihai Lulian Damian**
NMC PIN	15D0261C
Part(s) of the register:	Sub Part 1 RN1: Adult Nurse, Level 1 (16 April 2015)
Relevant Location:	Manchester and Chesterfield
Type of case:	Misconduct
Panel members:	Paul O'Connor (Chair, lay member) Mark Gibson (Registrant member) Jan Bilton (Lay member)
Legal Assessor:	William Hoskins (27 March 2023 – 6 April 2023, 11 – 13 April 2023, 2 – 3 May 2023) Ian Ashford-Thom (30 October 2023 – 2 November 2023) Fiona Barnett (7 November 2023)
Hearings Coordinator:	Roshani Wanigasinghe (27 March 2023 – 6 April 2023, 11 – 13 April 2023, 2 – 3 May 2023) Amanda Ansah (30 October 2023 – 2 November 2023) Nandita Khan Nitol (7 November 2023)
Nursing and Midwifery Council:	Represented by Alfred Underwood, Case Presenter

Mr Damian:	Present and unrepresented
Facts proved by admission:	Charges 1b, 4a, 6, 10, 11, 12, 18, 22, 23 and 25.
Facts proved:	Charges 1a, 2, 3a, 3b, 4b, 5a, 5b, 7, 13, 14,15, 19, 20a, 20b, 20c, 20d, 21b, 24a, 24b, 24c and 26.
Facts not proved:	Charges 8, 9, 16, 17 and 21a.
Fitness to practise:	Impaired
Sanction:	**Striking-off order**
Interim order:	**Interim suspension order (18 months)**

Details of charge (as amended)

That you, a registered nurse:

1. On or around 15 September 2019, created an employment reference that was purported:

    a. to have been written by Colleague A. **[Charge found proved]**
    b. to have been officially stamped as coming from the [PRIVATE]. **[Proved by admission]**

2. On or around 15 September 2019, sent the employment reference you had created to [PRIVATE]. **[Charge found proved]**

3. Your actions at charge 1 and 2 were dishonest in that you intended [PRIVATE] to believe the reference had been:

    a. written by Colleague A. **[Charge found proved]**
    b. approved by [PRIVATE].
    [Charge found proved]

    when you knew this was not accurate.

4. On unknown dates, notified:

    a. [PRIVATE] **[Proved by admission]**
    b. [PRIVATE] **[Charge found proved]**

    that Colleague A, your referee, [PRIVATE].

5. Your actions at charge 4 were dishonest in that you intended:

    a. [PRIVATE] **[Charge found proved]**
    b. [PRIVATE] **[Charge found proved]**

to believe your referee worked at [PRIVATE] when you knew he did not.

6. In August 2019, stated on an application for the Critical Care Practitioner Course that that you had passed the Intensive Care Course. **[Proved by admission]**

7. Your actions at charge 6 were dishonest in that you intended anyone reading your application to understand you had passed the relevant course when you knew you had not started it. **[Charge found proved]**

8. On or around 7 December 2016, whilst working an agency shift at [PRIVATE] stated that you were a Band 7 nurse at [PRIVATE]. **[Charge NOT proved]**

9. Your actions charge 8 were dishonest in that you intended staff at [PRIVATE] to believe you were a Band 7 nurse at [PRIVATE] when you knew you were not. **[Charge NOT proved]**

10. On 4 December 2018, failed to provide patient identifying information, second checker, and medication dose, batch number and hospital number on two medication labels that were delivering intravenous medication via syringe drivers. **[Proved by admission]**

11. On 25 April 2019, did not correctly complete the labels on two blood culture samples. **[Proved by admission]**

12. On one or more occasion copy and pasted details from the previous day nursing entry and entered the repeated information as the nursing care you had provided that day. **[Proved by admission]**

13. Your actions at charge 12 were dishonest in that you knew the previous day’s nursing notes were not an accurate reflection of the nursing care you had provided. **[Charge found proved]**

14. In or around September 2020, whilst employed in the accident and emergency department at [PRIVATE] you signed to state that you had checked the stock levels in the intubation room when you had not. **[Charge found proved]**

15. Your actions at charge 14 were dishonest in that you intended anyone reading the record you had created to believe you had checked the stock levels in the intubation form when you knew you had not. **[Charge found proved]**

16. In December 2016, whilst working as an agency nurse [PRIVATE], you countersigned medications that you had given using the initials of another nurse. **[Charge found NOT proved]**

17. Your actions at charge 16 were dishonest in that you intended anyone reading the medication record to believe your administrations had been second checked by the nurse whose initials you recorded when you knew this was not the case. **[Charge found NOT proved]**

18. Completed inaccurate records in relation to daily rounding checks whilst working at [PRIVATE], recording that checks had been undertaken at lunchtime when it was 0800hrs. **[Proved by admission]**

19. Your actions at charge 18 were dishonest in that you intended anyone reading the daily rounding checks to believe they had been completed at lunchtime when you knew they had not. **[Charge found proved]**

20. On 16 December 2016, you failed to take appropriate action in relation to a deteriorating patient in that you:

    a) Failed to recognise that the NEWS score required immediate action; **[Charge found proved]**
    b) Failed to contact the doctor to see the patient; **[Charge found proved]**
    c) Failed to contact a senior nurse for assistance; **[Charge found proved]**

d) Provided an inconsistent record of your care of the patient. **[Charge found proved]**

21. On 25 September 2018, whilst working on CTCCU:

    a) Having offered to mark the site for an arterial line, you proceeded to insert the needle into the artery, a procedure that is outside of your scope of practice; **[Charge found NOT proved]**
    b) Failed to prime the transducer with IV Saline; **[Charge found proved]**

22. On 16 February 2019, whilst preparing an injectable medication, you walked across the zones of the unit with an unsheathed needle. **[Proved by admission]**

23. On 21 April 2019 failed to administer an antibiotic prescribed to be given immediately. **[Proved by admission]**

24. On 23 April 2019, failed to safely administer a Dobutamine intravenous infusion in that:

    a) You failed to recognise the need to prepare a replacement infusion; **[Charge found proved]**
    b) Disconnected the infusion; **[Charge found proved]**
    c) Proposed to flush the central line with IV saline; **[Charge found proved]**

25. On 23 July 2019, flushed an arterial line with Hartmans solution instead of saline. **[Proved by admission]**

26. In September 2020 proposed to administer a dose of Ketamine to a patient, that was ten times the recommended dose. **[Charge found proved]**

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

Decision and reasons on application to amend charge 15

The panel heard an application made by Mr Underwood, on behalf of the NMC, to amend the wording of charge 15.

The proposed amendments were to correct two typographical errors within charge 15.

> "*Your actions at charge ~~15~~ 14 were dishonest in that you intended anyone reading the record you had created to believe you had checked the stock levels in the intubation ~~from~~ form when you knew you had not."*

Mr Underwood submitted that these were clearly typographical errors which should be corrected.

You did not object to the application.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel was of the view that such amendments, as applied for, were simply to correct two typographical errors. The panel noted that you did not object to these proposed amendments. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendments being allowed. It was therefore appropriate to allow the amendments, as applied for, to original charge 15 to ensure clarity and accuracy.

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

At the outset of the hearing, Mr Underwood made a request that this case be held partly in private on the basis that proper exploration of your case may include reference to some personal matters including your health. The application was made pursuant to

Rule 19 of the ‘Nursing and Midwifery Council (Fitness to Practise) Rules 2004’, as amended (the Rules).

You did not oppose this application.

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

The panel determined to hold any references to your personal and health matters in private, as and when such issues are raised in order to protect your privacy.

Decision and reasons on application to admit written statements

The panel heard an application made by Mr Underwood under Rule 31 to allow Colleague A’s written statement into evidence. Mr Underwood submitted that Colleague A’s statement was not hearsay evidence because the NMC is not seeking to adduce this evidence to prove its truthfulness, but simply to prove what was being said by Colleague A at that time. He submitted that this is relevant real evidence. Mr Underwood submitted that no unfairness would be caused by admitting his witness statement into evidence as Colleague A is present at the hearing and therefore would be given an opportunity to clarify and confirm his position in evidence.

Both you and Mrs Simpson, on Colleague A’s behalf did not object to this application.

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 Colleague A’s witness statement serious consideration. The panel noted that Colleague A’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 him.

The panel further noted that no unfairness would be caused by admitting his witness statement into evidence as Colleague A is present at the hearing and therefore would be able to clarify and confirm his position during his oral evidence. You would also be given the opportunity to cross examine him. The panel further considered that there was also a public interest in the issues being explored fully which supported the admission of this evidence into the proceedings.

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

Application to strike through paragraph 7 of Ms 3's statement

Both you and Mr Underwood made a joint application to strike through paragraph seven of Ms 3's witness statement. It was submitted that the content in paragraph seven included personal comments and were not relevant to the charges. However, Mr Underwood noted that, although paragraph seven did not include facts of the case, the panel could assess the credibility of the witness and that it may be fairer to you to leave the personal comments within the statement at paragraph seven and a few other paragraphs to show that there is some animosity between the witness and yourself.

The panel accepted the advice of the legal assessor.

The panel accepted that paragraph seven in Ms 3's statement was not relevant to the charges against you. It therefore decided to strike paragraph seven from its records and redact accordingly in order to ensure fairness to all parties involved.

The panel bore in mind the nature of the relationship between Ms 3 and you. It will give Ms 3's statement appropriate weight when and where necessary.

Decision and reasons on application to admit further documents including translated copies

On day seven of this hearing, the panel heard an application made by you to adduce further documents which included WhatsApp messages and emails. You submitted that these emails and WhatsApp messages provide context to the breakdown of Colleague A's and your relationship. You submitted that the documents provide a timeline to the events that took place.

Mr Underwood submitted that the NMC remain neutral on this application.

Mrs Simpson submitted that these documents are not relevant and that it would not be fair to allow them to be adduced in evidence. She submitted that the documents do not provide context and raise matters regarding Colleague A that are not related to this case and therefore cause serious prejudice to Colleague A. Mrs Simpson submitted that the documents demonstrate that there is a serious feud between the parties, which is information the panel are already aware of and thus does not add any further detail to this case. She therefore invited the panel to reject your application.

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 this application due consideration. The panel noted that the information within the emails and WhatsApp messages emphasize the clear dispute between both registrants. The panel was of view that although the information provided may be relevant to the broader understanding of the relationship, they do not materially add to the understanding the panel currently have regarding the breakdown of the relationship between Colleague A and you. The panel further noted that some of the information within the documents relate to matters of Colleague A that are not related to this case. In these circumstances, the panel came to the view that it would not be fair and relevant to accept into evidence the additional information before it.

Decision and reasons on application to admit anonymous hearsay recording

You further applied to adduce a recording of a Facebook conversation with a nurse colleague at [PRIVATE] into evidence. You submitted that this recording reinforced your position that you were not well supported when working for [PRIVATE], in particular, in relation to your [PRIVATE].

Mr Underwood did not oppose the application.

Mrs Simpson submitted that she remained neutral about it as it did not impact on Colleague A's case.

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

The panel considered the details of the recording not to be relevant. It bore in mind the principle of fairness and relevance and decided not to adduce this evidence. The panel therefore rejected your application.

Decision and reasons on application to admit further documents

The panel heard a further application made by you to adduce further documents which included two emails. You submitted that these were relevant as it purported to show when Colleague A was present at the house and whether you and Colleague A had discussed [PRIVATE].

Mr Underwood submitted that the documents were not prejudicial to the NMC's case and therefore remained neutral.

Mrs Simpson submitted that these documents are not relevant and are not fair to be adduced into evidence. She submitted that these documents have been put before the panel at a late stage in these proceedings and therefore it is prejudicial to Colleague A. She submitted that you have concluded your evidence and Colleague A is midway through his evidence, at a point where he is about to be cross examined. Mrs Simpson further submitted that the two emails are not relevant to the charges before this panel. She submitted that the contents of the first email and its relevant email address relates to you and the second email does not show who it is being sent to. Mrs Simpson therefore objected to this application.

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

The panel firstly considered whether the contents of the two emails are relevant to the charges. It noted that the information before it does not provide any relevant detail to the charges before it. The panel was of the view that the contents of the emails did not add to its knowledge of the case.

The panel bore in mind that you were unrepresented and therefore did not attach undue weight to the late stage at which these documents were produced. However, the panel considered that these documents were not relevant to this case. Having carefully considered and applied all of the factors above, the panel decided to reject your application to admit the above documents into evidence.

Decision and reasons on application to amend charge 3

The panel heard an application made by Mr Underwood, on behalf of the NMC, to amend the wording of the stem of charge 3.

The proposed amendment was to add *"charge 1 and"* to the stem of charge 3:

> "*Your actions at charge **1 and** 2 were dishonest in that you intended MSI Group to believe the reference had been..."*

Mr Underwood submitted that the words *'1 and'* were omitted in error. He submitted that the NMC's position has reflected the amended charge from the outset. He submitted that no unfairness would be caused to either party by this amendment.

You did not object to the application.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel was of the view that such amendments, as applied for, were relevant, fair and provided clarity. The panel noted that you did not object to these proposed amendments. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendments being allowed. It was therefore appropriate to allow the amendments, as applied for, to the stem of charge 3 to ensure clarity and accuracy.

Decision and reasons on application to admit witness statements

On day eight, the panel heard an application made by Mrs Simpson under Rule 31 to allow the witness statements of Mr 12, Ms 13, Mr 14 and Mr 15 into evidence. She submitted that Mr 12's statement relates directly to the matters within the charges. She submitted that he will be attending to give evidence and therefore the panel and parties will be afforded the opportunity to cross examine him where necessary.

Mrs Simpson then invited the panel to receive the witness statements of Ms 13 and Mr 14 into evidence. She submitted that they will be available to give evidence virtually and therefore the panel and parties will be given an opportunity to ask questions of them. She submitted that these two witnesses will be providing evidence in relation to Colleague A's character.

Mrs Simpson further invited the panel to receive the witness statement of Mr 15. She submitted that Mr 15's witness statement relates to Colleague A's character, however, he will not be giving any live or virtual evidence. She appreciated that his evidence will not be tested, however submitted that this evidence is admissible, nonetheless.

Mr Underwood submitted that he had no objections to the application in relation to all four witness statements.

You submitted that it is unfair to adduce this evidence as Mr 12 is Colleague A’s partner. You submitted that his witness statement is prejudicial to your character. However, you submitted that, if the panel were to accept his witness statement into evidence, you would cross examine him on the necessary aspects.

In relation to the witness statements of Ms 13, Mr 14 and Mr 15, you submitted that these witness statements were not relevant and were prejudicial to your character. You invited the panel to reject Mrs Simpson’s application.

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

The panel decided that Mr 12’s witness statement is directly relevant to the charges and is pertinent to the case. The panel also bore in mind that Mr 12 would be attending and therefore it would have the opportunity to clarify and confirm his position in evidence. It therefore decided that it would be fair and relevant to accept into evidence Mr 12’s written statement into evidence, but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

Regarding Ms 13’s witness statement, the panel was of the view that it discusses matters related to both you and Colleague A. It bore in mind that you have been critical of Colleague A in your evidence and have made allegations against him. The panel therefore decided that it would be fair and relevant to accept into evidence Ms 13’s written statement but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

The panel then considered the witness statement of Mr 14. The panel noted that Mr 14’s witness statement discusses matters only related to you. The panel was of the view that it might be considered unfair to adduce this evidence in usual circumstances, given it only focuses on you in a critical manner. However, it recognised that you have, previously, in the course of these proceedings, introduced matters which were critical of Colleague A. The panel, therefore in considering fairness to both parties, decided that it would be fair and relevant to accept into evidence Mr 14’s written statement into evidence. Further, the panel bore in mind that Mr 14 would be giving evidence virtually and therefore it would have the opportunity to clarify and confirm his position but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

In relation to Mr 15's witness statement, the panel noted that it contained multiple hearsay evidence. The panel bore in mind that Mr 15 would not be attending to provide evidence to the panel. It therefore was unable to test his evidence. The panel therefore decided that it would be unfair to admit his witness statement as evidence.

Further application to adduce additional evidence

On day nine of this hearing, you made an application to demonstrate a piece of evidence on your laptop that the panel has not yet seen. You said that the new evidence related to a practical presentation of the autofill component of the software which automatically populates text into the documents to assist you with your management of your [PRIVATE].

Mr Underwood objected to this. He submitted that this is very late in the proceedings and the NMC has already closed its case. He submitted that you have been made aware multiple times that any evidence should be adduced before any closing arguments. He submitted that it is not fair to adduce it at this stage.

Mrs Simpson remained neutral on the matter as it did not impact on Colleague A's case.

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

The panel took into consideration the submissions by all parties. It was of the view that you had been made aware throughout these proceedings when evidence can be adduced. The panel bore in mind that the NMC had provided its closing arguments on all the evidence. It particularly bore in mind that the Chair, before the NMC's closing arguments, made clear to you at that time, that the panel would not be taking any further evidence beyond that stage. The panel further noted that you have, in your evidence, explained to the panel about the autofill facility within the software which you rely on due to your [PRIVATE]. It bore in mind that the NMC did not disagree about this fact that there is an autofill option. The panel was of the view that any practical presentation of the software would not add further knowledge to the panel about this matter. Taking all the above considerations into account, the panel determined that it would be unfair to all, parties, panel and the process, to allow any new evidence to be adduced at this stage. The panel therefore rejected your application.

Background

The NMC first received a referral from [PRIVATE] regarding you. It is alleged that Colleague A approached Mr 5, the then matron of the [PRIVATE].

You had worked at the [PRIVATE] as a Band 5 nurse from [PRIVATE], when you handed in your notice.

On [PRIVATE], it is alleged that Mr 5 was called out of a meeting by the nurse in charge of that shift on the [PRIVATE] as Colleague A had wanted to speak to him about a reference dated [PRIVATE] that had been submitted in Colleague A’s name.

Both you and Colleague A are originally from Romania. You met each other in the UK while working together at [PRIVATE].

Colleague A had allegedly said that a reference had been submitted to an agency, [PRIVATE], purportedly from him and stamped with a [PRIVATE] stamp. Colleague A had allegedly said that this was not from him, and in fact he had never worked for MFT. However, the reference had been sent from Colleague A’s personal email account, which he could no longer access, and he believed someone had gained illicit access to it.

The document appears as if it was written by Colleague A and claims that the writer is a Band 6 nurse (Colleague A was a Band 5 at the time), and that Colleague A worked at [PRIVATE]. The document provided an email address and landline phone number. In response to a question relating to the candidate’s reason for leaving (‘if the candidate no longer works with you’) the document stated “Candidate remain at work”.

It is alleged that Mr 5 had spoken with the HR department at [PRIVATE] and they had confirmed that no one by the name of Colleague A has ever worked for any of the [PRIVATE]. Mr 5 is said to have later contacted his senior management staff to discuss this and then contacted you about it, when you had first denied having applied to [PRIVATE] Group but then later admitted it. When asked how a reference for you containing false information (i.e. that Colleague A had worked at the [PRIVATE]) came to be on Mr 5’s desk, you had allegedly sought to shift the blame onto Colleague A, stating that he must have filled it in incorrectly.

You had further stated that it did not matter whether the reference was incorrect as you no longer worked at the [PRIVATE]. Mr 5 had then contacted the [PRIVATE] who confirmed that you had applied to their agency. Following this, Mr 5 was allegedly contacted on 30 October 2019 by Ms 2, the Clinical Governance Lead at [PRIVATE]. They had discussed the alleged false reference and she had confirmed they would not be offering you any work through their agency.

It is alleged that there were two unit stamps available at the time of this incident that could conceivably have been used to imprint the stamp on the alleged false reference. One was kept locked in the desk of a secretary at all times, the other was left in a clerk’s office slightly away from the rest of the unit. However, this second stamp was in a cupboard with various other documentation regularly accessed by nursing staff that would regularly be left unlocked. Evidence was obtained from [PRIVATE] to show the reference in question was sent electronically to them from an email address in the name of Colleague A on 30 September 2019.

The NMC’s case in relation to this matter, which covers charges 1 to 5 against you and the entirety of the case against Colleague A, is that you deliberately and dishonestly obtained a false reference which you stamped yourself using one of only two stamps available on the ward, knowing full well that Colleague A had never worked on the [PRIVATE].

It is further alleged that Colleague A deliberately and dishonestly sent this reference from his personal email to [PRIVATE], knowing that the contents were false, although later relented and informed Mr 5 about it.

The NMC allege that both registrants collaborated in the submission of a false reference.

In addition to the above matters, the [PRIVATE] at [PRIVATE] had provided further allegations to the NMC about your conduct, involving further allegations of dishonesty as well as clinical failures at the unit. Investigations by the NMC had uncovered further alleged incidents of dishonesty and clinical errors in 2016 at [PRIVATE] and September 2020 at [PRIVATE].

Decision and reasons on facts

At the outset of the hearing, you made admissions to charges 1b, 4a, 6, 10, 11, 12, 18, 22, 23 and 25.

The panel therefore finds charges 1b, 4a, 6, 10, 11, 12, 18, 22, 23 and 25 proved, by way of your admissions.

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 Underwood on behalf of the NMC and by you.

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:

- Ms 1: Senior Matron in Medicine at [PRIVATE], at the time of the allegations;

- Ms 2: Clinical Governance Manager at [PRIVATE];

- Ms 3: Band 5 Nurse staff nurse in the [PRIVATE], at the time of the allegations;

- Ms 4: Inter-professional Clinical Educator and [PRIVATE], at the time of the allegations;

- Mr 5: Matron of the [PRIVATE] and your line manager at [PRIVATE, at the time of the allegations.

The panel heard evidence from the following witnesses called on your behalf:

- Mr 6: Friend;

- Mr 7: Friend;

- Dr 8: Friend;

- Ms 9: English tutor/friend;

- Ms 10: Colleague.

The panel heard evidence from the following witnesses called on Colleague A’s behalf:

- Ms 11: Manager of [PRIVATE];
- Mr 12: Partner;
- Ms 13: Friend;
- Mr 14: Friend.

The panel also heard evidence from you and Colleague A under oath.

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 both the NMC and you.

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

Charge 1a

1. *On or around 15 September 2019, created an employment reference that was purported:*

    a. *to have been written by Colleague A.*

This charge is found proved.

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

The panel noted that during your oral evidence, you told the panel consistently that you were the author of the reference.

The panel also had sight of the email dated 30 September 2019 in which the response back to Ms 16, the Recruitment consultant at [PRIVATE], at 12:10 states:

> *"With the e-mail address from work there are some issues and I don't have it at the moment however is any other opportunity how I can confirm in order to be accepted"* [sic]

The panel was of the view that Colleague A would have been able to identify his own email address and thus determined that it was you responding back to Ms 16 purporting to be Colleague A.

In light of this evidence, the panel found this charge, on the balance of probabilities, proved.

Charge 2

> 2. *On or around 15 September 2019, sent the employment reference you had created to [PRIVATE].*

This charge is found proved.

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

The panel bore in mind Ms 2's witness statement dated 21 February 2020, in which she states:

> *"We received a reference on our standard reference template form dated* [PRIVATE] *that we believe was originally sent to us in the post, we are unsure who sent the completed form to us…*

> *We sent a copy of the completed reference form to the work email address provided on the form…but this did not appear to work so a copy was also scanned [to] a personal email address that was provided to us by Mihai."* [sic]

The panel further bore in mind Ms 2's oral evidence that your application to work with the [PRIVATE] was ultimately not taken forward, because the reference could not be confirmed as being from a valid NHS work email address, and because of the concerns raised about '[Colleague A's] *personal'* email address, and the potential it had been hacked. Therefore, the [PRIVATE] could not confirm that the person they were corresponding with at that email address was in fact Colleague A.

The panel therefore concluded that there was insufficient evidence to establish either that Colleague A had sent the reference or that Colleague A had received the email response dated 30 September 2019.

The panel bore in mind the evidence it had heard from Colleague A that you printed out the reference form, stamped it, filled it out and signed it (pretending to be him). The panel also bore in mind your consistent admission that you were the author of the reference. The panel was of the view therefore that you were more likely to be the person who also sent it.

The panel noted that you had adduced evidence relating to your character from a number of witnesses who were known to you. The panel has had regard to this evidence but has concluded that this evidence does not affect the finding of facts which it has made in relation to this allegation and in relation to a number of other allegations in which dishonest conduct has been alleged.

The panel determined that it had sufficient information before it to find that you, on or around 15 September 2019, sent the employment reference you had created to [PRIVATE] Group.

The panel therefore found charge 2 proved.

Charge 3

3. *Your actions at charge 2 were dishonest in that you intended [PRIVATE] to believe the reference had been:*

    a. *written by Colleague A.*
    b. *approved by [PRIVATE].*

    when you knew this was not accurate.

This charge is found proved in its entirety.

In reaching this decision, the panel took into account the evidence of Colleague A, your evidence and its decision at charge 1a and 2 above.

The panel bore in mind that it is accepted by both registrants that Colleague A did not write or sign this reference. It further noted that during your oral evidence, you told the panel consistently that you were the author of the reference. Therefore, it was of the view that to fill it out in the way you did, purporting it to be written by someone else, was clearly dishonest by the standards of ordinary and reasonable people.

Further the panel noted that you stated in your evidence that you obtained the stamp and used the stamp on the reference. The panel bore in mind that you were not an authorised user of the stamp. The panel therefore concluded that by doing so, you intended [PRIVATE] to believe the reference had been approved by [PRIVATE] when you knew this was not accurate.

Given the evidence above, the panel found charge 3, in its entirety, proved.

Charge 4b

4. *On unknown dates, notified:*

b. [PRIVATE]

that Colleague A, your referee, worked at Manchester University Hospitals NHSFT.

This charge is found proved.

In reaching this decision, the panel took into account the reference dated 15 September 2019.

The panel had sight of the '[PRIVATE]' reference in which the [PRIVATE] stamp is applied. It noted that you said in your oral evidence that you thought Colleague A had worked at the [PRIVATE], although Colleague A had never worked at [PRIVATE] at [PRIVATE] or any other hospital within the [PRIVATE].

The panel bore in mind that you worked at the [PRIVATE] from 14 May 2018 to 29 September 2019. The panel did not find it conceivable that you honestly believed Colleague A was employed at the [PRIVATE]. The panel did not accept your account that Colleague A led you to believe that he worked for another [PRIVATE].

Further, the panel bore in mind your account that Colleague A told you he worked as a Band 6 on a "[PRIVATE]" at the [PRIVATE], which is, in any event, quite different from a specialist [PRIVATE] unit. The panel found your explanations inconsistent in respect of this charge and therefore could not accept that you used the information apparently given to you by Colleague A.

The panel also noted that, within the reference form, the name of the Trust is noted as '[PRIVATE]'. The panel was of the view that anyone working for the Trust would know the accurate name of their employer being [PRIVATE] and if identifying the name of the site would not have spelt incorrectly.

Given all the information above, the panel determined that the false reference provided to [PRIVATE] was written by you.

Based on the evidence above, the panel found charge 4b, proved.

Charge 5

5. Your actions at charge 4 were dishonest in that you intended:

a. [PRIVATE]
b. [PRIVATE]

to believe your referee worked at [PRIVATE] when you knew he did not.

This charge is found proved in its entirety.

In reaching this decision, the panel took into account its decision at charge 4 above.

The panel bore in mind that you admitted charge 4a from the outset, that on unknown dates, you notified [PRIVATE] that Colleague A, your referee, worked at [PRIVATE].

The panel found, from the evidence before it, that on unknown dates, you notified [PRIVATE] that Colleague A, your referee, worked at [PRIVATE].

The panel determined that the references provided to both [PRIVATE] and [PRIVATE] were written by you and were false. The panel could not find any reasonable explanation for you to have notified both [PRIVATE] and [PRIVATE] that Colleague A worked at [PRIVATE] when you knew he had not.

The panel therefore determined that your actions at charge 4 were dishonest in that you intended [PRIVATE] and [PRIVATE] to believe your referee worked at [PRIVATE] when you knew he did not.

The panel therefore found charge 5a and 5b proved.

Charge 7

7. *Your actions at charge 6 were dishonest in that you intended anyone reading your application to understand you had passed the relevant course when you knew you had not started it.*

This charge is found proved.

In reaching this decision, the panel took into account all the evidence before it, in particular, your admission to charge 6, the Application for Employment, Ms 4's evidence and your evidence.

The panel noted your acceptance that you had not completed the "ICU course" as the application form purports. Your account in evidence was that in order to manage your health condition, you relied on an autofill component of the software which automatically populates text into the documents, to complete this form. You told the panel that this was simply an error as you failed to check it over before it was submitted.

The panel did not find your account to be credible. It noted that within your Application for Employment you wrote within the 'supporting information' section that:

> *"I have excellent IT skills and can use the Microsoft software along with many other programmed used within the trust…"* [sic]

There was no evidence before the panel that "[PRIVATE]" actually existed. The panel was of the view therefore that you have filled this (incorrect) information in yourself, and that it has not been auto populated by the software, as autofill would not be created for an institution that does not exist.

The panel also noted that the application included details of Ms 4 which were incorrect. You had filled the 'references' section of the application with details of Ms 4 claiming she was your employer at "[PRIVATE]". The panel noted that Ms 4 confirms in her witness statement that she has only ever worked for [PRIVATE].

The panel determined that the Application for Employment contained a number of examples of false information. The panel concluded that you had deliberately provided the information on this form yourself.

Given the above information, the panel concluded that your actions at charge 6 were dishonest in that you intended anyone reading your application to understand you had passed the relevant course when you knew you had not started it.

In light of this evidence, the panel found charge 7, on the balance of probabilities, proved.

Charge 8

8. *On or around 7 December 2016, whilst working an agency shift at Northern General Hospital stated that you were a Band 7 nurse at [PRIVATE].*

This charge is found NOT proved.

In reaching this decision, the panel took into account an email dated 7 December 2016 and the evidence of Ms 1.

The panel had sight of an email dated 7 December 2016 sent by a member of staff to a number of staff members including Ms 1 that:

> *"… have tonight received a telephone call…She called to ask if we have a charge nurse called Mihai on the ward, as he was working an agency shift in the Ed department. he had stated to them that he works here as a band 7. I confirmed to her that he's employed here as a band five staff nurse, she stated that she had some concerns with his practise and was going to speak to the agency regarding this."*

The panel also had sight of Ms 1's witness statement dated 20 September 2021 in which she wrote the following:

> *"Mihai resigned in January 2017 before the investigation into the concerns could be furthered. Because Mihai resigned, the investigation could not continue. A while after Mihai left the Hospital, he was seen at the Hospital with his old ID badge on. I also know that he had asked several people for reference."*

The panel noted that the evidence for this charge is taken from Ms 1. The panel bore in mind that she was not called to give live evidence and therefore her witness statement is hearsay evidence. In this regard, the panel was not satisfied that this event took place, as it could not test the evidence. The panel was further of the view that the names of the members to whom you had allegedly said you were a Band 7 nurse were not mentioned. The panel therefore could not place much weight on this evidence.

In light of the above evidence, the panel found on the balance of probabilities that the NMC has not discharged its burden of proof to the required standard.

Therefore, the panel found charge 8 not proved.

Charge 9

9. *Your actions charge 8 were dishonest in that you intended staff at* [PRIVATE] *to believe you were a Band 7 nurse at* [PRIVATE] *when you knew you were not.*

This charge is found NOT proved.

In reaching this decision, the panel took into account its decision at charge 8 above.

As charge 8 has not been found proved, the panel did not find charge 9 proved.

Charge 13

13. *Your actions at charge 12 were dishonest in that you knew the previous day's nursing notes were not an accurate reflection of the nursing care you had provided.*

This charge is found proved.

In reaching this decision, the panel took into account your evidence.

The panel bore in mind your account in relation to this charge, that you did copy and paste notes across from a previous day, but that the notes were not an inaccurate reflection of events. The panel bore in mind that the term "bird" reappeared, which was not relevant to the care of the patient. It further bore in mind that you said during your evidence that it was a busy day on the ward and that you intended to go back and change the notes, indicating that you knew the notes were incorrect.

The panel was of the view that it may well have been a busy day with a lot of pressure on you. However, the panel bore in mind the need for accurate record keeping, particularly on a specialist ward such as the [PRIVATE].

The panel considered your [PRIVATE] and the difficulties that arise as a result of it. However, the panel bore in mind your evidence and the fact that you said you were intending to correct it.

The panel determined that by copying notes from the previous day's nursing notes you created an inaccurate record and by doing so, you acted dishonestly.

The panel therefore found charge 13 proved.

Charge 14

14. *In or around September 2020, whilst employed in the accident and emergency department at* [PRIVATE] *you signed to state that you had checked the stock levels in the* [PRIVATE] *when you had not.*

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 3 and your evidence.

The panel had sight of Ms 3's witness statement in which she wrote:

> *"Sometimes things can be missed but the things that were not in stock made me think that the room had been used to the shift before and that no one had checked after and restocked. We have 12 nurses in the department so if Mihai Was too busy to do a stock check of the room he could have and should have asked for help from someone else. When I had talked to him about his mistake in not checking the stock he dismissed it like it wasn't an issue."*

The panel noted that Ms 3 had a very detailed and clear recollection of events. The panel determined that she was a credible witness in relation to this charge and that it had no reason not to believe her. The panel further bore in mind that her recollection is more likely to be accurate as she has been working at the Trust from the time of the events till now. The panel was of the view that that there would be no reason for Ms 3 to make anything up or fabricate events.

The panel further bore in mind Ms 3's concerns not just about the events but your actions following the event.

The panel bore in mind that you pointed to the fact that Ms 3 recalls it being a day shift, and you provided evidence to show you mainly worked night shifts. However, the panel have not heard any evidence about which date this incident occurred and noted that on at least one day during September, your rota shows you were on a day shift.

Given the evidence above, the panel determined that in or around September 2020, whilst employed in the [PRIVATE] at [PRIVATE] you signed to state that you had checked the stock levels in the [PRIVATE] room when you had not.

The panel therefore found charge 14, on the balance of probabilities, proved.

Charge 15

> 15. *Your actions at charge 14 were dishonest in that you intended anyone reading the record you had created to believe you had checked the stock levels in the* [PRIVATE] *form when you knew you had not.*

This charge is found proved.

In reaching this decision, the panel took into account its decision at charge 14 above, the evidence of Ms 3 and your evidence.

The panel bore in mind your account that you did carry out these checks. The panel also noted that when finding charge 14 above proved, the panel gave more credibility to Ms 3's evidence than yours.

It bore in mind Ms 3's evidence in which she said that each part of the equipment room had its own "check box" on the list (for example, each of the red trolleys she describes had its own box to initial if it had been checked) and you had signed more than one of these. The panel was of the view that this indicates a level of deliberateness about your actions that, according to the panel, goes beyond a simple error.

The panel was of the view that it had evidence before it to satisfy itself that your actions at charge 14 were dishonest in that you intended anyone reading the record you had created to believe you had checked the stock levels in the [PRIVATE] form when you knew you had not.

The panel therefore found charge 15 proved.

Charge 16

16. *In December 2016, whilst working as an agency nurse at* [PRIVATE]*, you countersigned medications that you had given using the initials of another nurse.*

This charge is found NOT proved.

In reaching this decision, the panel took into account an email dated 19 December 2016.

The panel had sight of an email dated 19 December 2016 from the Trust Liaison Coordinator to Ms 1 referencing a complaint about you, noting the above error as stated within the charge amongst other concerns. The panel noted however that the evidence for this charge is based on hearsay evidence. The panel bore in mind that the Trust Liaison Coordinator was not called to give live evidence and therefore her account is hearsay evidence. In this regard, the panel could not fully rely on this evidence as it could not be tested.

In light of the above evidence, the panel found that the NMC has not discharged its burden of proof to the required standard.

Therefore, the panel found charge 16 not proved.

Charge 17

17. *Your actions at charge 16 were dishonest in that you intended anyone reading the medication record to believe your administrations had been second checked by the nurse whose initials you recorded when you knew this was not the case.*

This charge is found NOT proved.

In reaching this decision, the panel took into account its decision at charge 16 above.

As charge 16 has not been found proved, the panel did not find charge 17 proved.

Charge 19

19. *Your actions at charge 18 were dishonest in that you intended anyone reading the daily rounding checks to believe they had been completed at lunchtime when you knew they had not.*

This charge is found proved.

In reaching this decision, the panel took into account your admission in respect of charge 18, your oral evidence and the evidence of Ms 4.

The panel had sight of Ms 4's witness statement in which she stated:

> *"I found that Mihai had indeed completed the daily rounding charts (a document for each patient to check pressure areas, hygiene and safety cheques which is completed by the staff nurse and HCA) but he had documented skin checks for the entire morning past lunchtime and it was only 08:00am in the morning. Myself and … issued Mihai with a file note and asked him to reflect on this dishonest action"*

The panel found that the main witness for this event is Ms 4, who was a Band 6 nurse on [PRIVATE] at [PRIVATE] at the relevant time. The panel found Ms 4 to be a reliable witness in respect of this charge. The panel bore in mind that she told the panel during her oral evidence that she would spot check bays in the unit to make sure their paperwork was correct. On one such check, at around 8am, she had discovered that you had filled in the daily rounding chart to say checks had been completed up until 6pm. The panel determined that this was clearly not possible as it was still the morning when Ms 4 had conducted the spot checks.

The panel also bore in mind your account in which you said that you filled the charts in in advance and then had planned to amend it subsequently when you came to carry out those checks later on that shift. The panel was of the view that even on your own account, this means you filled in the charts with information that was not correct, or had done so prematurely, because it was not possible for you to have carried out these checks.

The panel concluded that your actions at charge 18 were dishonest in that you intended anyone reading the daily rounding checks to believe they had been completed at lunchtime when you knew they had not.

The panel therefore found charge 19 proved.

Charge 20

20. *On 16 December 2016, you failed to take appropriate action in relation to a deteriorating patient in that you:*

    a) *Failed to recognise that the NEWS score required immediate action;*
    b) *Failed to contact the doctor to see the patient;*
    c) *Failed to contact a senior nurse for assistance;*
    d) *Provided an inconsistent record of your care of the patient.*

This charge is found proved in its entirety.

In reaching this decision, the panel took into account the evidence of Ms 1, Ms 19, Dr 20 and your evidence.

The panel bore in mind that the evidence in respect of this charge and its sub charges overlap, and therefore dealt with them together.

The panel first bore in mind Ms 1's evidence in which she explained to the panel that a NEWS score of 6 (which is the score recorded in this charge) would have required an immediate escalation.

The panel noted that Ms 1 also stated in her witness statement dated 20 September 2021 that:

“On 16th December 2016 Mihai was working a night shift on [PRIVATE]*. The night shift starts at 19:30 and there is about a 30 minute handover period. A patient arrived on* [PRIVATE] *from the emergency department around 19:30, which was when handover was in progress, and Mihai was assigned to be in charge of the patient's care. He had obtained initial observations and had assessed the patient to have a NEWS score of 6. Any score above a 4 indicates that there is a concern and the patient needs to be escalated to a doctor for review. Mihai said that he did escalate the patient to a doctor at that time. However, I interviewed both the Junior Doctor as well as the Sister on duty and both stated that Mihai had not escalated the patient to them.*

The Junior Doctor stated that he was alerted to the patient by the patient's daughter. The Ward Sister stated that she had been in the Bay attending to another patient and had heard the daughter behind the curtain making a commotion and that this is when she noted that the patient was really unwell. The recollection by Mihai was not corroborated by any other witness. I read the timeline that Mihai wrote and it did not match with the timelines of the Junior Doctor or the Sister. It was hard to determine what level of escalation Mihai had done and what level of urgency he had given to the patient. The observation chart at the time had not had the patient’s information on it and there were a lot of alterations on the times of observations. He did not follow protocol when amending the times as he should have made it clear that he was correcting the time and signed the correction…”

The panel noted that the evidence on this charge suggests this patient was admitted to the [PRIVATE] at 19:30 hours on 16 December 2016. This is the account of Ms 19, the Ward Sister, and is not disputed by you.

The panel bore in mind the clinical notes for this patient which were filled out by you. They indicate observations were done at 20:30 hours when this score was recorded. The clinical notes claim that it was then escalated to a doctor at 20:45.

However, the panel had sight of the notes of a meeting with Dr 20 on 22 December 2016, in which this is disputed by the evidence of the surgical doctor, Dr 20. Dr 20's account on the event was that the patient was first brought to his attention by the patient's daughter at 20:45, and that he did not speak to you until 21:05.

The panel further noted that some of the clinical notes have been changed subsequently, seemingly by you. The panel bore in mind that Ms 1 makes mention of this in her statement. The panel further considered the meeting notes dated 9 November 2016 where you were present. Your account to Ms 1 in that meeting had been that the patient's daughter arrived at about 21:00. The panel found discrepancies in yours and Dr 20's version of accounts regarding this as Dr 20 recalls speaking to the daughter at 20:45.

The panel further bore in mind that Ms 19's account in her letter dated 19 December 2016 does not record you escalating the matter to her. The panel bore in mind that she does recall becoming involved at around 21:20 when she had heard a family member raising her voice towards you.

The panel bore in mind that there were no independent records anywhere of you having escalated this matter to a doctor or a senior nurse.

The panel took into account your oral evidence where you were challenged extensively on the inconsistencies in your account, such as the discrepancies within the clinical notes, where you had recorded observations at 20:30, however, in your statement entitled 'Statement for the night of 16/12/2016' you claim these took place at 20:00. The panel also bore in mind your responses that in the meeting notes dated 9 November 2016 and your personal statement that you had conducted observations at 21:45. The panel, however, did not have evidence of any such recordings in the clinical notes for that time.

The panel bore in mind your account that the times were wrong on your clinical notes because you were under pressure. The panel found this evidence unconvincing. It bore in mind Ms 2's evidence in which she stated that if you needed to correct a note, there is a protocol to do it, and that is to amend the times and make it clear that you were correcting the time and then put your signature next to the correction.

The panel noted that Ms 19 and Dr 20's evidence is hearsay as they were not called as witness on behalf of the NMC and therefore the panel were not able to test their evidence. However, it bore in mind that their evidence was consistent with one another. Further, the panel bore in mind that Ms 1's evidence was consistent with that of Ms 19 and Dr 20 and the panel determined that it found her to have provided clear and reliable evidence in relation to this charge.

The panel also had sight of an email dated 18 December 2016 from the Clinical Operations Matron at the Medical and Emergency Care Division in which she writes:

> *"I asked him [you] why he had not escalated himself ([Ms 19] got involved after overhearing the daughter verbalising her concerns whilst dealing with another unwell patient in the bay) and he stated he has previously 'got into trouble' for pulling the emergency buzzer when it was not a cardiac arrest, although could not be specific."*

The panel found that there were a number of inconsistencies in your account.

For all the above reasons, the panel was of the view that it had sufficient evidence before it that on 16 December 2016, you failed to take appropriate action in relation to a deteriorating patient in that you failed to recognise that the NEWS score required immediate action; you failed to contact the doctor to see the patient; you failed to contact a senior nurse for assistance and you provided an inconsistent record of your care of the patient.

The panel therefore found charge 20 in its entirety, proved.

Charge 21 (a)

> *21. On 25 September 2018, whilst working on* [PRIVATE]*:*

a) *Having offered to mark the site for an arterial line, you proceeded to insert the needle into the artery, a procedure that is outside of your scope of practice;*

This charge is found NOT proved.

In reaching this decision, the panel took into account the NMC's submissions.

The panel bore in mind that the NMC conceded that there is no positive assertion that you inserted the arterial line and therefore the NMC made no positive submissions about this charge.

On this basis, the panel found charge 21a, not proved.

Charge 21 (b)

21. *On 25 September 2018, whilst working on* [PRIVATE]*:*

b) *Failed to prime the transducer with IV Saline;*

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 18, Mr 5's evidence and your evidence.

The panel bore in mind your position in relation to this charge, that you were not trained to prime the transducer with IV Saline, and therefore the word "fail" does not apply to you. However, the panel heard evidence that this is a skill within your ability and remit as a nurse and therefore you should have known how to do it.

The panel noted that Ms 18, in an email dated 25 September 2018, writes:

> *"His patient required an arterial line insertion and the doctor in question wasn't happy with his behaviour at the bedside… Once the arterial line had been inserted, it then transpired that the transducer set wasn't primed and ready to attach, meaning that the patient has lost blood while he primed the bag and set. I've spoken to him about his nursing responsibilities in ensuring that the transducer is primed and ready to go."*

The panel noted that there was no mention there about a lack of training; the account is that you were spoken to about your nursing responsibilities. However, in considering this evidence, the panel bore in mind that it was hearsay evidence as Ms 18 was not called before the panel to allow it to test her evidence.

Notwithstanding the above information, the panel noted that Ms 18's account is consistent with the account of Mr 5, who the panel found to be a reliable witness in relation to this charge. The panel noted that Mr 5 states:

> *"Mihai's role, as a nurse, during this procedure was to support the doctor and help the procedure be done quickly. Part of that is priming the arterial line with IV saline to stop the line bleeding back and to monitor the blood pressure. In this instance the line was put in but Mihai had not primed the transducer set which meant there was a delay in attaching the arterial line. During this delay the patient was bleeding from the unattached line. The risks to the patient could have been that they got an air bubble in their artery which could have been life threatening…"*

The panel was able to rely on this evidence as Mr 5 was tested during his oral evidence. The panel therefore determined that it could safely conclude that priming the transducer should have been within your competence as a nurse.

The panel was therefore satisfied that it had sufficient evidence before it to find that on 25 September 2018, whilst working on [PRIVATE], you failed to prime the transducer with IV Saline.

The panel therefore found charge 21b proved.

Charge 24

24. On 23 April 2019, failed to safely administer a Dobutamine intravenous infusion in that:

a) You failed to recognise the need to prepare a replacement infusion;
b) Disconnected the infusion;
c) Proposed to flush the central line with IV saline;

This charge is found proved in its entirety.

In reaching this decision, the panel had regard to the contents of an email from Ms 17, a statement from you dated 23 April 2019 and Mr 5's supplementary witness statement.

In your statement dated 23 April 2019 you wrote:

> *"… I mentioned to the nurse in charge the Infusion pump is bleeping also blood pressure of the patient is dropping down and I have thought to flush the line but I realised on time that I know inotropes they never get flushed and also the nurse in charge she has told me that never I should flush the inotropes I acknowledge the information I have from [Ms 17] and moved on, I would love to mention that the inotropes line has never been disconnected and neither my hands wasn't on the inotropes line."* [sic]

The panel was of the view that your statement above indicated a partial admission.

The panel considered the email from Ms 17, a Ward Sister, dated 24 April 2019 in which she wrote:

> *"So yesterday while floating in zone two I heard Mihai's monitor alarming as I went over to help I notice the patients blood pressure was very low and as I*

looked to see what Mihai was doing, he had disconnected the dobutamine (as it alarmed occluded) line was about to flush the line that had the inotropes running, noradrenaline and dobutamine was on this line, I had to quickly shout no, and explain that an inotrope line should never be flushed. I explained how dangerous this could have been If I hadn't had stopped him. It was only then that Mihai realised what he was doing. He explained that he was tired and not thinking straight because he wasn't actually suppose to be on shift and that someone had swapped it. Later that day he had approached the nurse in charge and explained that he went to flush the line and then realised himself that we was in the wrong and verbalised that first, which wasn't the case..." [sic]

The panel also had sight of Mr 5's supplementary witness statement in which he said:

"On 23rd April 2019 there were further concerns about Mihai's practice. One of these concerns was that Mihai disconnected an inotropic support line with the intention to flush the line. Mihai was looking after a patient that was quite sick and on medication for blood pressure noradrenaline and dobutamine all through the patient's IV central line. The Junior Sister working on the area heard the alarm go off for this patient and then saw the patient's blood pressure was really low. Mihai had disconnected the IV medications for the patient and was about to flush the line. The Sister asked what he was doing as it was dangerous. It was only then that he realised what he was doing. Mihai said he was tired and not thinking straight and that he was not supposed to be on shift. Flushing the line could have been very dangerous for the patient as it would make it so that the patient gets a large amount of the medication at once and make them hypertensive which could lead to a stroke or cardiac arrest. In this situation, if Mihai wanted to clear the line due to an obstruction then he should have checked the lines and the pump. it may have been necessary to start another infusion of the medication on another line/lumen of the central line and then remove the line that is not working properly..."

The panel noted that Ms 17's email was hearsay evidence as she was not a live witness.

However, Ms 17’s email is broadly consistent with your own account as set out in the statement dated 23 April 2019 and with the concerns expressed by Mr 5. The only significant point of difference relates to whether you had disconnected the infusion. The panel decided, in relation to that issue, the account given by Ms 17 in her email was more likely to be accurate than your account.

The panel determined therefore that it had sufficient evidence before it to find that on 23 April 2019, you failed to safely administer a Dobutamine intravenous infusion in that you failed to recognise the need to prepare a replacement infusion, you disconnected the infusion and proposed to flush the central line with IV saline.

Accordingly, the panel found charge 24 in its entirety proved.

Charge 26

26. In September 2020 proposed to administer a dose of Ketamine to a patient, that was ten times the recommended dose.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 3 and your evidence.

The panel had sight of Ms 3’s witness statement in which she wrote:

> *“Another incident was where Mihai asked me to do a second check for patient that had been prescribed Ketamine. The patient had been prescribed 10 MG of Ketamine, which is a sedative, but Mihai had drawn up 10ML which is 10 times the dose. Thank God Mihai asked for a second check as giving that much of an overdose could have made the patient lose unconsciousness and depending on the patient could have been even more serious. When I alerted Mihai to the mistake he just shrugged it off like it wasn't a big deal. He was very blasé about*

it. I felt that that was a dangerous attitude about it. It is policy to get a second checker on Ketamine as it is a controlled drug. It is also common from agency staff, such as Mihai, to get their medication checked more often as they have less security than a full staff member.[sic]

Mihai had previously told me that he had worked in the ITU and an intensive care nurse would be dealing with complicated drug calculations. Because of this I was incredibly surprised that Mihai would have made such a simple error with the Ketamine. This was something that even a new nurse should have caught. Mihai was the type of person that if he did something wrong then he would blame everyone else and his surroundings. He would never ask for help. I talked with him before saying that other trusts may do things differently but that we do things a specific way and he needed to follow that as it worked for us. He would still just go around and change things and move things about even though he was only an agency worker. Mihai failed to recognize the mistake he made or issues that came up."

The panel found the account of Ms 3 reliable and credible. The panel bore in mind that Ms 3 in her oral evidence told the panel that the solution was 10mg per 1ml and that she had to stop you from administering 10ml of the Ketamine solution (which would have been 10 times the prescribed dose). She said that this was caught because she was there as a second checker.

The panel noted that there was a degree of difference between Ms 3's account and your account. However, the panel bore in mind that the difference in detail referred to the size of the vial rather than how much of the solution was drawn.

Given all the evidence above, the panel was satisfied that in September 2020, you proposed to administer a dose of Ketamine to a patient, that was ten times the recommended dose.

The panel therefore found charge 26 proved.

Decision and reasons on application to re-open facts

At the resumption of this hearing, the panel heard an application from you to reopen the facts stage.

You informed the panel that you had prepared extensive documentation including a number of bundles with evidence relating to the allegations of [PRIVATE] and the NMC, including the letter of notice to investigate the concerns which you found unfair to start with. You also informed the panel that you have asked for further evidence in relation to Charges 14 and 26 regarding dishonesty as you are not represented, and you believe the NMC did not consider other evidence in relation to this matter.

You submitted that because you feel that the NMC only considered the allegations based on statements and no other evidence gathered on the concerns, the panel should consider reopening the facts stage and examining this new evidence because the allegations have been found proved on the balance of probability and *"not the facts of direct information"* available to the NMC.

Mr Underwood indicated to the panel that the NMC had received your documentation. He informed the panel that the documentation you provided had been collated into 7 different bundles, and in total amounts to nearly 3000 pages, hence the reluctance to serve them on the panel at this stage. He informed the panel that the documentation you provided includes a lot of information and it would be necessary for you to outline the relevant parts before he can make any submissions.

Mr Underwood further informed the panel that some of the documentation you provided was collated into a bundle named "reflective bundle" by the NMC, which appears to be material that is relevant to, regardless of the panel's view on this application, the next stage of impairment. He indicated that this bundle should be shared with the panel subject to your agreement because it seems to be evidence that you may want to rely upon at the impairment stage.

The panel heard the advice of the legal assessor who referred it to the case of *TZ v General Medical Council* [2015] WL 1651334. In this case, the High Court considered whether or not a panel of the General Medical Council (GMC) had power to reopen its findings of fact. The court held that there was such a power before the facts were formally announced. In other words, when they were still in draft form, there was at that stage a power to reopen the consideration of the facts and, if necessary, to hear further relevant evidence, assuming it met various tests which are required for the adducing further evidence at a late stage. However, the court made it clear that the discretion to reopen a hearing on the facts would not exist once the facts have been decided and *"announced".*

The legal assessor informed the panel that the word "announce" appears both in the GMC's practice rules and in the NMC's rules at Rule 24 (11) which states the following:

> *(11) The Committee shall deliberate in private in order to make its findings on the facts and then shall announce to those parties present the findings it has made.*

The legal assessor further advised the panel that in the case of *TZ v General Medical Council* the High Court agreed that after the factual decision was announced, the rules did not permit the admission of further evidence. He informed the panel that it is not legally possible for the findings of facts to be reopened now that they have been announced.

The panel accepted the advice of the legal assessor. The panel determined that it would refuse your application to reopen the facts stage, as it is prohibited by the Rules from reopening the fact-finding stage now that it has been announced. The panel noted Mr Underwood's reference to a "reflective bundle" contained within the further evidence you provided and noted that it will consider only this part of the evidence at the impairment stage. You indicated that you did not oppose this consideration.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether your fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage, and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, your fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

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

Mr Underwood 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.

Mr Underwood identified the specific, relevant standards where your actions amounted to misconduct. He submitted that your actions in charges 1 to 7, and 12 to 19, breached Rule 20.2 of the Code:

> *'**20 Uphold the reputation of your profession at all times***
> *To achieve this, you must:*
> *20.2 act with honesty and integrity at all times…'*

Mr Underwood submitted that some of the dishonesty directly related to your practice. Therefore, it might be considered more serious, and some of it involved a level of pre-meditation, for example the drafting of the false references, which also makes it more serious.

Mr Underwood submitted that your behaviour in a number of the charges found proved relate to poor or inaccurate record keeping and also amount to misconduct. He reminded the panel that it is important that it takes into account your [PRIVATE]. Therefore, where the panel is of the view those errors in record keeping are likely to be only or mainly attributed to that [PRIVATE], it would not amount to misconduct. However, it is the NMC's position that record keeping and documentary issues that have been found proved cannot, wholly or mainly, be attributed to such a [PRIVATE], as the panel has invariably found the dishonesty charges alongside them to have been found proved as well.

Mr Underwood submitted that the following sections of the Code have also been breached with regards to your behaviour in relation to charge 20:

> *'**10 Keep clear and accurate records relevant to your practice***
> *This applies to the records that are relevant to your scope of practice. It includes but is not limited to patient records.*
> *To achieve this, you must:*
> *10.1 complete records at the time or as soon as possible after an event, recording if the notes are written some time after the event*

> *10.3 complete records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements.'*

Mr Underwood submitted that it is clear that proper records were not made contemporaneously, and you went back and amended timings retrospectively. Mr Underwood further submitted that there is some overlap on a number of charges with the rule against dishonesty. However, charges 12, 14 and 18 are all incidents of you adding details into the record that clearly were not a true and accurate representation of the work you had done or the care you had provided. He submitted that for these reasons, it is the NMC's position that the facts found proved against you amount to misconduct.

The panel heard further evidence from you under oath.

You submitted that you *"remorsefully regret that [you] have trusted someone [you] shouldn't have trusted"* and you have *"reflected remorsefully on that fact".* You submitted that you have reflected on integrity and honesty taking forward another year of studying English at university and also further nursing studies. You referred the panel to the reflective statement and dissertation within the documentation you provided, and you informed the panel that the learning curve for you in this process is that should you wish to obtain a reference, you will ask someone that *"is much in power and authority, such as management or different authority but not friends or not someone that would always jeopardize your character, career, or any [sic] that might have repercussion."* You told the panel that you have reflected on the NMC code of conduct, you have progressed and developed, and you have been focusing on that at this time.

You submitted that with regards to the charges involving your record keeping, it was not your intention to be dishonest, but to formulate the documents the same way other nurses do in order for you to be clearer as you have previously been "*pulled up on not making sense in your record keeping".* You submitted that the words that remained in the typical layout that you copied and pasted are down to your [PRIVATE] because "*the* *lines are flowing about”,* you did not see them, and that is why you are being perceived as dishonest.

Submissions on impairment

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

Mr Underwood submitted that the panel is of course considering current impairment, not past impairment. He referred the panel to the guidance set out in the *Grant* test:

> *‘Do our findings of fact in respect of the doctor’s misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/ fitness to practise is impaired in the sense that S/He:*
>
> *a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
>
> *b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
>
> *c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
>
> *d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.’*

Mr Underwood submitted that it is the NMC's position that the charges found proved against you satisfy all four limbs of this test. He submitted that in respect of limb a), the starkest example of this is charge 20, where you failed to act on worrying NEWS scores of a patient who was subsequently transferred to the ITU and failing to escalate a clearly very unwell patient in the [PRIVATE] places such a patient at an unwarranted risk of harm. He submitted that further less obvious examples are outlined in charges 14 and 15 where you failed to complete the stock check properly for the equipment room and then signing to falsely claim that you had. This was in another emergency ward, this time at [PRIVATE] hospital, during the height of the COVID pandemic, where patients were dying every day. Your failure to properly check this equipment meant that the nurse intubating the patient had to send her helper away to get the equipment, putting that patient at unwarranted risk of harm.

Mr Underwood submitted that it is the NMC's position that you have not demonstrated significant reflection on your actions and have sought to shift the blame onto others in your defence. You continued to try to shift the blame onto others during your evidence on oath to this panel on impairment, both onto Colleague A, and to your employers and other colleagues. He submitted that the risk of harm in the future has not been significantly reduced since these incidents took place.

Mr Underwood further submitted that with regards to limb b), it is the NMC's position that the ongoing risk to the reputation of the profession is high should you be allowed to remain a nurse. You have demonstrated through the charges found proved by this panel, serial dishonesty, and a troubling attitude to various aspects of your nursing practice over a number of years. You have shown a tendency not just to provide false information, but when challenged over failings or poor conduct by colleagues, to try and shift the blame, make (often baseless) counter allegations.

Mr Underwood submitted that when you are challenged about things you have said which are untrue, you have a tendency to compound your dishonesty by making further false claims to explain away the evidence of dishonest conduct. He submitted that a good example of this is in relation to your account to this panel in evidence about why you wrote on the reference to [PRIVATE] that Colleague A worked at the [PRIVATE] at [PRIVATE]. This was not just a lie, the NMC say, but your explanation for it (that somehow you thought Colleague A worked at another [PRIVATE] at [PRIVATE] was undermined by a previous claim that you believed Colleague A worked at a [PRIVATE] at [PRIVATE]. It was clearly your intention for the recipient of the reference to believe that Colleague A had worked with you at the [PRIVATE] of [PRIVATE]. Therefore, the suggestion that you honestly believed Colleague A worked for a hospital in another part of the Trust was, when placed in the context of the evidence, clearly untrue.

Mr Underwood also submitted that when your dishonest actions were put to you in cross-examination, you compounded that dishonesty by providing false explanations for your actions that were easily contradicted by the other evidence the panel had before it. Such behaviour brings the medical profession into disrepute and risks damage to its reputation moving forward. Whilst you are entirely within your rights to contest these charges, your behaviour when cross examined demonstrates that you have not remediated your attitude or behaviour in any material way and remain currently impaired.

Mr Underwood submitted that regarding limb c), honesty must be considered a fundamental tenet of the profession and to breach it once is enough to satisfy this limb. It is the NMC’s position that you have breached this limb on multiple occasions as the panel has found and you have not satisfactorily demonstrated any real reflection on your actions that would alleviate any fears that you would not do so again.

Mr Underwood submitted that limb d) deals with the fundamental issue of dishonesty directly and invited the panel to consider his submissions on you demonstrating a continuing tendency to approach difficult situations by behaving dishonestly. For all of the above reasons, it is the NMC’s position that your fitness to practise remains impaired as a result of your misconduct.

Mr Underwood noted that the panel will want to carefully consider the submissions you made, in particular about the specific actions you have taken to address the concerns raised by the findings of fact since the incidents occurred. He reminded the panel that it should be cautious not to place too much weight on the fact that you disputed the charges found proved, as it was your right to have the NMC prove those charges against you. However, your decision to deny the allegations of dishonesty are a factor the panel are permitted to consider when deciding whether you have demonstrated any remediation in respect of your practice.

You submitted that you have demonstrated good behaviour despite the NMC's views and that you continue to reflect on your mistakes. You submitted that if the NMC believe that you are currently impaired then "*this shock [you] have had with the NMC, will put a break into [your] life to see what [you] are going to do, and it is not easy to speak about presenting risk or jeopardising the profession. [You] have learnt from [your] mistakes very harshly and if the NMC believes otherwise, [you] can see where it's going, [you] are outspoken and say the truth and the NMC does not like [your] behaviour."*

You submitted that you are willing to "*learn more"* and be there for your patients if necessary, working under conditions to prove the NMC wrong. You now know how to escalate and when to escalate patients. Regarding jeopardising nurses, you submitted that you do not think that will happen at all because of the trauma these proceedings have caused you, and the impact they have made on your life. Moving forward, you will be cautious in what you are writing and ensure it is relevant, accurate and capable of being proved. You submitted that "*[you] do not think [you] will be dishonest again because [you] do not want to be in this position again and for [your] self-esteem and reflection, it is important to make sure [you] are making a good connection with the public and the trusts to ensure [you] are not breaching the fundamental tenets of integrity and honesty".* You further submitted that you *"want to say to the panel, that you are wrong".*

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 *Grant* [2011] EWHC 927 (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 your actions in the charges found proved did fall significantly short of the standards expected of a registered nurse, and that your actions amounted to numerous breaches of the Code. Specifically:

> ***'1 Treat people as individuals and uphold their dignity***
> *To achieve this, you must:*
> *1.2 make sure you deliver the fundamentals of care effectively*
> *1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay*
>
> ***8 Work co-operatively***
> *To achieve this, you must:*
> *8.2 maintain effective communication with colleagues*
> *8.3 keep colleagues informed when you are sharing the care of individuals with other health and care professionals and staff*
> *8.5 work with colleagues to preserve the safety of those receiving care*
> *8.6 share information to identify and reduce risk*
>
> ***10 Keep clear and accurate records relevant to your practice***
> *This applies to the records that are relevant to your scope of practice. It includes but is not limited to patient records.*
> *To achieve this, you must:*
> *10.1 complete records at the time or as soon as possible after an event, recording if the notes are written some time after the event*
> *10.3 complete records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements.*

13 Recognise and work within the limits of your competence

To achieve this, you must, as appropriate:

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

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

13.3 ask for help from a suitably qualified and experienced professional to carry out any action or procedure that is beyond the limits of your competence

16 Act without delay if you believe that there is a risk to patient safety or public protection

To achieve this, you must:

16.2 raise your concerns immediately if you are being asked to practise beyond your role, experience and training

17 Raise concerns immediately if you believe a person is vulnerable or at risk and needs extra support and protection

To achieve this, you must:

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

17.2 share information if you believe someone may be at risk of harm, in line with the laws relating to the disclosure of information

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

19.3 keep to and promote recommended practice in relation to controlling and preventing infection

19.4 take all reasonable personal precautions necessary to avoid any potential health risks to colleagues, people receiving care and the public

20 Uphold the reputation of your profession at all times

To achieve this, you must:

20.2 act with honesty and integrity at all times...'

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 your actions with regards to charges 1 to 5 in creating an employment reference amounts to serious professional misconduct. The panel was of the view that your actions were deliberate and calculated in the creation of references and submitting them in the hope that they would be seen as legitimate and accepted as such. Charges 1 to 5 clearly display a repetition of the same issue and the panel noted that this was not just a mistake, but that you had decided to falsify records or get other colleagues to do so in order to achieve your aims. The panel determined that this compounds the level of seriousness.

The panel was of the view that your actions with regards to charges 6 and 7 also amounted to serious misconduct as you attempted to deceive and obtain a position of responsibility and a level of skill you were not in a position to fulfil. You did not give the panel an explanation of why this was the wrong thing to do when questioned about this in your evidence under oath, but you later stated that you would never do anything that would jeopardise your patients and that *"no patient has ever died under [your] care."*

The panel determined that your actions at charges 10 and 11 also amount to serious misconduct as it could lead to the wrong information being provided. It found evidence that there were other clinicians around you who could have helped out, but you failed to call them to assist you. Regarding charges 12 and 13, the panel did not consider that copying and pasting amounted to good and honest practice. Records should be contemporaneous at the time of assessment and observations, as to what had happened on a previous day could not account for what may happen on the following day. The panel determined that this amounted to serious misconduct.

The panel determined that your actions at charge 14 were particularly serious given the context of the COVID-19 pandemic. You had no regard for patient safety as you did not follow the procedure of ensuring that the trolley that was to be used for emergency situations was sufficiently stocked and then dishonestly recording that you had as reflected in charge 15. The panel determined that this behaviour amounted to serious misconduct.

The panel determined that your behaviour at charges 18 and 19 amounted to serious misconduct because you recorded that the required checks had been completed on patients when you knew they had not. Between 08:00 hours and midday is a considerable period of time and something could have been missed as you had failed to check the patients during this time.

The panel found that your behaviour at charges 20 to 26 also amounted to serious misconduct as they brought about a serious risk to patient safety. The panel noted your response that no harm came to the patient, but it determined that this was immaterial to the potential risk of harm that could have occurred. These were fundamental nursing skills and you failed to demonstrate them at the time these incidents occurred.

The panel found that your actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

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

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

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

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

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

> *‘Do our findings of fact in respect of the doctor’s misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/ fitness to practise is impaired in the sense that S/He:*
>
> *a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
>
> *b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
>
> *c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
>
> *d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.’*

The panel finds that patients were put at risk of physical harm as a result of your misconduct. The panel was of the view that you are likely to put patients at risk of harm in future because there is no evidence before it that you would not have continued to practise in this way should these proceedings not have been brought against you. The panel was not satisfied that you had taken responsibility for your actions and determined that there remains a future risk to patient safety.

The panel determined that your misconduct breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. The panel was of the view that you had persistently failed to do the right thing, you had not learnt from your mistakes and you continued to lie and attempt to cover up your behaviours by failing to accept responsibility for your actions. The panel was of the view that you were not capable of conducting yourself in an honest way with integrity and this brings the reputation of the profession into disrepute. The panel was not satisfied that it had any evidence before it that would indicate that this is not likely to happen again in the future. The panel determined that you had breached the fundamental tenets of trust, integrity, respecting patient safety, record keeping, and collaborating with colleagues. The panel determined that you had missed the point about minimising risk and taking responsibility for being a safe practitioner and creating a safe clinical environment.

The panel was satisfied that confidence in the nursing profession would be undermined if it did not find charges relating to dishonesty extremely serious. The panel determined that your dishonesty is a strong theme throughout this whole case. You had tried to convey a different account to the panel even to the latest stage of this case and even when the evidence proved otherwise. The panel was not satisfied that this attitude will change in the future and determined that it demonstrates deep-seated attitudinal issues. The panel determined that it had no evidence before it to prove that this would change in the foreseeable future.

The panel further noted that your dishonesty was motivated by personal gain, and it considered the NMC guidance DMA-7 which states:

- *'What the nurse, midwife or nursing associate knew or believed about what they were doing, the background circumstances, and any expectations of them at the time.*

- *Whether the panel considers that the nurse, midwife or nursing associate's actions were dishonest, or*
- *Whether there is evidence of alternative explanations, and which is more likely.'*

The panel was of the view that the dishonesty in relation to the employment reference came from your expectation that you would be considered for employment because there was an ultimate gain for you if you were to succeed. It determined that there was no alternative explanation for this and as a result of the dishonesty, you stood to gain significantly.

[PRIVATE]

Regarding insight, the panel considered the evidence you provided under oath and was of the view that although you answered questions appropriately on a few occasions, you have not been able to demonstrate sufficient insight into your failings. The panel noted that some of your responses to the concerns included noting that no patient has ever died under your care. The panel determined that this comment shows a significant lack of insight into patient safety as you were putting extremely vulnerable patients at a serious level of risk by being dishonest about your clinical competencies and qualifications. The panel was of the view that based on your oral evidence, you simply do not believe that you have done anything wrong, and it had no reason to believe that you would behave any differently in future.

The panel noted that you had stated that you had learnt from your mistakes but was of the view that you came to this point only after you had given up on trying to convince the panel otherwise. Nevertheless, the panel took this limited insight into account. However, you contradicted it by attempting to pass blame onto others for your actions and failing to take responsibility for them. The panel was of the view that you had demonstrated fundamental dishonesty throughout these proceedings.

The panel noted that throughout the hearing, you have demonstrated little concern for the colleagues who have raised concerns about your dishonesty and clinical competence. Thus, you appear to have shown little remorse concerning the potential adverse impact of your behaviour and attitude upon those clinical managers and nurses who have worked with you during the period involved.

The panel was satisfied that the misconduct in this case is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice. The panel took into account the evidence of further training that you had provided, however it considered that this was largely theoretical, as you had not the opportunity to demonstrate that you had applied what you had learned into practice. The panel considered that most of the training you provided evidence for was not directly related to the areas of concern identified in this case. The panel therefore determined that that you have not sufficiently demonstrated that you have been able to appropriately strengthen your practice.

The panel further determined that based on the reasoning provided above, there remains a risk of repetition. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore 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.

The panel determined that a finding of impairment on public interest grounds is required in order to maintain public confidence in the profession. The panel was satisfied that a well-informed member of the public would be very concerned if a nurse facing the charges that have been found proved in this case, were not considered to be currently impaired.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.

Sanction

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

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

The panel accepted the advice of the legal assessor, who referred to the cases of *Lusinga v NMC [2017] EWHC 1458 (Admin), Watters v NMC [2017] EWHC 1888 (Admin) and Kamberova v NMC [2016] EWHC 2955 (Admin).*

Submissions on sanction

Mr Underwood submitted that the NMC seek a striking-off order at the sanction stage. He reminded the panel that it will of course have mind to the NMC guidance on sanction in reaching its decision and it is important to bear in mind that the purpose of sanction is not to punish a registrant, even if the effect of the sanction may be punitive. The purpose is to protect the public and or protect the integrity of the nursing and midwifery profession. Any order the panel makes at this stage must first be necessary to meet either or both of those aims and be proportionate in all the circumstances, and as "*strike off is the most draconian of measures*" open to the panel, caution must, of course, be exercised.

Mr Underwood further reminded the panel that a striking off order is, of course, reserved for those cases where the panel takes the view that the actions of the nurse in question are fundamentally inconsistent with them remaining on the register and the initial step the NMC say is for the panel to determine the seriousness of the misconduct in this case. He submitted that while your misconduct extends beyond dishonesty, it is the dishonesty which makes your misconduct so serious. He submitted that it is the NMC's position that a strike off is the only appropriate sanction where the misconduct is not limited to the other matters the panel have found proved, for example, poor record keeping or clinical errors. A strike off order is the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards, and the NMC submit that the misconduct found by the panel raises fundamental questions about your professionalism.

Mr Underwood submitted that it is the NMC’s position that you have demonstrated yourself to be fundamentally dishonest and continue to show little or no reflection into your behaviour or insight into it. He reminded the panel that it must impose the least onerous sanction necessary. However, the least onerous sanctions available to the panel will not address the level of seriousness addressed in this case. He submitted that to make no order or a caution order, would clearly not be commensurate with the serious nature of the dishonesty and a conditions of practice order would not be appropriate. There are no conditions that could manage the risk either to the public or to the integrity of the profession. Equally a conditions of practice order would not reflect the seriousness of the risk to the public or to the integrity of the profession. He further submitted that to make a suspension order would also not be appropriate if, as the NMC submit, your actions are found to be fundamentally incompatible with one of the core tenets of the profession.

Mr Underwood submitted that if the panel do not agree with the NMC on a strike off order being the appropriate sanction, then a suspension with review is the only reasonable alternative. He submitted that nevertheless, it is the NMC’s submission that your dishonesty is so fundamental that to allow you to remain on the register would not only present a risk to the public but would fundamentally undermine trust in the profession. He submitted that if a properly informed member of the public were to learn that a nurse who has been found to have repeatedly lied and falsified documents in the course of their practice were allowed to remain a registered nurse, this would lead to a loss of confidence not only in the nursing profession but also in the NMC’s capacity as a regulator to maintain standards and protect the public. He further submitted that for all the above reasons, the only appropriate sanction that protects the public and maintains professional standards in this case is to strike you off the register.

The panel bore in mind your submission that you do not agree a strike off order should be imposed. You told the panel that the incidents *“happened a while ago, so 2014 to 2019, 29th of September to be more precise and with the reference has happened 2020 [you] believe now.”*

You told the panel that you “*continuously reflect into the mistakes and remorsefully regret what has been done*, *but unfortunately [there] is nothing that [you] can do to turn the time back.”* You told the panel that you would like it to look very carefully into your behaviour throughout the period of the investigation and that it has taken *“approximately 5 years [from the] start in 2019, the 11th of December, if [you are] not mistaken, that's when the first referral, or perhaps that's when the documentation came through to* [you]*.”* You told the panel that “*this long period has caused* [you] *stress and now declined* [your] [PRIVATE]*”*, [PRIVATE]

You submitted that the investigation has taken such a long period of time and it *“should have been dealt with in the time scale of one year and eight months perhaps and not longer than that.”* You told the panel that throughout this period of five years*, “you have continuously developed and done certain training that would reflect [your] mistakes that would make [you] learn from those mistakes and moving forwards, seeing what's bright for the future and to not repeat those mistakes also.”* You submitted that the teaching and training staff undertaking *“was not just a cover”* and *“the topics that have jeopardized* [your] *career are also the topics that would help [you] for the future on reflecting and moving forward for the future like compromising the stress and coping strategies in order to move forward for the role to give a better understanding on the nursing point of view and [you] do understand that [you] have made mistakes.”*

You submitted that the panel should consider the fact that you have already been suspended for nearly three years and in April 2023, this will mark 3 years that you have been out of practice and *“another two years would be 5*”. You submitted that if the panel decide to suspend you then that means you would be struck off right away and if a strike off order is imposed then this would be 10 years of you being out of practice due to the length of time the investigation has taken coupled with your current suspension. You submitted that this is a very severe sanction that you do not think you deserve because you have shown remorse and shown compassion within your career and looking into the background, *"there has been no death or other critical elements established within [your] path*" and *"no previous investigations made to the NMC."*

You submitted that a strike off order would not be appropriate and is not necessary to impose. You submitted that you can *"gain back"* the public's trust and *"be there for the public, be there for [your] patients as [you] always have been because [you] are very enthusiastic and [you] do love what you do that's why [you] are standing for what [you] believe because [you] do love being a nurse and [you] do love the job that [you] are doing, [you] are not doing [it] just for the sake of doing it."*

You further submitted that when you started your nursing career in Romania and when you finished university, you made a pledge in the church*, "a very sentimental but very powerful pledge that [you] and for [you] personally, are very committed to because you never distrust or betray the pledge"* and you are *"committed to your patients' care and stand by your patients making sure [you] are giving the best and effective care that [you] can give"*. You submitted that "*although mistakes have happened within the documentation, this not something that* [you] *can control given your* [PRIVATE] *and the lack of support* [you] *have had from the trust regarding it"*.

You submitted that within your new role you have received *"a very deserved help"* and you are *"in the progress of obtaining the elements strategies in order to effectively do [your] job, that would prove also skills will actually be embraced within the nursing career and show a massive impact within [your] behaviour within providing patient care and accuracy in [your] documentation."* You submitted that you totally disagree with Mr Underwood's submission that you are blaming others and not taking into account your mistakes because you *"do take your responsibilities very seriously and to account [your] mistakes, [you] have regretted from the beginning and [you] are not here to blame"* and you are *"standing for what is right and for what is fair."*

You submitted that you would like the panel to look into the *"good elements and feedbacks"* that have been received within the documentation you provided and also "*throughout the stages to consider a fair judgement and decision"*. You added that you are "*fully aware of what the panel may consider given the severity of the concerns and the NMC's submissions, but [you] want the panel to consider a fair decision and not go by the NMC's submissions"*. You submitted that the panel should consider the elements that could constructively be remediated and fixed and that you have *"definitely already proven and have given enough evidence to show that [you] are committed and willing to improve and remorsefully reflect into those elements that [you] have mistaken."* You submitted that you would like the panel to consider a form of sanction, but not as severe as a strike off order.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Lack of insight into failings.
- A pattern of misconduct over a period of time.
- Conduct which put patients at risk of suffering harm.
- Charges 1-5 involved pre-meditated forgery for personal gain, which involved and implicated others.

The panel also took into account the following mitigating features:

- You have undertaken a number of nursing related courses.
- You have received good personal references (albeit not clinical).
- You have engaged with your new employer.
- You have been subject to an interim suspension order for a period of nearly 3 years.

You told the panel about your [PRIVATE] and appeared to submit that this provided an explanation, or mitigation, for your conduct in the charges found proved. However, the panel did not accept that this could have caused or contributed to the majority of the charges found proved, in particular the charges involving dishonesty which were calculated to bring about personal benefit or gain.

[PRIVATE] However, the panel noted that you did not suggest that you were having these issues at the time of the incidents. There were also [PRIVATE] going on at the time which the panel acknowledged. However, it was not satisfied that you had given the panel enough detail about what was going on in your private life at the time for this to provide an explanation or mitigation for your conduct.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness, the risks to patients and the breaches of the fundamental tenets of the profession. The panel was of the view that your conduct has the potential to undermine public trust in nurses. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the reasons it identified above regarding taking no action, and the absence of any evidence that your practice should not be restricted, an order that does not restrict your 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 your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel noted that it could possibly formulate conditions around your clinical failings, however the more serious charges involved dishonesty and therefore there are no practical or workable conditions that could be formulated, given the nature of these charges. The misconduct, in respect of your dishonesty (which the panel has deemed to be calculated), and fraudulent behaviour for your own personal gain, without any regard to the risk to patient safety are not issues that can be easily remedied through retraining. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public.

The panel 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;*

The panel was not satisfied that any of the above points apply in this case. The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel found that you have limited insight into the concerns raised and was satisfied that there remains the potential for repetition. It was not satisfied that temporary removal from the register would address these concerns.

The panel noted that you have had significant time and numerous opportunities over the years to improve your attitude, but no improvement has occurred. The panel was not satisfied that a suspension order would put you in a position to return to practise as a safe and trustworthy nurse, nor that it would be sufficient for the purpose of upholding public confidence in the profession and in the NMC.

In considering whether to impose a suspension order, the panel took into account the mitigating factors referred to above, together with the likely adverse impact, both financial and professional, that the most serious sanction would involve. However, the panel concluded that these considerations were substantially outweighed by the need to protect patients and the public interest.

The panel therefore 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?*

Your repeated dishonesty and clinical errors were significant departures from the standards expected of a registered nurse. The panel was of the view that the findings demonstrate that your actions were serious and to allow you to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

The panel considered your submissions and was of the view that you have consistently failed to provide any appropriate insight into your failings. The panel noted your submission that your actions were down to "*different Trusts and different protocols"*. The panel was of the view that you sought to explain that this was the reason for your actions, instead of taking responsibility and accepting that what you did was wrong. The panel did not accept that your actions concerning your dishonesty were mere "mistakes" as you described them to be, and furthermore determined that you failed to address the key theme of dishonesty.

The panel was of the view that you failed to address the seriousness of your dishonesty in stating that you had checked something when you knew you had not, and the impact this had on your colleagues, patients and the nurses that needed to rely on these checks having been completed. There is a continuing theme of your minimal concept of risk irrespective of the subsequent training you have undertaken since the incidents occurred. The panel was not satisfied that you have made any effort to address this theme. It determined that your lack of understanding of the risk of your actions in falsifying records and the impact this could have had on patients was potentially dangerous.

The panel recognised that not all cases of dishonesty are equally serious. However, the panel noted that many of the factors identified in the SG as most likely to call into question a nurse's fitness to remain on the register were present in your case. Your dishonesty was repetitive in nature, premeditated, calculated to achieve personal financial gain and involved a serious risk of harm to patients in that you could have secured nursing positions for which you were not qualified.

The panel considered the examples in the SG of dishonest conduct which could be considered less serious, namely:

- One-off incidents
- Opportunistic or spontaneous conduct
- No direct personal gain
- Incidents in private life of a nurse…

The panel determined that these examples were absent in your case. The panel also considered the examples in the SG of dishonest conduct which would be more likely to call into action whether a nurse should be allowed to remain on the register. These include:

- Vulnerable victims
- Personal financial gain from a breach of trust
- Direct risk to patients
- Premeditated, systematic or long-standing deception.

The panel determined that these factors were applicable.

The panel noted your submission regarding the seriousness of *“the pledge”* you took in Romania when becoming a nurse and was of the view that you spoke well on this issue. However, in the context of the number of instances where you show no insight or learning from how you have put patients at significant risk, the panel was not satisfied that you had satisfactorily demonstrated an understanding of how serious your actions were and what you should do to address such behaviours.

Balancing all of these factors and after taking into account all the evidence before it, the panel determined that your misconduct is fundamentally incompatible with you remaining on the NMC register. It concluded that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of your actions in bringing the profession into disrepute by adversely affecting the public’s view of how 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, Mr Underwood made an application on behalf of the NMC for the imposition of an interim order.

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 also in the wider public interest or in your own interests until the striking-off sanction takes effect.

Submissions on interim order

The panel took account of the submissions made by Mr Underwood. He submitted that the NMC is seeking the imposition of an interim suspension order for a period of 18 months to cover any appeal period until the substantive strike-off order takes effect.

Mr Underwood submitted that given the seriousness of the charge found proved, an interim suspension order is necessary to protect the public and is otherwise in the public interest.

You did not oppose the application and stated that it is a matter for the panel.

Decision and reasons on interim order

The panel heard and accepted the advice of the legal assessor and had regard to the NMC’s guidance on interim orders.

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 to ensure that you cannot practise unrestricted before the substantive striking-off order takes effect. This will cover the 28 days during which an appeal can be lodged and, if an appeal is lodged, the time necessary for that appeal to be determined.

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

That concludes this determination.

This will be confirmed to you in writing.