

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

**Substantive Hearing
11 - 12 July 2022
&
6 – 14 March 2023
&
27 September 2023**

Virtual Hearing

Name of registrant: Helen Victoria Jefferson

NMC PIN: 89Y2017E

Part(s) of the register: Registered Nurse – Sub-part 1
Mental Health Nursing – Level 1 (27 April 1992)

Relevant Location: Norfolk

Type of case: Misconduct

Panel members: John Penhale (Chair, Lay member)
Linda Pascall (Registrant member)
Rachel Barber (Lay member)

Legal Assessor: Paul Hester (11-12 July 2022 & 6-14 March 2023)
Ben Stephenson (27 September 2023)

Hearings Coordinator: Tyrena Agyemang (11-12 July 2022 & 6-14 March 2023)
Philip Austin (27 September 2023)

Nursing and Midwifery Council: Represented by Laura Paisley, Case Presenter

Ms Jefferson: Not present and unrepresented

Facts proved: Charges 1a, 1b, 1d, 3, 4, 5, 6a in relation to all scheduled clients, 6b and 6c all scheduled client apart from Clients U, O and II, 7, 8, 9 and 10

Facts not proved: Charges 1c, 2 and 11

Fitness to practise:

Currently impaired

Sanction:

Striking-off order

Interim order:

Interim suspension order – 18 months

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Ms Jefferson was not in attendance and that the Notice of Hearing had been sent to Ms Jefferson's registered address by email on 7 June 2022.

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

The panel accepted the advice of the legal assessor.

The panel noted that the Notice of Hearing stated that this hearing was to be held between 11 – 15 July and 18 -20 July 2022. The panel also noted that the NMC sent an email to Ms Jefferson on 28 June 2022 informing her that the hearing was rescheduled to 11-15 July and 18- 19 July 2022. In considering this email, the panel noted that the Notice of Hearing stated below the original dates "*If any of these details change we'll let you know as soon as possible*".

The panel decided that the NMC's email dated 28 June 2022, to Ms Jefferson amended the Notice of Hearing. Further, the Notice of Hearing dates encompass the now scheduled dates being one less day namely 20 July 2022.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates, and venue of the hearing and, amongst other things, information about Ms Jefferson's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

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

Decision and reasons on proceeding in the absence of Ms Jefferson

The panel next considered whether it should proceed with the hearing in the absence of Ms Jefferson.

Ms Paisley invited the panel to proceed in the absence of Ms Jefferson. She submitted that Ms Jefferson had voluntarily absented herself. Ms Paisley submitted that there had been limited engagement by Ms Jefferson with the NMC in relation to these proceedings. Ms Paisley referred the panel to a telephone note dated 13 May 2022 which states:

“The registrant said she doesn’t want to attend anything thing [sic] that relates to the NMC and that we should do what we need to do”

Ms Paisley submitted that there was no reason to believe that an adjournment would secure Ms Jefferson’s attendance on some future occasion.

The panel accepted the advice of the legal assessor.

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

The panel decided to proceed in the absence of Ms Jefferson.

In reaching its decision, the panel considered the submissions of Ms Paisley together with the proceeding in absence bundle which contained the telephone note dated 13 May 2022.

The panel took into account the factors to be considered when proceeding in the absence of a registrant which are referred to in *General Medical Council v Adeogba [2016] EWCA Civ 162 and R v Jones*. The panel noted that the discretion to proceed in the absence of Ms Jefferson must be exercised with great care particularly as she is unrepresented.

The panel noted the telephone note dated 13 May 2022, where Ms Jefferson said to the NMC that she did not want to attend anything that related to the NMC. Further, she told the NMC that she had decided to leave nursing. The panel also noted within that telephone note that Ms Jefferson told the NMC [PRIVATE].

The panel gave careful consideration to the telephone note as a whole. The panel read the note as a clear expression by Ms Jefferson that she did not wish to engage with the NMC and that she no longer wished to continue her nursing career.

[PRIVATE] The panel noted that Ms Jefferson has only engaged with the NMC on a very limited basis. In particular, she has provided no response to the charges and to any evidence sent to her.

In the above circumstances, the panel decided that Ms Jefferson has voluntarily absented herself from this hearing.

The panel went on to consider whether an adjournment might result in Ms Jefferson attending in the future. In light of the telephone note date 13 May 2022, the panel decided that there is no reason to supposed that adjourning would secure Ms Jefferson at some future date.

There is some disadvantage to Ms Jefferson in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to Ms Jefferson at her registered address, she has made no response to the allegations. She will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies.

The panel noted the seriousness of the charges which includes four allegations of dishonesty. In this regard, the panel took into account that the seriousness of these allegations have the potential, if proved, to materially affect Ms Jefferson's registration as a nurse and the public.

The panel noted that three witnesses have been warned to attend this hearing to give live evidence. Not proceeding may inconvenience the witnesses, their employers and, for those involved in clinical practice, the clients who need their professional services.

The panel noted that the charges relate to allegations in 2018 and 2019. The panel was conscious that any further delay may have an adverse effect on the witnesses to accurately recall events. In this regard, the panel was mindful that there is a general public interest in the fair, economical and expeditious disposal of this case in the context of civil regulatory proceedings.

Balancing the above factors, the panel decided that it is fair, appropriate and proportionate to proceed in the absence of Ms Jefferson. The panel will draw no adverse inference from Ms Jefferson's absence when considering its findings of fact.

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

At the outset of the hearing, Ms Paisley made an application that this case be held in private on the basis that proper exploration of Ms Jefferson's case involves references to Ms Jefferson's health, the health of [PRIVATE], a dependant, and a relationship. The application was made pursuant to Rule 19 of the Rules.

The legal assessor advised the panel that while Rule 19(1) of the Rules provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) of the Rules 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.

Having heard there will be references to Ms Jefferson's health, the health of [PRIVATE], a dependant, and a relationship, the panel determined to hold such parts of the hearing in private as and when such issues are raised.

Details of charge

1. In relation to Client A
 - a) Did not document on Lorenzo your assessment of them on 29 September 2018 until 12 October 2018.
 - b) Did not write to their GP following your assessment until 12 October 2018
 - c) Backdated the letter to the GP noted in charge 1b) to 2 October 2018.
 - d) Did not action a referral to 'Julian Support' until 12 October 2018.

2. Your conduct at charge 1c) was dishonest in that you knew you had not written/generated the letter on 2 October 2018.

3. In relation to Client B
 - a) Did not record your meeting with them on 5 January 2019 on Lorenzo until prompted to do so.
 - b) Did not write to their GP following your assessment on 5 January 2019.
 - c) Did not action any referrals to other services despite Client B reporting he was depressed; and/or
 - i. Suicidal; and/or
 - ii. self-harming; and/or
 - iii. homeless.

4. In relation to Client C
 - a) Did not complete a record of your meeting with them on 7 July 2019 until 29 July 2019.
 - b) Did not write to their GP following your meeting on 7 July 2019.
 - c) Did not action referrals to
 - i. Social care and/or
 - ii. Julian Support.

5. In relation to Client D
 - a) Did not record your meeting of 7 July 2019 with them.
 - b) Did not write to their GP following your meeting on 7 July 2019

- c) Did not action a referral to Julian Support.
6. Between June and August 2019 for one or more of the service users set out in Schedule A:
- a) Did not complete assessments on Lorenzo in a timely manner.
 - b) Did not inform relevant partner agencies, where necessary, of the care needs and/or risks to service users in a timely manner.
 - c) Did not action referrals, where necessary, for one or more of the service users set out in Schedule A in a timely manner.
7. Reported on 17 July 2019 that you completed assessment on 3 clients on the afternoon of 12 July 2019 when you had documented none on Lorenzo.
8. Provided misleading information on 24 July 2019 about the clients you claimed to have completed assessments for on 12 July 2019.
9. Your conduct at charge 7 and/or charge 8 was dishonest in that you knew you had not completed assessments for any clients on 12 July 2019.
10. On 24 July 2019 informed your team leader that you had 18 clients which had not yet been documented when it was more than this.
11. Your conduct at charge 10 was dishonest in that you knew the information you were providing was inaccurate.

Decisions and reasons on application to adjourn the hearing

[PRIVATE]

The panel, in light of this email invited submissions from Ms Paisley.

Ms Paisley submitted that it was not clear whether Ms Jefferson was seeking an adjournment and whether she would attend any future hearing if today's hearing was adjourned.

The panel accepted advice from the legal assessor.

The panel decided to grant a short adjournment of the hearing until 9:00am on 12 July 2022 for the NMC to make enquiries of Ms Jefferson. These enquiries include whether Ms Jefferson does seek an adjournment at this stage and, if the panel was minded to grant an adjournment, whether Ms Jefferson would attend any future hearing. Further the panel wished to know how much time Ms Jefferson would need before she would be able to fully engage with this hearing. The panel also sought evidence from Ms Jefferson in support of her not being able to attend today's hearing.

Having adjourned the first day of this hearing for the NMC to make enquiries of Ms Jefferson, the panel received an email response from her as follows:

"...please could I request a formal adjournment. My intention is to attend a future hearing as I want the opportunity to be able to defend my life-long calling and purpose in this crazy life. I don't want to never be able to work in the care industry ever again. I don't deserve that. I know and fully accept that I made an error in judgement but I have been a respected clinician all of my life and I am passionate about mental health and supporting and caring for others. [PRIVATE]

In light of the above email, Ms Paisley submitted that the NMC does not support Ms Jefferson's application for an adjournment. She invited the panel to proceed with the hearing, but in doing so acknowledged that it was a matter for the panel's judgement. She referred the panel back to the factors it had to consider it had to consider on the first day this hearing when deciding whether to proceed in Ms Jefferson's absence. She submitted that there remains a strong public interest in the expeditious disposal

of this case and not proceeding may inconvenience the witnesses. She submitted that there have been “*numerous opportunities before today*” for Ms Jefferson to request an adjournment of the hearing.

The panel accepted the advice of the legal assessor. He referred the panel to Rule 32 of the Rules and reiterated the principles to be taken into account from Adeogba and Jones. In relation to Rule 32 of the Rules the legal assessor drew the panel’s attention to Rule 32(4) which states:

(4) In considering whether or not to grant a request for postponement or adjournment,

the Chair or Practice Committee shall, amongst other matters, have regard to—

(a) the public interest in the expeditious disposal of the case;

(b) the potential inconvenience caused to a party or any witnesses to be called by that party; and

(c) fairness to the registrant.

The panel decided to adjourn the hearing.

[PRIVATE].

[PRIVATE].

The panel noted Ms Jefferson’s email to the NMC dated 12 July 2022. In this email Ms Jefferson requests a formal adjournment and, in doing so, expresses a clear intention to attend a future hearing as she wants the opportunity to be able to respond to the NMC’s allegations.

In light of the two recent emails from Ms Jefferson the panel decided, in fairness to Ms Jefferson, to adjourn this hearing. In doing so, the panel gave careful

consideration to the public interest in the expeditious disposal of this case and the potential inconvenience caused to the NMC and their witnesses. The panel also revisited the factors to be taken into consideration when deciding whether to proceed in absence. In the panel's view, these factors do not outweigh the requirement, under Rule 32(4) of the Rules, of fairness to Ms Jefferson. Accordingly, the panel decided to adjourn.

In adjourning this hearing, the panel makes the following directions:

1. This hearing be relisted for the first available dates after Monday 17 October 2022.
2. The NMC to give consideration to extending the present hearing listing of seven days as Ms Jefferson intends to attend.
3. The NMC to obtain and provide a transcript of this hearing to date as soon as possible to Ms Jefferson so that she can seek, if she so chooses, legal advice and representation and any assistance from her NMC Case Officer.
4. Ms Jefferson to provide to the NMC, at the earliest available opportunity, the evidence that she mentions in her email to the NMC dated 12 July 2022.

This decision will be confirmed to Ms Jefferson in writing.

Decision and reasons on service of Notice of Hearing for the resuming hearing 6 – 10, 13 and 14 March 2023

The panel was informed at the start of this resuming hearing that Ms Jefferson was not in attendance nor represented and that the Notice of Resuming Hearing (NOH) letter had been sent to Ms Jefferson's registered email address by secure delivery on 2 February 2023.

Ms Paisley, on behalf of the Nursing and Midwifery Council (NMC), drew the panel's attention to the NOH letter and highlighted that Ms Jefferson had been sent the incorrect information as to how to access the hearing virtually. The NOH letter specifies the hearing venue as Microsoft Teams (Teams), but the hearing is occurring on GoToMeeting (GTM) platform.

Ms Paisley informed the panel that Ms Jefferson had originally been communicating with the NMC via email using a Hotmail account, but more recently she had been responding to NMC emails using a Gmail account. Ms Paisley produced a screenshot of Egress, the secure system used to send documents, which showed Ms Jefferson had not opened the Notice of resuming hearing letter. Ms Paisley stated that the NMC were unsure which email address Ms Jefferson was using, but she reminded the panel that the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules) do not require the NMC to prove delivery and that it is the responsibility of any registrant to maintain an effective and up-to-date registered address.

Ms Paisley informed the panel that the Hearings Coordinator had sent Ms Jefferson by email on Friday 3 March 2023 the correct GTM hearing link and has telephoned and spoken with Ms Jefferson this morning and thereafter produced a telephone note of that conversation. Ms Paisley took the panel to the telephone note and submitted that Ms Jefferson had confirmed receipt of the Hearing Coordinator's email of 3 March 2023 together with the GTM hearing link and had stated that she would not be attending the hearing today. [PRIVATE]. Ms Paisley submitted that when the Hearings Coordinator

asked Ms Jefferson which email address she uses that Jefferson replied that she uses both her Hotmail and Gmail accounts.

Ms Paisley submitted that in light of the email sent to Ms Jefferson on 3 March 2023 and the further successful contact with her this morning, in which she confirmed receipt of the Hearing Coordinator's email, that the NMC has complied with the requirements of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the NOH letter provided details of the time, resuming dates and that the hearing was to be virtual. The panel noted that the original NOH letter, which was sent to Ms Jefferson on 7 June 2022, did provide information about Ms Jefferson's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

The panel noted that an incorrect link accessing the virtual resuming hearing had been sent to Ms Jefferson in the NOH letter. The panel decided that in all other respects the NOH letter complied with the Rules. The panel therefore went on to consider the Hearing Coordinator's email to Ms Jefferson and today's telephone note. The panel was satisfied that Ms Jefferson was sent the correct link to the resuming hearing on 3 March 2023 and that Ms Jefferson received this and understands that this is the link to be used today and during the resuming dates.

In the light of all of the information before it, the panel was satisfied that Ms Jefferson has been served with the Notice of Hearing in accordance with the requirements of the Rules.

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

Decision and reasons on proceeding in the absence of Ms Jefferson

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

Ms Paisley submitted that Ms Jefferson had requested a further adjournment of this resuming hearing in her email dated 26 January 2023, but she did not specify a time frame for the adjournment that would then secure her attendance at the hearing.

Ms Paisley referred the panel to an email from Ms Jefferson dated 26 January 2023 which stated:

[PRIVATE]. I have not opened any of the emails or royal mail postings concerning this matter. I have not had the capacity to engage with any aspect of the case or prepare my defence or discuss my case with a solicitor. [PRIVATE]

...

It is so very important to me that I have an opportunity to be heard and I beg for your assistance in postponing these proceedings until which time I can secure adequate representation and formulate a response bundle to these unjust accusations.

Ms Paisley also referred the panel to the telephone note dated 6 March 2023 in which Ms Jefferson 'expressly confirms' she will not be attending the resuming hearing.

Ms Paisley referred the panel to the case of *GMC v Hayat* [2018] EWCA Civ 2796 and the need for a practitioner to provide good medical evidence to a panel for being unable to attend a hearing. [PRIVATE].

Ms Paisley submitted that the panel adjourned this hearing in July 2022 [PRIVATE]. She submitted that the purpose of the adjournment was to allow Ms Jefferson sufficient time [PRIVATE] and then properly turn her mind to the NMC's allegations and this

hearing. Ms Paisley reminded the panel that it had made directions when adjourning the hearing in July 2022 [PRIVATE] which Ms Jefferson has not provided.

Ms Paisley submitted that in light of the above circumstances that the panel to proceed in the absence of Ms Jefferson.

The panel accepted the advice of the legal assessor.

The panel noted that under Rule 21 of the Rules that it has a discretion to proceed with a hearing in the absence of a registrant. That discretion is not absolute and must be exercised *'with the utmost care and caution'* and it is only in rare and exceptional circumstances that the discretion should be exercised in favour of a hearing taking place, particularly if the registrant is unrepresented.

In exercising that discretion the panel noted that fairness to Ms Jefferson is of prime importance but fairness to the NMC must also be taken into account.

The panel had careful regard to all of the circumstances of Ms Jefferson's case.

The panel firstly considered the nature and circumstances of Ms Jefferson's behaviour in absenting herself from the hearing.

The panel reminded itself of its decision and reasons on Ms Jefferson's application to adjourn the hearing in July 2022. In allowing Ms Jefferson's application the panel made directions. [PRIVATE].

The panel carefully considered Ms Jefferson's email to the NMC on 26 January 2023.

In addition to the above passages referred to by Ms Paisley in her submissions, the panel noted two further passages:

"I do very much want to be able to attend a hearing and discuss my case and present my defence but I am just not able to at the moment."

...

“I very much want the opportunity to be able to present myself at a hearing because I do not want to lose my ability to be able to continue to work with and support adults and young people; to continue serving the public, which has been my life’s work.”

The panel noted the NMC’s response on 30 January 2023 to Ms Jefferson’s email and particular;

“Regarding your substantive hearing this March, are you requesting an adjournment of the resuming hearing? Which will be a decision for the panel on the day of your hearing. [PRIVATE] We will oppose any application to further adjourn the hearing.”

The panel further noted the telephone note of 6 March 2023 in which Ms Jefferson [PRIVATE].

The panel noted *Yusuf v The Royal Pharmaceutical Society* [2009] EWHC 867 (Admin) which holds that the mere fact that a registrant claimed [PRIVATE] do not, of itself, require an adjournment. The panel also noted that in *Hayat* and following the judgement in *General Medical Council v Adeogba* [2016] EWCA Civ 162 that if a practitioner is seeking [PRIVATE], then they must provide detailed and adequate evidence to the tribunal. A failure to provide such evidence means that there is a very real possibility that a hearing will proceed without the practitioner. The onus is upon the practitioner [PRIVATE] establish that an adjournment should be granted.

Ms Jefferson has not [PRIVATE] to the NMC following the emails in January 2023. Nor has she provided any documentation following the direction made in July 2022. The panel considered that Ms Jefferson has had ample time since July 2022 to address [PRIVATE].

The panel next considered whether an adjournment might result in Ms Jefferson attending the hearing.

The panel regarded Ms Jefferson's email of 26 January 2023 as an application to adjourn this resuming hearing and therefore gave careful consideration to Rule 32 of the Rules and, in particular, Rule 32(4).

The panel [PRIVATE] or any details as to the efforts or problems which Ms Jefferson have encountered when seeking to secure "*adequate representation*".

The panel noted that Witness 1's evidence is part heard since July 2022 and that Witness 1 and a further witness will attend the resuming hearing to give evidence. There is also a public interest in the expeditious disposal of allegations dating back to the period September 2018 to July 2019.

Balancing the interests of both parties and having careful regard to fairness to Ms Jefferson, the panel decided to refuse the application to adjourn the resuming hearing.

For the reasons given in respect of refusing Ms Jefferson's application to adjourn, the panel also decided that an adjournment would be unlikely to result in Ms Jefferson attending. Further, Ms Jefferson has not given any indication in response to the NMC's email of 30 January 2023 as to the likely length of any adjournment and when she would be in a position to attend.

The panel noted that Ms Jefferson in her email of 26 January 2023 wishes to be represented. In this regard, the panel noted its direction in July 2022 that the adjournment was granted, in part, for Ms Jefferson to seek, if she so chose, to obtain legal advice and representation. The panel decided that Ms Jefferson has had a reasonable and adequate period since July 2022 to obtain representation. Ms Jefferson has provided no information as to any steps that she has taken towards obtaining representation.

The panel carefully considered the extent of the disadvantage to Ms Jefferson in her not being able to give her account of events, having regard to the nature of the evidence against her.

There is some disadvantage to Ms Jefferson in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered email address, she has made no response to the allegations. She will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies.

The panel took into account the seriousness of the allegations to Ms Jefferson and the public and that there are four allegations of dishonesty. Allegations of dishonesty are some of the most serious matters which can be alleged against a registered nurse.

The panel balanced the general public interest and the particular interest of the NMC witnesses that the hearing should take place within a reasonable time of the alleged events. In this regard, the panel noted in *Adeogba* that any decision to proceed in absence must not only be guided by the statutory objectives of public protection and the wider public interest, but also by the fair, economical and expeditious disposal of allegations made against a registrant.

Lastly, the panel took into account the obvious effect of delay on the memories of witnesses in relation to allegations which date to 2018 and 2019.

Balancing all of the above matters, the panel decided to refuse Ms Jefferson application to adjourn and also decided to proceed in her absence. The panel will draw no adverse inference from Ms Jefferson's absence when considering findings of fact. Further, in deciding to proceed in Ms Jefferson's absence the panel has sent an email inviting her to attend at any stage of this resuming hearing.

Decision and reasons on application to admit hearsay evidence

The panel heard an application made by Ms Paisley under Rule 31 of the Rules to allow the written statement and exhibits of Witness 3 into evidence. Ms Paisley submitted that Witness 3 is not present at this hearing and that the NMC has made sufficient efforts to ensure this witness' attendance.

Ms Paisley referred the panel to an email from Ms Jefferson's employer dated 1 March 2023, which states:

[PRIVATE] She is not a Nurse and therefore I would need to take advice from our [PRIVATE] as to how much pressure I can exert to persuade her to co-operate with the process.

Ms Paisley submitted that the NMC prior to the hearing in July 2022 had stated to Ms Jefferson that Witness 3 would provide live evidence at the hearing. She submitted that Ms Jefferson has been provided with Witness 3's statement and there has been no response from Ms Jefferson as to Witness 3's statement or any of the NMC evidence.

Ms Paisley submitted that the underlying evidence comes from Witness 1 as Witness 3's evidence is not the sole and decisive evidence in this case.

Ms Paisley told the panel that at the time Witness 3 was the Service Director for the Secure and Forensic Services at Norfolk and Suffolk NHS Foundation Trust. She was invited to act as the Chair at the disciplinary meeting on 14 July 2020. Ms Paisley told the panel that the only document exhibited by Witness 3 is the interview transcript from the disciplinary meeting dated 14 July 2020.

Ms Paisley referred the panel to the cases of *R (Bonhoeffer) v GMC* [2011] EWHC 1585 (Admin), *Thornycroft v NMC* [2014] EWHC 1565 (Admin), *Horncastle v United Kingdom* [2015] 60 E.H.R.R. 31 and *NMC v Ogbonna* [2010] EWCA Civ 1216.

Ms Paisley submitted that Witness 3's evidence is relevant as it deals with the allegations and documents Ms Jefferson's responses at the disciplinary meeting. She further submitted that it is fair to admit this evidence as Witness 3 does not provide evidence that is sole and decisive; there is no indication that Witness 3's evidence has been fabricated and the panel can give this evidence the appropriate weight in due course. Furthermore, numerous attempts have been made to secure the attendance of Witness 3, but as she is not a registered nurse it is difficult to compel Witness 3 to engage with the NMC. Ms Paisley submitted that the panel will see from the Chronology of communication with Witness 3 that all reasonable efforts have been made to secure the attendance of this witness.

The panel accepted the advice of the legal assessor.

The panel carefully read Witness 3's statement, which was signed by her and contained the declaration of truth, in light of the evidence to date.

The panel noted that under Rule 31 of the Rules that it has a broad discretion to admit various categories of evidence irrespective of whether such evidence would be admissible in civil proceedings in the appropriate Court. The discretion is constrained only by the requirements of relevance and fairness.

The panel decided that Witness 3's evidence is relevant. Witness 3 was the Chair of the disciplinary meeting during which Witness 1 and Ms Jefferson were interviewed. Witness 3 produces the transcript of that meeting.

The panel noted that the admission of the statement of an absent witness should not be regarded as a routine matter. Rule 31 of the Rules requires the panel to consider the issue of fairness before admitting the evidence.

The panel noted that the fact that the absence of the witness can be reflected in the weight to be attached to their evidence is a factor to weigh in the balance, but it will not always be a sufficient answer to the objection to admissibility.

The panel considered whether the NMC has provided a good and cogent reason for the non-attendance of Witness 3. The panel noted that Witness 3 was willing to attend to give evidence in July 2022. [PRIVATE] The panel noted from the Chronology of communication with Witness 3 that the NMC has sent 6 emails and made 4 telephone calls in order to secure Witness 3's attendance. In these circumstances, the panel decided that there is a good and cogent reason from a credible source as to why Witness 3 cannot attend and that the NMC has taken reasonable steps to secure her attendance.

The panel next considered whether Witness 3 evidence is the sole or decisive evidence in relation to the charges.

The panel noted the role that Witness 3 undertook and the nature of her evidence which is limited to interviewing Witness 1 and Ms Jefferson. Those interviews are exhibited to Witness 3's statement. The primary and decisive evidence in this case comes from Witness 1 who has attended to give evidence and whose interview with Witness 3 is contained within an exhibited transcript. In these circumstances, the panel decided that Witness 3's evidence is not the sole or decisive evidence.

The panel noted that there appears to be no challenge from Ms Jefferson to the NMC regarding the statement of Witness 3.

The panel noted the seriousness of the allegation which include four charges of dishonesty. The panel also took into account the impact which adverse findings might have on Ms Jefferson's career as a registered nurse.

The panel took into account that Ms Jefferson did not have prior notice from the NMC that Witness 3's statement was to be read. In this regard, the panel noted Ms Jefferson's limited engagement with these proceedings and this hearing.

Balancing the above competing factors, the panel decided that it would be fair to admit the statement and exhibits of Witness 3. In doing so, the panel noted that there is some

evidence within Witness 3's statement under the heading Mitigating Circumstances which is capable of assisting Ms Jefferson.

The panel, in light of all the evidence, will ascribe what weight it thinks appropriate to Witness 3's evidence.

Background

The charges arose whilst Ms Jefferson was employed as a Band 6 Liaison and Diversion (LD) Nurse at Norfolk and Suffolk NHS Foundation Trust.

It is alleged that Ms Jefferson failed to keep clear and accurate records by ensuring assessments were documented in a timely manner. It is also alleged she failed to maintain service user safety by ensuring service users were referred to support services in a timely manner.

Ms Jefferson started working as Liaison and Diversion Nurse at Norfolk and Suffolk NHS Foundation Trust sometime in 2016. Concerns were first raised in October 2016 in relation to Ms Jefferson's record keeping and were raised informally in a supervision record. In October 2018 Witness 1, Ms Jefferson's Team Leader, raised some concerns in relation to Ms Jefferson's record keeping and on 10 December 2018, Ms Jefferson received her first informal note in relation to her record keeping.

On 11 June 2019, Ms Jefferson received her second informal note in relation to her record keeping as it is alleged between January and June 2019, Ms Jefferson delayed a referral for a service user, Client B.

In July 2019, the Service received multiple complaints from service users who had not been referred to the appropriate services by Ms Jefferson after an appointment with her.

Ms Jefferson asked for time on the afternoon of 12 July 2019 to complete some of the outstanding assessments. When asked to account for the clients she recorded during this protected time, it is alleged that she was dishonest in relation to the accounts given

to her line manager.

Ms Jefferson was placed on restricted practice to enable her to clear the outstanding assessments, which she initially stated were for nine clients, before amending this to 18. It is alleged that the number of assessments outstanding were significantly more than this and again that Ms Jefferson was misleading in her accounts to her manager.

In September 2019 the Service undertook an internal investigation into Ms Jefferson's misconduct and on 14 July 2020, a disciplinary hearing took place.

Decision and reasons on facts

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

The panel has drawn no adverse inference from the non-attendance of Ms Jefferson.

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 noted that charges 2, 7, 8 and 10 allege dishonesty. In considering these charges the panel applied the test of dishonesty in *Ivy v Genting Casinos (UK) Limited t/a Crockfords* [2018] 3WLR 121 SC (E). When dishonesty is in question the panel firstly ascertained the actual state of Ms Jefferson's knowledge or belief as to the facts. The reasonableness or otherwise of her belief is a matter of evidence going to whether she held the belief, but it is not an additional requirement that her belief must be reasonable; the question is whether it is genuinely held. When once her actual state of mind as to knowledge or belief as to facts is established, the question whether her conduct was honest or dishonest is to be determined by the panel applying the

standards of ordinary decent people. There is no requirement that Ms Jefferson must appreciate what she has done is, by those standards, dishonest. The panel took into account that in *Lavis v NMC* [2014] EWHC 4083 (Admin) that the panel needs cogent evidence in order to make a finding of dishonesty and the need to consider any other possible explanation for the conduct in question.

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

- Witness 1: Clinical Team Leader at the Integrated Mental Health and Justice Pathway ("the Service") and Ms Jefferson's team leader.
- Witness 2: Deputy Service Manager at Norfolk Suffolk Foundation Trust ("the Trust").

Ms Paisley submitted that all of the charges rely principally and extensively on the copious documentation within the exhibits bundle. In these circumstances, she did not make any oral submissions but provided the panel with written submissions which it has carefully considered. In light of these written submissions, Ms Paisley submitted that all charges should be found proved on the balance of probabilities.

Whilst Ms Jefferson has not attended this hearing nor provided any response to the NMC allegations, the panel took into careful account the answers she gave at two local disciplinary interviews on 13 January 2020 and 14 July 2020 when considering each charge separately.

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

The panel carefully considered the witness and documentary evidence.

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

Charge 1a

1. In relation to Client A
 - a) Did not document on Lorenzo your assessment of them on 29 September 2018 until 12 October 2018.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 1 and the screenshots of Client A's Lorenzo record.

The panel was satisfied based on the screenshots of Client A's records on Lorenzo that Ms Jefferson's assessment of Client A had taken place on 29 September 2018, but she did not document the assessment on Lorenzo until 12 October 2018.

The panel therefore finds this charge proved.

Charge 1b

1. In relation to Client A
 - b) Did not write to their GP following your assessment until 12 October 2018

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 1 and the screenshots of the Client A's Lorenzo record.

The panel considered the referral letter to the GP following Ms Jefferson's assessment with Client A. The panel considered that as Ms Jefferson had only updated Client A's records on the 12 October 2018, that the update would have prompted Ms Jefferson to

send the letter to the GP on the same day. The panel noted from the evidence that no letters had been sent to the GP between 29 September 2018 and 12 October 2018 when the letter shown in the Lorenzo screenshot was generated.

The panel therefore finds this charge proved.

Charge 1c

1. In relation to Client A
 - c) Backdated the letter to the GP noted in charge 1b) to 2 October 2018.

This charge is found NOT proved.

In reaching this decision, the panel took into account the evidence of Witness 1 and the screenshots of Client A's Lorenzo record.

The panel carefully considered the wording of charge 1c and in particular the word 'backdated'.

The panel considered that by using the word backdated there is a pejorative sense that Ms Jefferson in dating the letter to the GP knowingly dated it wrongly. The panel therefore looked for evidence which was capable of supporting the contention that Ms Jefferson knowingly backdated the letter. In this regard, the panel decided that the NMC has not discharged its burden of proof. The panel could find no persuasive evidence before it, beyond the simple discrepancy in the dates, that Ms Jefferson knowingly backdated the evidence.

The panel therefore finds this charge not proved.

Charge 1d

1. In relation to Client A
 - d) Did not action a referral to 'Julian Support' until 12 October 2018.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 1 and the screenshots of the Client A's Lorenzo records.

The panel considered the computer-generated referral by Ms Jefferson dated 12 October 2018 on behalf of Client A whom she had seen on 29 September 2018.

The panel took into account the vulnerable clients in Ms Jefferson's care and that entries on their records "*should be contemporaneous and made at the time of event or as close to real time as possible after the event to be documented*" in accordance with the Health Records Policy exhibited by Witness 1.

Taking all this into account, the panel therefore finds this charge proved.

Charge 2

2. Your conduct at charge 1c) was dishonest in that you knew you had not written/generated the letter on 2 October 2018.

This charge is found NOT proved.

As charge 1c has not been found proved the panel did not deliberate on this charge.

Charge 3a

In relation to Client B

- a) Did not record your meeting with them on 5 January 2019 on Lorenzo until prompted to do so.

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence, witness statement and exhibits of Witness 1, correspondence between Witness 1 and Person 2 dated 9 July 2019 and screenshots of Client B's Lorenzo records.

The panel referred to the screenshot of Client B's Lorenzo records which shows there were no entries on or around 5 January 2019 documenting the assessment Ms Jefferson had with this client or the outcomes.

The panel next considered whether Ms Jefferson was prompted at any stage to record the meeting of 5 January 2019. In this regard, the panel noted Ms Jefferson's email of 22 January 2019 in which she stated:

It looks as though I was quite busy that day with another 3 screenings and there was a lot of to-ing and fro-ing with 2 individuals who were declining but custody staff were very keen for them to be seen, Client B being one of those. They were likely system / network problems as well, as there always are... and it seems I haven't updated Client B's declined status to screened on my process grid and have overlooked transferring the Athena entry onto Lorenzo etc. So, it is an omission on my part and I'll need to let Dan know.

The panel was satisfied on the above evidence that charge 3a is factually proved on the balance of probabilities.

In coming to this conclusion, the panel carefully took into account that Ms Jefferson in her disciplinary interview stated that there were issues with the Lorenzo system and that it 'was down for 3 consecutive days at the beginning of January'. In this regard, the panel noted the evidence of Witness 1 who stated that he acknowledged that there were problems with the Lorenzo system but he had advised Ms Jefferson and the staff generally of ways to work around the system problem. The panel noted Witness 1's statement in which he stated:

I explained to the Registrant that if IT was down, she could complete her work on Microsoft Word or via email and ask someone in another PIC to upload onto Lorenzo. The Registrant declined further training in relation to Lorenzo and said she was competent. The Registrant informed me that she had created a checklist for herself to ensure she followed correct procedure in future.

Having carefully considered the evidence, the panel was satisfied that, Ms Jefferson had been provided with ways to obviate the problem with the system.

In the above circumstances, the panel found charge 3a proved on the balance of probabilities.

Charge 3b

In relation to Client B

- b) Did not write to their GP following your assessment on 5 January 2019.

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence, witness statement, correspondence between Witness 1 and Person 2 dated 9 July 2019 and screenshots of Client B's Lorenzo file.

The panel considered Client B's records and noted that Ms Jefferson had assessed Client B on 5 January 2019, but it could see from the records that she had not written to the GP following the assessment.

The panel referred to an email dated 22 January 2019 from Ms Jefferson to Person 1 and Witness 1, after being prompted by Person 1 on 21 January 2019 in which she states:

I'll put a retrospective entry on Lorenzo and do the GP letter on Thursday and discuss with Dan whether I should in fact call or write to Client B to apologise for not having referred him to JS.

The panel noted that Ms Jefferson accepted that she did not write the letter to the GP.

Based on this evidence the panel finds this charge proved.

Charge 3c

In relation to Client B

- c) Did not action any referrals to other services despite Client B reporting he was depressed; and/or
 - i. Suicidal; and/or
 - ii. self-harming; and/or
 - iii. homeless.

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence, witness statement and exhibits of Witness 1, namely correspondence between Witness 1 and Person 2 dated 9 July 2019 and screenshots of Client B's Lorenzo file.

The panel referred to an email from Person 1 to Ms Jefferson dated 21 January 2019, which she states:

Client B is in custody again today. I noticed that you saw him on the 5th January and referred him to Julian Support. I called them to see how he was engaging but they haven't had a referral.

The panel considered that Person 1's email was a prompt to Ms Jefferson that she had not completed the necessary referrals for this client. The panel was therefore satisfied that Ms Jefferson had not completed the referral to Julian Support and that there was no

evidence of Ms Jefferson documenting a referral to any other services on Client B's records. The panel therefore finds this charge proved.

Charge 4a

4. In relation to Client C

- a) Did not complete a record of your meeting with them on 7 July 2019 until 29 July 2019.

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence, witness statement of Witness 1, the email from Person 2 to Witness 1 dated 9 July 2019 and screenshot of Lorenzo.

The panel referred to the screenshot of Lorenzo which shows no entries documented by Ms Jefferson on or around 7 July 2019 on Client C records. The panel noted an entry that was first entered on 26 July and modified on 29 July 2019 when the record was completed. It then considered the email from Person 2 sent to Witness 1 dated 9 July 2019, which states:

I had a look into Lorenzo to see what had happened with this gentleman when he was seen Sunday with a view to calling back the mum, I thought I could give her a quick update of who Helen had referred to etc.

There are no clinical notes on the record from Sunday. There is a consent form but that is it .

The panel was therefore satisfied that Ms Jefferson did not complete the record of her assessment with Client C on 7 July 2019 and finds this charge proved.

Charge 4b

4. In relation to Client C
 - b) Did not write to their GP following your meeting on 7 July 2019.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 1 and the screenshots of Client's C records on Lorenzo.

The panel considered the witness statement of Witness 1, when he states:

The Registrant had met with Client C on 7th July 2019. Upon checking Lorenzo to see what referrals had been made for Client C, no record of the meeting could be found...

I asked the Registrant to complete the record for Client C...this shows that no record was made for Client C at the time and that the meeting was not completely documented by the Registrant until 29th July 2019.

The panel noted that as the assessment had not been entered on the Client's records and that no further action, regarding onward referrals had taken place, which resulted in the letter to the GP not being actioned.

The panel based on all the evidence before, therefore finds this charge proved.

Charge 4c

4. In relation to Client C
 - c) Did not action referrals to
 - i. Social care and/or
 - ii. Julian Support.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 1 and an email from Person 2 dated 9 July 2019.

The panel considered an email from Person 2 to Witness 1, dated 9 July 20219, which states:

He [Client C] was seen by Helen at Bury on Sunday 7th July. The mum states that [Client C] should have gone into Social Care on Sunday evening but that hasn't worked out and so Client C is back with her.

...

I called [Person 4] at Bury to look him up in the diary (so I could get his identifiers in order to look him up) and it states she has referred him to Social care, Julian Support, letter to GP etc. however none of this has been done.

The panel considered the evidence before it and was satisfied that Ms Jefferson did not action any referrals in relation to Social care and/or Julian Support.

The panel finds this charge proved.

Charge 5a

5. In relation to Client D
 - a) Did not record your meeting of 7 July 2019 with them.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 1. It also took into account the email from Person 3 to Witness 1 dated 10 July 2019, screenshots of Client D's Lorenzo records, and an email from Witness 1 to Ms Jefferson dated 10 July 2019.

The panel referred to emails from Person 3. It noted that Person 3 had initially sent an email to Ms Jefferson on 8 July 2019 requesting for her to return Client D's call, but when Client D called again stating he had not heard from Ms Jefferson on 10 July 2019, Person 3 emailed both Ms Jefferson and Witness 1.

The panel noted Person 3's email when she states:

Please can someone call him back – not sure what we can tell him as Helen hasn't left any clues as to why she wanted him to call her. I am hoping there is something on Athena that I cannot see that will give us a hint as to why.

The email from Person 3 on 10 July 2019 demonstrates Ms Jefferson did not document her meeting with Client D on Lorenzo as Person 3 could find any information.

The panel also considered the Witness statement of Witness 1, when he states:

On 10th July 2019, a client, Client D, contacted the Service to say that he had been seen on 7th July 2019 by the Registrant and had been told that he was going to be referred to Julian Support. He had not yet heard anything further and wanted to follow this up. I checked Lorenzo and could not find any record of a meeting between Client D and the Registrant on 7th July 2019.

In light of the above evidence the panel finds this charge proved on the balance of probabilities.

Charge 5b

5. In relation to Client D
 - b) Did not write to their GP following your meeting on 7 July 2019

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence and witness statement of Witness 1. It also took into account the email from Person 3 to Witness 1 dated 10 July 2019, screenshots of Client D's Lorenzo records, and an email from Witness 1 to Ms Jefferson dated 10 July 2019.

The panel considered the evidence in relation to Client D and noted that because Ms Jefferson had not updated Client D's records, documenting her meeting with the client, she also had not written to the GP. The panel noted the absence of any entries for Client D after his assessment and subsequent correspondence to the GP. The panel therefore finds this charge proved.

Charge 5c

5. In relation to Client D
 - c) Did not action a referral to Julian Support.

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence, witness statement of Witness 1. It also took into account the email from Person 3 to Witness 1 dated 10 July 2019, screenshots of Client D's Lorenzo records, and an email from Witness 1 to Ms Jefferson dated 10 July 2019.

The panel noted Witness 1's oral evidence when he said that he had to complete Client D's assessment himself, as Ms Jefferson had not followed up the actions from her meeting with Client D on 7 July 2019 or responded to the reminders from Witness 1 that she needed to update this client's records.

The panel referred to Witness 1's statement, which states:

On 15th July 2019, Client D phoned the Service again as he had still not heard anything in relation to his referral. I checked Lorenzo and could see that still nothing had been recorded by the Registrant. I then carried out an assessment

over the phone, documented Client D on Lorenzo and made a referral to... Julian Support myself.

In light of all the evidence before it, that panel was satisfied that Ms Jefferson did not action a referral to Julian Support. The panel therefore finds this charge proved.

Charge 6

6. Between June and August 2019 for one or more of the service users set out in Schedule A:
- a) Did not complete assessments on Lorenzo in a timely manner.
 - b) Did not inform relevant partner agencies, where necessary, of the care needs and/or risks to service users in a timely manner.
 - c) Did not action referrals, where necessary, for one or more of the service users set out in Schedule A in a timely manner.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 1.

The panel noted Witness 1's evidence where he stated that he began to investigate any other outstanding referrals. On 19 July 2019 Witness 1 met with MS Jefferson and asked her to provide information on all clients that had not yet been documented and to supply that information by 24 July 2019. Witness 1 prepared a note of this meeting, which Ms Jefferson was invited to sign as being an accurate reflection of the meeting. In not signing the note of the meeting, Ms Jefferson wrote on the note:

'I am not happy to sign this file note at this stage as there are certain statements within the text that are either not accurate or require further detail for clarification purposes. I will provide you with what I consider to be a more accurate reflection/file note by lunchtime (noon) on Friday 26/07/19.'

The panel noted that there was no evidence before it that Ms Jefferson provided any further reflection or file note.

Witness 1 met with Ms Jefferson on 24 July 2019 and the panel noted an email which Witness 1 sent to Ms Jefferson on the same day which was a summary of their discussion. The email appears as a contemporaneous record of the meeting and that Ms Jefferson said that she had nine clients to document which included writing the combined assessments, continuation notes for some clients, GP letters and onward referrals and screening tools. Witness 1 gave evidence that after this meeting Ms Jefferson then provided a spreadsheet of 18, rather than nine outstanding clients.

The panel noted the evidence of Witness 1 in that he made further investigations of the IT department following the meeting on 24 July 2019 with Ms Jefferson. As a result of those investigations Witness 1 found details of 31 clients who had not been documented by Ms Jefferson in June and July 2019. Witness 1 produced a table of those clients and notes within the table *“additional clients [Ms Jefferson] had documented in addition to the original 18 she identified.”* The panel noted from the table that each of the records were completed in August or September and related to clients who had been assessed by Ms Jefferson prior to her going on restricted practice on 24 July 2019.

In respect of the GP referrals the panel noted that Witness 1 in his oral evidence stated, *“Most of the time we would write to the GP because that’s part of the routine of what we do, our common practise”*.

The panel carefully considered each Lorenzo entry in respect of the 31 clients and in respect of each sub charge of charge 6. In undertaking its deliberations, the panel looked to when each client was assessed; when that assessment was completed; and any relevant entry on the Lorenzo system in determining whether each limb of charge 6 was completed/informed to a partner agency/actioned as a referral in a timely manner.

Client J

The panel considered the evidence in relation to Client J. It considered the screenshots of Lorenzo and noted that Ms Jefferson had assessed this client on 26 June 2019 whilst Lorenzo had been updated and completed on 6 August 2019. Client J was under Bury IDT at the time of their assessment. The panel noted that Ms Jefferson had updated the Care Coordinator 41 days after seeing Client J on 26 June 2019.

Client K

The panel considered the evidence in relation to Client K and the screenshots of Lorenzo. It noted that Ms Jefferson had assessed this client on 27 June 2019 and Lorenzo had been updated and completed on 7 August 2019. [PRIVATE]. The panel noted in the evidence that Ms Jefferson had completed Client J's safeguarding referral six and half weeks after the assessment on 27 June 2019.

Client L

The panel considered the evidence in relation to Client L. It considered the screenshots of the Lorenzo system and noted that Ms Jefferson had assessed this client on 27 June 2019, whilst Lorenzo had been updated and completed on 30 July 2019. [PRIVATE]. The panel noted that Ms Jefferson had actioned Client L's referrals to AAT and contacted social services 33 days after the assessment on 27 June 2019.

Client S

The panel considered the evidence in relation to Client S and the screenshots of Lorenzo before it. It noted that Ms Jefferson had assessed this client on 28 June 2019 whilst Lorenzo had been updated and completed on 8 August 2019. [PRIVATE]. The

panel noted that Ms Jefferson completed Client S' full assessment notes, 41 days after seeing Client S in custody.

Client T

The panel considered the evidence in relation to Client T. It considered the screenshots of the Lorenzo system and noted that Ms Jefferson had assessed this client on 28 June 2019. The Lorenzo system had been updated and completed on 8 August 2019. [PRIVATE]. The panel noted that Ms Jefferson had updated Client T's clinical note and the Court communication for this client was uploaded to Lorenzo 41 days after it was sent.

Client U

The panel considered the evidence in relation to Client U. It considered the screenshots of the Lorenzo system and noted that Ms Jefferson had left Client U's records '*unfinished as seems complete*'. The panel further noted an addendum that the entry was actually created on 8 August 2019.

Client V

The panel considered the evidence in relation to Client V. It noted from the screenshots of Lorenzo that Ms Jefferson had assessed this client on 29 June 2019. Lorenzo system was then updated and completed on 31 July 2019. [PRIVATE]. The panel noted that Ms Jefferson had not shared with relevant parties until 32 days after her assessment with Client V.

Client M

The panel considered the evidence in relation to Client M and the screenshots of Lorenzo before it. It noted that Ms Jefferson had assessed this client on 28 June 2019 whilst Lorenzo had been updated and completed on 30 July 2019. [PRIVATE]. The panel noted that Ms Jefferson shared her assessment of Client M with social services 31 days after seeing Client M.

Client N

The panel considered the evidence in relation to Client N. It considered the screenshots of Lorenzo and noted that Ms Jefferson had assessed this client on 2 July 2019 whilst Lorenzo had been updated and completed on 30 July 2019. [PRIVATE], but this was not actioned.

Client O

The panel considered the evidence in relation to Client O and the screenshots of Lorenzo. It noted that Ms Jefferson had assessed this client on 2 July 2019 whilst Lorenzo had been updated and completed on 31 July 2019. The relevant entry on Lorenzo states: *“declined to be seen by Ms Jefferson no actions necessary”*.

Client P

The panel considered the evidence in relation to Client P. It considered the screenshots of Lorenzo and noted that Ms Jefferson had assessed this client on 6 July 2019 whilst Lorenzo had been updated and completed on 29 July 2019. [PRIVATE]. The panel noted that there is no evidence of any communication with IDT until 29 July 2019, when a safeguarding referral was made by Ms Jefferson, 23 days after she had seen Client P.

Client Q

The panel considered the evidence in relation to Client Q. It noted from the screenshots of Lorenzo that Ms Jefferson had assessed this client on 6 July 2019. Lorenzo system was then updated and completed on 12 August 2019. [PRIVATE].

Client W

The panel considered the evidence in relation to Client W. It noted from the screenshots of Lorenzo that Ms Jefferson had assessed this client on 6 July 2019. Lorenzo system was then updated and completed on 8 August 2019. [PRIVATE]. The panel noted the clinical note on Client W records, states Ms Jefferson informed the care team at the time of the arrest; However, the clinical note was not recorded until 33 days after Ms Jefferson saw the client in custody.

Client R

The panel considered the evidence in relation to Client R. It considered the screenshots of Lorenzo and noted that Ms Jefferson had assessed this client on 7 July 2019, but Lorenzo had been updated and completed on 9 August 2019. [PRIVATE].

The panel noted that Ms Jefferson had informed the GP and the probation service 33 days after her assessment with Client R on 7 July 2019.

Client G

The panel considered the evidence in relation to Client G. It noted from the screenshots of Lorenzo that Ms Jefferson had assessed this client on 10 July 2019. Lorenzo system was then updated and completed on 13 August 2019. This was a client that Ms Jefferson claimed she completed on 12 July 2019. [PRIVATE]. The panel further noted that Ms Jefferson wrote to the GP 34 days after assessing this client.

Client X

The panel considered the evidence in relation to Client X. It noted from the screenshots of Lorenzo that Ms Jefferson had assessed this client on 10 July 2019. Lorenzo system was then updated and completed on 6 August 2019. [PRIVATE]. The panel noted that Ms Jefferson wrote to the GP and copied in social care 27 days after assessing this client.

Client H

The panel considered the evidence in relation to Client H. It noted from the screenshots of Lorenzo that Ms Jefferson had assessed this client on 10 July 2019. Lorenzo system was then updated and completed on 24 July 2019. The panel noted that this was the other client Ms Jefferson claimed she updated on 12 July 2019. The panel noted that a letter to the GP was completed on 24 July 2019 and a referral to Julian Support was also made on the same day.

Client Y

The panel considered the evidence in relation to Client Y and the screenshots of Lorenzo. [PRIVATE]. The panel noted that Ms Jefferson had assessed this client on 10 June 2019, but Lorenzo had been updated and completed on 30 August 2019.

Client Z

The panel considered the evidence in relation to Client Z and the screenshots of Lorenzo. It noted that Ms Jefferson had assessed this client on 10 June 2019 whilst Lorenzo had been updated and completed on 2 September 2019. The panel noted that

there is a holding note on this client's records which states: *'will document within 48 hours'*.

The note completed by Ms Jefferson states that she would be referring Client Z [PRIVATE], but this was not actioned. The panel further considered a note at the bottom of this client's records which states:

...“referral not made due to recording delay, [Client Z] in custody again 01/08/2019 and seen by my colleague [Person 5] Wallace and referral made by [Person 5] within which she included my Screening assessment of [Client Z] from 11/06/2019”.

Client AA

The panel considered the evidence in relation to Client AA. It noted from the screenshots of Lorenzo that Ms Jefferson had assessed this client on 10 June 2019. Lorenzo system was then updated and completed on 2 September 2019. This client also had a holding note on their records stating that Ms Jefferson will document the assessment within 48 hours. [PRIVATE].

The panel noted that a letter was sent to the GP on 2 September 2019 by Ms Jefferson requesting an investigation into medical health problems.

Client BB

The panel considered the evidence in relation to Client BB. It noted from the screenshots of Lorenzo that Ms Jefferson had assessed this client on 15 June 2019. Lorenzo system was then updated and completed on 2 September 2019. [PRIVATE].

The panel noted Ms Jefferson was aware of Client [PRIVATE]. However, the panel had no evidence before it that Ms Jefferson had sent a letter to the GP after this client's assessment. [PRIVATE]. This was actioned on 2 September 2019.

Client CC

The panel considered the evidence in relation to Client CC and the screenshots of Lorenzo. It noted that Ms Jefferson had assessed this client on 16 June 2019 whilst Lorenzo had been updated and completed on 28 August 2019. The panel noted the full continuation note and that Ms Jefferson was concerned [PRIVATE].

The panel noted that Ms Jefferson states [PRIVATE] but this was not actioned neither did she completed a letter to the GP. The panel also noted that Ms Jefferson had not completed a combined assessment for this client on 22 August 2019, however it was completed on 28 August 2019.

Client DD

The panel considered the evidence in relation to Client DD and the screenshots of Lorenzo. It noted that Ms Jefferson had assessed this client on 17 June 2019 and Lorenzo had been updated and completed on 22 August 2019. [PRIVATE] The panel further noted that Ms Jefferson arranged for Client DD to be seen by services for support 67 days after the assessment.

Client EE

The panel considered the evidence in relation to Client EE. It considered the screenshots of Lorenzo. It noted that Ms Jefferson had assessed this client on 21 June 2019, but she did not update and complete Lorenzo until 20 August 2019. [PRIVATE].

[PRIVATE]. Ms Jefferson then made a referral to Julian Support which is 60 days after her initial assessment, [PRIVATE].

Client FF

The panel considered the evidence in relation to Client FF and the screenshots of Lorenzo. It noted that Ms Jefferson had assessed this client on 21 June 2019 and Lorenzo had been updated and completed on 20 August 2019. The panel noted that an L&D colleague states she made a phone call on behalf of Ms Jefferson following her assessment of Client FF.

The panel noted that there were no notes documented on Lorenzo by Ms Jefferson in regard to this assessment. The panel further noted that when the GP letter is completed on 28 August 2019 by Ms Jefferson, [PRIVATE]. The GP letter was not completed until 61 days after Ms Jefferson's assessment.

Client GG

The panel considered the evidence in relation to Client GG and the screenshot of Lorenzo. It noted that Ms Jefferson had assessed this client on 19 June 2019 and Lorenzo had been updated and completed on 21 August 2019. [PRIVATE].

The panel noted that Ms Jefferson wrote to the GP 63 days after the assessment suggesting for Client GG's mood to be reviewed. Ms Jefferson also sent a copy of the GP letter to social services on the same day.

Client HH

The panel considered the evidence in relation to Client HH and the screenshot of Lorenzo. It noted that Ms Jefferson had assessed this client on 22 June 2019 and

Lorenzo had been updated and completed on 14 August 2019. The panel noted that Ms Jefferson did email the care coordinator, the date is not specified. It also noted that there was no evidence that the email was sent at the time of the arrest.

Client II

The panel considered the evidence in relation to Client II. It noted from the screenshot of Lorenzo that Ms Jefferson had assessed this client on 22 June 2019. Lorenzo system was then updated and completed on 14 August 2019. [PRIVATE]. Ms Jefferson assessed this client but no further action was required.

Client JJ

The panel considered the evidence in relation to Client JJ and the screenshot of Lorenzo before it. It noted that Ms Jefferson had assessed this client on 16 June 2019 whilst Lorenzo had been updated and completed on 2 September July 2019. The panel noted Ms Jefferson's entry that Client JJ [PRIVATE]. The panel further noted that Ms Jefferson sent a letter to the GP 2 September 2019.

Client KK

The panel considered the evidence in relation to Client KK. It considered the screenshots of Lorenzo and noted that Ms Jefferson had assessed this client on 16 June 2019 whilst Lorenzo had been updated and completed on 22 August 2019. The panel noted that there were no major issues identified with this client, but a GP letter was sent out on 22 August 2019.

Client LL

The panel considered the evidence in relation to Client LL. It considered the screenshots of Lorenzo and noted that Ms Jefferson had assessed this client on 14 June 2019 whilst Lorenzo had been updated and completed on 3 September 2019. [PRIVATE].

[PRIVATE]. The panel noted that on 3 September 2019, [PRIVATE]. Ms Jefferson shares information with Social services on 3 September 2019. There are no other entries on this client's records between 26 June 2019 and 3 September 2019.

In respect of charge 6 the panel made the following findings of fact:

Charge 6a – Between June and August 2019 Ms Jefferson did not complete assessments on Lorenzo in a timely manner in respect of all 31 scheduled clients.

Charge 6b – Between June and August 2019 Ms Jefferson did not inform relevant partner agencies, where necessary, of the care needs and/or risks to service users in a timely manner in respect of all scheduled clients save, Clients U, O and II for whom there is no evidence before the panel that this was required.

Charge 6c – Between June and August 2019 Ms Jefferson did not action referrals, where necessary, for one or more of the service users set out in Schedule A in a timely manner. In respect of all scheduled clients save, Clients U, O and II for whom there is no evidence before the panel that this was required.

Charge 7

7. Reported on 17 July 2019 that you completed assessment on 3 clients on the afternoon of 12 July 2019 when you had documented none on Lorenzo.

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence, witness statement and exhibits of Witness 1.

The panel referred to the email summarising Witness 1's conversation with Ms Jefferson dated 17 July 2019. The panel considered this note to be contemporaneous as it was documented on the same day as the meeting.

The panel noted Ms Jefferson's email dated 18 July 2019 in response to Witness 1's email and that Ms Jefferson does not challenge any of the information in Witness 1's email. The panel was satisfied that Ms Jefferson had reported to Witness 1 that she had completed three assessments on 12 July 2019.

This charge is found proved.

Charge 8

8. Provided misleading information on 24 July 2019 about the clients you claimed to have completed assessments for on 12 July 2019.

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence, witness statement and exhibits of Witness 1. The panel referred to Witness 1's statement which states:

I met with the Registrant on 24th July in order to obtain information in relation to the three clients she had documented on 12th July and also to find out how many clients she had currently not documented. The Registrant informed me that she had nine clients that needed documenting. She still could not give me the names of the three clients that she said she had documented on 12th July. It was agreed that the Registrant would provide me with the names of the nine undocumented clients and the names of the three she had documented on 12th July by noon.

The panel further considered the evidence before it that following that meeting, Ms Jefferson provided a list of 18 clients rather than nine, as she had originally stated.

The panel further acknowledged Ms Jefferson's admission when she states the following in her email dated 24 July 2019:

I have been able to transfer SH's L&D Screening, which I put into the new format on 12/07/2019, into NSFT's CAF today and complete all documentation / processes.

The panel noted the word 'today' and that if the updating of the client's records was completed today, it means the records could not have been completed on 12 July 2019 as Ms Jefferson consistently stated they were.

The panel went on consider the various accounts Ms Jefferson provided Witness 1 and that her account continually changed and was not consistent. It also noted Witness 1's statement in which he states:

I asked our IT department if they could produce a log of the Registrant's activity on 12th July 2019 so that I could ascertain which clients had been documented. IT informed me via email that the Registrant's laptop was not turned on during 12th July and that she had not accessed Lorenzo...The Registrant therefore had carried out no work on 12th July. She did verbally inform me that she was doing paperwork and was not on the system, however we are largely a paperless service and documenting is done on the system.

Taking all this into account the panel was satisfied that Ms Jefferson had provided misleading information on 24 July 2019 about the clients she claimed to have completed assessments for on 12 July 2019. The panel therefore finds this charge proved.

Charge 9

9. Your conduct at charge 7 and/or charge 8 was dishonest in that you knew you had not completed assessments for any clients on 12 July 2019.

This charge is found proved in relation to both charge 7 and 8

In reaching this decision, the panel took into account the evidence and exhibits of Witness 1.

The panel considered this charge in relation to charge 7 and charge 8 separately.

Charge 7

The panel noted from a text message sent by Ms Jefferson to Witness 1 on 12 July 2019 that she was aware she had been given protected time to complete assessments.

In the near contemporaneous summary of a discussion between Witness 1 and Ms Jefferson on 17 July 2019 made by Witness 1, the panel noted that:

...the Registrant stated that she had completed records for and on 12th July 2019. Upon checking, I could see that these names were incorrect as these clients had been seen by the Registrant on 18th July 2019 so could not have been documented by the Registrant on 12th July...

In the above circumstances, it is clear that the information given by Ms Jefferson on 17 July 2019 was misleading.

The panel went on to consider whether Ms Jefferson acted dishonestly.

The panel firstly considered the subjective limb of /vy and sought to ascertain Ms Jefferson's state of knowledge or belief as to the facts on 17 July 2019. In the circumstances of charge 7, the panel decided that Ms Jefferson must have known that

the information she was giving was not only misleading but was being given dishonestly to Witness 1.

Having established Ms Jefferson's knowledge or beliefs as to the facts the panel applied the objective standards of ordinary decent people. The panel determined that in all the circumstances of charge 7 that ordinary decent people would find that Ms Jefferson had acted dishonestly on 17 July 2019.

Charge 8

In an email summarising a meeting between Witness 1 and Ms Jefferson on 24 July 2019, Witness 1 wrote that Ms Jefferson had 'completed' three assessments on the afternoon of 12 July 2019 and that she would forward the names of those clients to Witness 1 by midday on 24 July 2019.

Following the meeting on 24 July 2019, Ms Jefferson provided incorrect information relating to two clients dated 19 July 2019 rather than 12 July 2019. When this was pointed out to her, Ms Jefferson then sent the same two client names and headed the information that it was from 12 July 2019. When this information was questioned she then supplied two different client names from 12 July 2019.

From the information supplied by Ms Jefferson it appears that she could not identify any clients that she had 'completed' on 12 July 2019 nor correctly identify three clients for whom she may have done paperwork on 12 July 2019.

The panel considered that Ms Jefferson was given ample opportunity to provide accurate information as to which three clients she had '*completed*' on 12 July 2019.

In the above circumstances, it is clear that the information given by Ms Jefferson on 24 July 2019 was misleading.

The panel went on to consider whether Ms Jefferson acted dishonestly.

The panel firstly considered the subjective limb of /vy and sought to ascertain Ms Jefferson's state of knowledge or belief as to the facts on 24 July 2019. In the circumstances of charge 8, the panel decided that Ms Jefferson must have known that the information she was giving was not only misleading but was being given dishonestly to Witness 1. Further, Ms Jefferson sought to provide accurate information to Witness 1 on three subsequent occasions on 24 July 2019 and was unable to do so.

Having established Ms Jefferson's knowledge or beliefs as to the facts the panel applied the objective standards of ordinary decent people. The panel determined that in all the circumstances of charge 8 that ordinary decent people would find that Ms Jefferson had acted dishonestly on 24 July 2019.

Charge 10

10. On 24 July 2019 informed your team leader that you had 18 clients which had not yet been documented when it was more than this.

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence, witness statement and exhibits of Witness 1.

The panel considered the statement of Witness 1 in which he states:

I met with the Registrant on 24th July in order to obtain information in relation to the three clients she had documented on 12th July and also to find out how many clients she had currently not documented. The Registrant informed me that she had nine clients that needed documenting. She still could not give me the names of the three clients that she said she had documented on 12th July. It was agreed that the Registrant would provide me with the names of the nine undocumented clients and the names of the three she had documented on 12th July by noon.

...

Later that afternoon, the Registrant gave me a spreadsheet that detailed eighteen clients which had not been documented by her at this point. Initially she had told me that this number was nine.

The panel heard in oral evidence from Witness 1 that when he conducted an audit of Ms Jefferson's clients, more undocumented clients were found. In his witness statements he states:

...33 clients who I found had not been documented by the Registrant in June and July 2019. This includes, but is far greater than, the 18 that the Registrant had informed me about. Also detailed is their dates of assessment and when the Registrant finally completed their documentation... From 19th July 2019 to September 2019, the Registrant was on restrictive practice and therefore had time to document these 33 clients.

Based on the information before it, the panel determined that Ms Jefferson had informed her team leader, Witness 1, that she had 18 clients which had not yet been documented when it was a great number than this.

This charge is therefore found proved.

Charge 11

11. Your conduct at charge 10 was dishonest in that you knew the information you were providing was inaccurate.

This charge is found NOT proved.

In reaching this decision, the panel took into account the oral evidence, witness statement and exhibits of Witness 1.

The panel considered that based on the tenor of Witness 1's evidence, Ms Jefferson's working practice appeared disorganised in regards to the recording of her assessments. Although Witness 1's evidence was that he believed Ms Jefferson's actions were dishonest, the panel considered that, by 24 July 2019 and after the events of 17 July 2019, there would not have been any benefit to her deliberately under reporting the number of outstanding clients.

The panel also noted in the oral evidence of Witness 1 that he stated that when the underreporting was brought to the attention of Ms Jefferson, that she was '*surprised*' which the panel felt was more in line with an oversight rather than a deliberate act.

The panel determined that it was more likely than not, that it was the failings in her recording practice that were responsible for the under reporting.

Based on this, the panel therefore finds this charge not proved.

Fitness to practise

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

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

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

Submissions on misconduct

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

Ms Paisley did not make any oral submissions, but she provided the panel with written submissions which it has carefully considered. Ms Paisley referred the panel to the cases of *Roylance v GMC* [2000] 1 AC 311, *Calhaem v GMC* [2007] EWHC 2006 (Admin) and *Nandi v GMC* [2004] EWHC 2317 (Admin) for its consideration.

Ms Paisley referred the panel to 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code) in making its decision. She submitted to the panel various paragraphs of the Code, which she said, if breached, would amount to misconduct.

Ms Paisley submitted that it is a serious failing to delay the documentation of clients, particularly those who need onward referrals. She referred the panel to the Lorenzo entries for the clients seen by Ms Jefferson and the evidence of Witness 1, who told the panel why it is so important to document clients once they have been seen. Witness 1 also told the panel it was important to subsequently write to the client's GPs and make onward referrals. Ms Paisley submitted that a number of the delayed entries and referrals related to clients suffering from, serious mental health concerns, and some of whom were particularly vulnerable, including young people under the age of 18.

Ms Paisley submitted that the panel would note that without keeping clear and accurate records, Ms Jefferson's colleagues did not know what care had already been undertaken in respect of the clients including any onward referrals that may have already been made. Ms Paisley submitted that this failure, put the clients at unwarranted risk of harm, but also makes it very difficult for other colleagues to work safely and effectively.

Ms Paisley submitted that the charges found proven, in particular the dishonesty charge, are failures that fall far short of what would be expected of a registered nurse by both nursing colleagues and members of the public.

Ms Paisley referred the panel to the witness statements of Witnesses 1, 2 and 3. She highlighted the evidence demonstrating how Ms Jefferson's actions put the clients in her care at risk of harm.

Ms Paisley therefore invited the panel to take the view that the facts found proved amount to misconduct.

Submissions on impairment

Ms Paisley 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) and *Cohen v General Medical Council* [2008] EWHC 581 (Admin).

Ms Paisley invited the panel to consider the test in the Fifth Shipman Report approved of in *Grant*, which states:

- a. Patients were put at unwarranted risk of harm by the Registrant and the Panel is directed to the submissions made above in respect of harm;*
- b. The Registrant has in the past brought the profession into disrepute;*
- c. The Registrant has in the past breached the fundamental tenets of the profession; and*
- d. The Registrant has acted dishonestly.*

Ms Paisley submitted that all four limbs of the test are engaged in this case. She further submitted that the panel should, in particular, consider whether any of Ms Jefferson's actions indicate attitudinal issues, and whether such issues are, in fact, capable of remediation.

Ms Paisley invited the panel to consider whether there is a risk of repetition in this case. She submitted that the charges found proven occurred over a period of time, as opposed to one shift and therefore evidence Ms Jefferson's repeated failings on a number of different occasions.

Ms Paisley told the panel that Ms Jefferson has not engaged meaningfully with the NMC process and therefore the panel does not have evidence at this stage of her insight, remorse, or remedial action. She further submitted that the absence of this evidence from Ms Jefferson, weighs heavily in the panel's decision to find current impairment.

Ms Paisley submitted that there is nothing before the panel to give them confidence that Ms Jefferson would not repeat these failures in the future. She submitted that the panel does not have evidence at this stage to demonstrate Ms Jefferson understands and appreciates the seriousness of the charges found proven and the potential for harm that her actions caused.

Ms Paisley submitted that the panel should find Ms Jefferson's fitness to practise is currently impaired on both public protection and public interest grounds.

Decision and reasons on misconduct

The panel accepted the advice of the legal assessor.

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

The panel carefully considered the charges found proved and decided that Ms Jefferson's acts and omissions amounted to a breaches of the following paragraphs of the Code:

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

3 Make sure that people's physical, social and psychological needs are assessed and responded to

To achieve this, you must:

3.3 act in partnership with those receiving care, helping them to access relevant health and social care, information and support when they need it

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

13 Recognise and work within the limits of your competence

To achieve this, you must, as appropriate:

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

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

To achieve this, you must:

16.3 tell someone in authority at the first reasonable opportunity if you experience problems that may prevent you working within the Code or other national standards, taking prompt action to tackle the causes of concern if you can

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

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

To achieve this, you must:

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

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

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

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

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 Ms Jefferson's conduct did fall seriously below the standard expected of a registered nurse.

The panel considered the charges found proved both individually and cumulatively.

Charges 1a, 1b and 1d relate to 1 client following an assessment on 29 September 2018. Whilst these three omissions may have had the potential to result in harm, the panel in its professional view, was of the opinion that these three sub-charges, in isolation, would not be so serious as to amount to misconduct.

The panel went on to consider charges 3, 4, 5 and 6 which relate to similar failings in that Ms Jefferson did not record matters, write to GPs and/or action referrals in a timely manner or at all. These shortcomings occurred on numerous occasions and in relation to at least a further 34 clients between January 2019 and July 2019. The shortcomings involved vulnerable clients. Some of these failings occurred following and despite meetings with Witness 1 who identified the problems and offered assistance. In these circumstances, the panel decided that cumulatively the repeated failings in charges 3, 4, 5 and 6 are so serious as to amount to misconduct.

The panel next considered charges 7, 8 and 9 in relation to misconduct.

In relation to charge 7, Ms Jefferson stated that she had completed the assessment of three clients on the afternoon of 12 July 2019. In finding this charge proved the panel was of the view that on the evidence it was clear that Ms Jefferson had not documented any of these clients on Lorenzo.

In relation to charge 8, Ms Jefferson provided misleading information to Witness 1 at a meeting on 24 July 2019 about the three clients who she claimed to have completed assessments for on 12 July 2019. Following the meeting with Witness 1 on 24 July 2019, Ms Jefferson sent inaccurate information to Witness 1 about these assessments.

The panel found dishonesty proved in relation to charges 7 and 8. In doing so, the panel noted that Ms Jefferson compounded her dishonesty on 17 July 2019 by providing misleading information on 24 July 2019 and thereafter. The panel was of the view that Ms Jefferson had ample opportunity to rectify matters which had occurred on 17 July 2019, but chose to compound the original lie with a further lie. In these circumstances the dishonesty is so serious as to amount to misconduct.

The panel next considered charge 10.

In light of the findings of fact in relation to charge 10, the panel decided at this stage that those facts are not so serious as to amount to misconduct.

Having considered the charges individually the panel decided both individually, and cumulatively, that the charges, save charge 10, found proved are so serious as to amount to misconduct.

Decision and reasons on impairment

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

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. 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 firstly considered whether its findings of fact show that Ms Jefferson's fitness to practice is impaired when looking to the past. The panel decided that on the basis of the facts found all four limbs of the Shipman test are engaged as to the past.

The panel next considered each limb of the Shipman test and whether Ms Jefferson is liable in the future to put clients at unwarranted risk of harm and/or bring the nursing profession into disrepute and/or breach one of the fundamental tenets of the nursing profession and/or act dishonestly. In this regard, the panel asked itself three questions. Firstly, is the misconduct easily remediated. Secondly, whether the misconduct has been remediated by reference to any expression of remorse, insight or training undertaken. Thirdly, whether Ms Jefferson is highly unlikely to repeat her behaviour.

The panel carefully considered the transcripts of the two internal disciplinary hearings. It could find no meaningful expression of remorse from Ms Jefferson. Likewise, Ms Jefferson demonstrated no insight into any possible shortcomings and sought to deflect and criticise by saying that her possible failings were referable to the IT system. The panel had nothing from Ms Jefferson to demonstrate her understanding as to how her acts and omissions put clients in her care at the risk of potential harm. Further, she displayed no understanding of why what she did would impact negatively on clients, work colleagues and on the reputation of the nursing profession.

Ms Jefferson has provided no information to the panel in relation to remorse, insight or whether she has undertaken relevant training to address her failings.

In these circumstances the panel decided that all four limbs of the Shipman test are engaged when looking at the position today and in the future.

In the absence of any remorse, insight or strengthening of Ms Jefferson's practice, the panel is of the view that there is a risk of repetition of the misconduct. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that a finding of current impairment on public interest grounds is required as a member of the public, aware of all the circumstances in this case would be concerned that the nurse against whom such concerns were found proved, was allowed to practise unrestricted.

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

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

Interim Order

Ms Paisley told the panel that as this case is going part heard there would ordinarily be consideration of an interim order. Ms Paisley told the panel that the NMC would not be making an application for an interim order as there is an existing interim order in place which will adequately protect the public until this hearing resumes at a date yet to be fixed. Ms Paisley informed the panel that it was the NMC's intention to seek an early interim review hearing in relation to the existing interim order and to place this panel's decisions on findings of facts and impairment before that review panel.

The panel in light of the above information provided by Ms Paisley decided that there was no necessity to consider whether an interim order should be imposed by this panel. The panel noted that the present interim order is entirely adequate to protect the public and to satisfy the wider public interest.

In reaching its decision, the panel informed Ms Paisley that the provisional and possible earliest resuming date of this hearing is likely to be in September 2023 and therefore impressed upon the NMC it must keep this matter under careful review.

Decision and reasons on service of Notice of Resuming Hearing

The panel was informed at the start of this hearing that Ms Jefferson was not in attendance at this hearing, nor was she represented in her absence.

Ms Paisley submitted that whilst a formal Notice of Hearing is not required for a resuming hearing, one was sent to Ms Jefferson's registered email address which the NMC had on record for Ms Jefferson as of 3 August 2023.

Ms Paisley submitted that it had provided adequate and appropriate notice of the resuming hearing.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Resuming Hearing provided details of the charges, the time, dates, and venue of the hearing and, amongst other things, information about Ms Jefferson's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Ms Jefferson had been put on notice of the resuming hearing.

Decision and reasons on proceeding in the absence of Ms Jefferson

The panel next considered whether it should proceed with the hearing in the absence of Ms Jefferson.

Ms Paisley informed the panel that Ms Jefferson has contacted the NMC in relation to this matter since the hearing adjourned part-heard in March 2023. She referred the panel to the emails sent to the NMC Case Coordinator by Ms Jefferson on 9 August 2023 and 15 August 2023.

In the email dated 9 August 2023, Ms Jefferson states:

"[PRIVATE]"

In one of your previous emails you mentioned me providing you with a date for the hearing to be resumed - I was going to suggest to you some time in January 2024...

[PRIVATE]...".

In the email dated 15 August 2023, Ms Jefferson states:

"Thank you for your communication. [PRIVATE]. Whilst I obviously want to have the opportunity to defend myself and provide my evidence, it is just not possible at this time.

Can these proceedings please be postponed or is there provision for me to be able to appeal / request a review hearing with all of my evidence in the future?..."

Despite having regard to the above, Ms Paisley invited the panel to proceed in the absence of Ms Jefferson. She submitted that the overarching objectives of public protection and public interest should be at the forefront of the panel's mind in making its decision as to whether to proceed or adjourn today.

Ms Paisley submitted that Ms Jefferson has not engaged with these proceedings for a significant period of time, despite the panel attempting to engage her on multiple previous occasions. She submitted that the hearing is now at the sanction stage, facts have been proven, and Ms Jefferson has had over six months to consider and respond to the panel's decision.

Ms Paisley submitted that Ms Jefferson had not provided any material evidence to support the issues she was experiencing as described in her emails. She also submitted that Ms Jefferson has not given a proper indication of when she might be ready to engage.

In taking account of the above, Ms Paisley submitted that it is in the public interest for the panel to proceed and move on to determine what sanction is appropriate and proportionate at today's hearing.

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

The panel gave Ms Jefferson's request to postpone the hearing today serious consideration.

The panel had regard to the contents of Ms Jefferson's emails and noted that [PRIVATE]. It noted that Ms Jefferson was informed by the NMC Case Coordinator that her communication would go before the panel and she could also provide a written request to it in advance, with any supporting information [PRIVATE] or other evidence to support her request. However, no further response appears to have been received from Ms Jefferson. Therefore, the panel had no independent evidence before it to confirm what Ms Jefferson has stated. It was of the view that this type of information would not have been difficult for her to obtain and submit to the panel.

The panel was of the view that Ms Jefferson has had ample opportunity to engage with this hearing previously. During the resuming hearing in March 2023, the panel had ensured that Ms Jefferson was given plenty of time to join the hearing, she was kept updated with how the hearing was progressing, and it had also allowed her time to respond before starting the next stage of the case. Furthermore, the panel was aware that Ms Jefferson has had over six months to take account of the panel's decision up to the close of the impairment stage, yet nothing has been forthcoming.

The panel considered there to have been numerous delays in this case already. This substantive hearing started in July 2022 and was adjourned on that occasion at Ms Jefferson's request. The panel resumed in March 2023 for Ms Jefferson to attend, but made the decision to proceed in her absence when she did not. Further, this hearing has been ongoing for approximately 15 months and the matters found proved date back to 2018 and 2019. The panel has found misconduct and impairment. The panel was

satisfied that the public interest elements of the case were in favour of it proceeding with this case today in attempting to bring this matter to a conclusion.

The panel decided to proceed in the absence of Ms Jefferson at this stage. It rejected her application to postpone this hearing to a later date.

Sanction

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

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

Submissions on sanction

Ms Paisley submitted that the panel should have public interest at the forefront of its mind in considering what sanction to impose. She submitted that any sanction must be proportionate, striking the balance between the public interest and Ms Jefferson’s right to practise in her chosen career.

Ms Paisley invited the panel to consider the sanctions in ascending order, starting with the least restrictive sanction, moving up in order of seriousness, when determining which sanction is appropriate in this case.

Ms Paisley submitted that the NMC’s sanction bid is that of a striking-off order. She submitted that this case is clearly too serious for the panel to consider taking no further action or imposing a caution order. Ms Paisley also submitted that there are no

workable conditions of practice that can be devised to reflect the severity of Ms Jefferson's misconduct.

Ms Paisley referred the panel to the NMC guidance titled 'Cases involving dishonesty' as Ms Jefferson had attempted to deliberately cover up her misconduct, which could have had serious implications for the care of vulnerable patients. Ms Paisley also referred the panel to the case of *Atkinson v General Medical Council [2009] EWHC 3636 (Admin)* and submitted that there has been no compelling evidence of any insight demonstrated by Ms Jefferson.

Ms Paisley submitted that a suspension order will not be appropriate in the particular circumstances of this case. She submitted that this is not a single incident of misconduct but rather shortcomings that took place over a period of months involving numerous different service users. Furthermore, Ms Paisley submitted that there is evidence of Ms Jefferson having compounded her dishonesty, thereby demonstrating serious attitudinal problems. She submitted that there Ms Jefferson has not sought to furnish the panel with any evidence of her insight, remorse or remediation. She has not shown an understanding of the risks of harm caused by her actions, or identified the damage done to the reputation of the nursing profession.

Lastly, Ms Paisley submitted that there is a risk of repetition in this case, so Ms Jefferson is likely to repeat her behaviour if only removed from the NMC register on a temporary basis.

Decision and reasons on sanction

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

Having found Ms Jefferson's fitness to practise to be 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.

As regards aggravating factors, the panel has considered the following as relevant:

- Ms Jefferson's misconduct was serious and involved a pattern of behaviour.
- Ms Jefferson had exposed a number of vulnerable patients in her nursing care to a risk of unwarranted harm.
- Ms Jefferson's dishonesty was not an isolated instance, which could be suggestive of an ongoing attitudinal issue.
- Ms Jefferson has not demonstrated any insight, remorse or remediation.

The panel did not consider there to be any mitigating factors relevant to this case. It noted that Ms Jefferson has raised some pressures relating to her personal circumstances, but the panel had no information to suggest that these were present at the time of the incidents. Ms Jefferson may have been working in a stressful environment, but she was given a significant amount of supervision and support from her line manager to assist her.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no action.

Next, in considering whether a caution order would be appropriate in the circumstances, the panel took into account the SG, which 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 was of the view that Ms Jefferson's misconduct was not at the lower end of the spectrum of fitness to practise and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing a conditions of practice order on Ms Jefferson's nursing registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. Whilst the panel considered there to be some identifiable practical areas of retraining for Ms Jefferson to embark on, it noted that there is evidence indicative of an underlying attitudinal issue present in this case. The panel considered this may be preventing Ms Jefferson from reflecting upon the extent of her actions, and how they impacted upon patients, colleagues, the nursing profession and the wider public. Furthermore, Ms Jefferson's engagement with these proceedings has not been meaningful, nor has she demonstrated a willingness to respond positively to addressing these concerns.

In taking account of the above, the panel determined that placing a conditions of practice order on Ms Jefferson's nursing registration would not adequately address the seriousness of this case, nor would it satisfy the public interest considerations.

The panel then went on to consider whether a suspension order would be an appropriate sanction.

The panel had regard to the guidance referred to and noted that Ms Jefferson had been found to have engaged in a pattern of behaviour for a prolonged period of time, which amounted to misconduct. It had found her to have breached numerous standards of the Code, as well as fundamental tenets of the nursing profession.

Ms Jefferson has offered no evidence as to her insight, nor any attempt to alleviate any outstanding concerns in respect of her nursing practice; despite having a substantial amount of time to reflect on her conduct and behaviour. The panel was aware that these proceedings have been ongoing since July 2022, and she could have taken some steps in the interim to try and strengthen her practice in relation the clinical deficiencies, but also remediate the other concerns on a wider scale. However, the panel noted that no

evidence of this has been forthcoming, despite Ms Jefferson having been aware since March 2023 that the panel had found her fitness to practise as a registered nurse to be currently impaired.

Therefore, in the absence of any evidence to the contrary, the panel concluded that Ms Jefferson had not attempted to address any of the concerns identified, nor has she demonstrated an understanding of the full consequences of her actions. She has not provided evidence to assure this panel that she does not have an underlying attitudinal issue, or that she would not act in a similar way again in future.

The panel determined that a suspension order would not adequately address the public protection and public interest elements of the case.

Taking account of the above, the panel determined that Ms Jefferson's misconduct was not merely a serious departure from the standards expected of a registered nurse and a serious breach of the fundamental tenets of the nursing profession, it was fundamentally incompatible with her remaining on the NMC register. In the panel's judgment, to allow someone who had behaved in this way to maintain her NMC registration would undermine public confidence in the nursing profession and in the NMC as a regulatory body.

In reaching its decision, the panel bore in mind that its decision would have an adverse effect on Ms Jefferson both professionally and personally. However, the panel was satisfied that the need to protect the public and address the public interest elements of this case outweighs the impact on Ms Jefferson in this regard.

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

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

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or is in Ms Jefferson's own interest until the striking-off order takes effect.

Submissions on interim order

Ms Paisley invited the panel to impose an interim suspension order for a period of 18 months. She submitted that it is possible for the panel to consider an interim order at this hearing, despite one already being imposed on Ms Jefferson's registration for a different matter.

Decision and reasons on interim order

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

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. Owing to the seriousness of the misconduct in this case and the risk of repetition identified, it determined that Ms Jefferson's actions were sufficiently serious to justify the imposition of an interim suspension order until the striking-off order takes effect. In the panel's judgment, public confidence in the regulatory process would be damaged if Ms Jefferson would be permitted to practise as a registered nurse prior to the substantive order coming into effect.

The panel decided to impose an interim suspension order in the circumstances of this case. To conclude otherwise would be incompatible with its earlier findings.

The panel therefore imposed an interim suspension order for a period of 18 months.

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

That concludes this determination.