

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

**Substantive Hearing
Friday 23 September 2022 – Friday 14 October 2022
Tuesday 9 May 2023 – Monday 22 May 2023
Monday 4 September – Thursday 7 September 2023**

Virtual Hearing

Name of registrant:	Nuno Rebelo
NMC PIN:	16B0022E
Part(s) of the register:	Registered Nurse - Sub Part 1 Adult Nursing - January 2016
Relevant Area:	Oxford
Type of case:	Misconduct/ Police Caution
Panel members:	Nicola Jackson (Chair, Lay member) Tracey Chamberlain (Registrant member) Asmita Naik (Lay member)
Legal Assessor:	Andrew Granville Stafford
Hearing Coordinator:	Teige Gardner (Days 1 – 16) Sharmilla Nanan
Nursing and Midwifery Council:	Represented by Amanda Bailey, Case Presenter
Mr Rebelo:	Present and not represented (Days 1 – 17, 19-20, 22, 27-30) Not present and not represented (Days 18, 21, 26)
Facts proved by way of admission:	Charges 8, 9a and 9b Additional Charge 1 (caution charge)
No case to answer:	Charges 5, 15a(i) and 15a(iv)
Facts proved:	Charges 4b, 6, 7, 10b, 11, 12, 13, 14, 15a (ii)15b, 16a, 16b, 17, 19, 20

Facts not proved:

Charges 1, 2, 3, 4a, 10a, 15a (iii), 18

Fitness to practise:

Impaired

Sanction:

Striking-off order

Interim order:

Interim suspension order (18 months)

Details of charge (as amended)

That you, a registered nurse,

1. On or around 18 October 2018 made an entry in Patient B's record indicating that you were administering treatment to Patient B between 0900-0940 when you did not administer treatment to Patient B at all.
2. Your conduct at Charge 1 above was dishonest as it presented a misleading impression of the care and/or treatment that Patient B received from you.
3. In respect of Patient B above, you did not inform the shift manager that Patient B had not received the treatment that was required.
4. On 06 February 2019
 - a) administered and/or
 - b) recorded that you administered a B12 injection to the abdomen of Patient E rather than their arm.
5. On one or more occasions in February and/or March 2019 did not complete adequate patient records following visiting patients.
6. On a date prior to 07 February 2019 removed the 'Direction to Administer' Form from an unknown patient's notes causing a delay to the administration of medication.
7. On 07 February 2019 did not properly file Patient G's patient notes after taking them to the office meaning that Patient G's medication could not be administered.

8. On 9 February 2019 did not complete patient records for the care you had provided to patients at Didcot Community Hospital.
9. In February 2019 administered Dalteparin medication to the following patients outside of the required time frame
 - a. Patient F;
 - b. Patient H
10. On or around 22 February 2019
 - a. Failed to flush Patient A's PICC line and/or
 - b. Failed to ensure that the correct paperwork related to Patient A's saline flush on the Administration of Medication form
11. On or around 22 February 2019 attempted to administer/administered medication via Patient A's PICC line when you have not been signed off as competent to do by so your Employer.
12. On or around 27 February 2019 incorrectly recorded that you had administered a 5th loading dose of Vitamin B12 to an unknown patient on 27 February 2019 when you had not.
13. During a training session on Surgical Drains did not look at Colleague A when she was addressing the session and/or got up and left the session.
14. In March 2019 did not calibrate your blood glucose monitor in a timely manner or at all.
15. On various dates demonstrated intimidating and/or aggressive behaviour towards Colleagues including the following;

A. In respect of Colleague A

- i. Became abusive during a phone call when Colleague A was speaking to you about supporting a diabetic patient;
- ii. On / around Christmas 2018, followed Colleague A in to the stock room and/ or grabbed Colleague A's hand and/or pulled Colleague A towards you and/or said Merry Christmas and pushed her away;
- iii. Drove past Colleague A's allotment without reason and/or
- iv. Followed Colleague A around the office

B. In respect of Colleague B, during a conversation came close to her face and asked her if she had a problem.

16. On one or more occasions, asked for or accepted money from patients and/or patient's family members as set out below;

- a. On 01 March 2019, when you told Patient C/Patient C's family member you needed £25 to buy petrol
- b. On 11 March 2019, when you told Patient C/Patient C's family member you needed £40 to pay for a vehicle recovery service to assist you

17. Spent Trust money in the form of hardship loan issued to pay for expenses associated with your company vehicle to pay household bills.

18. Your conduct at Charge 17 above was dishonest because you knew that the Trust money had been allocated to you for use on your company vehicle rather than household bills.

19. On an unknown date prior to 19 July 2019 took one or more clinical items, which belonged to Oxford Health NHS Foundation Trust, for your own personal use.

20. Your actions at charge 19 above were dishonest because you knew you were not entitled to remove hospital property for your own personal use.

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

Decision and reasons on application to amend the charge

The panel heard an application made by Ms Bailey on behalf of the NMC, to amend the wording of the stem of the charges, and charges 1, 7, 8, 11, 15, 16 and 19.

The proposed amendments were to typographical errors and omissions within the above charges. In charge 1, Ms Bailey informed the panel that the time was incorrect, and should be amended to read 0900-0940. In charge 7, she informed the panel that the date was incorrect, and should be amended to 2019. In charge 8, she submitted that it should read complete, rather than compete. In charge 11, Ms Bailey informed the panel that the word '*management*' should be amended to read '*medication*', as currently the charge does not reflect the evidence. Further, in charge 11, she submitted that the words '*via*' and '*so*' should be added to ensure the charge made grammatical sense. In charge 15, she submitted that the word '*behaviour*' should be added to better reflect the charges. Ms Bailey also accepted the panel's finding that there were typographical errors in charge 16 and 19, which the panel should consider amending. It was submitted by Ms Bailey that the proposed amendments would provide clarity and more accurately reflect the evidence.

The proposed amendments are as follows:

~~That~~ *That you, a registered nurse,*

1. On or around 18 October 2018 made an entry in Patient B's record indicating that you were administering treatment to Patient B between ~~0920-0940~~ 0900-0940 when you did not administer treatment to Patient B at all
2. Your conduct at Charge 1 above was dishonest as it presented a misleading impression of the care and/or treatment that Patient B received from you.
3. In respect of Patient B above, you did not inform the shift manager that Patient B had not received the treatment that was required.
4. On 06 February 2019 administered a B12 injection to the abdomen of Patient E rather than their arm.
5. On one or more occasions in February and/or March 2019 did not complete adequate patient records following visiting patients.
6. On a date prior to 07 February 2019 removed the 'Direction to Administer' Form from an unknown patient's notes causing a delay to the administration of medication.
7. On 07 February ~~2012~~ 2019 did not properly file Patient G's patient notes after taking them to the office meaning that Patient G's medication could not be administered.
8. On 21 February 2019 did not ~~complete~~ complete patient records for the care you had provided to patients at Didcot Community Hospital.

9. In February 2019 administered Dalteparin medication to the following patients outside of the required time frame
 - a. Patient F;
 - b. Patient H

10. On or around 22 February 2019
 - a. Failed to flush Patient A's PICC line and/or
 - b. Failed to ensure that the correct paperwork related to Patient A's saline flush on the Administration of Medication form

11. On or around 22 February 2019 attempted to administer/administered medication ~~management~~ via Patient A's PICC line when you have not been signed off as competent to do by so your Employer.

12. On or around 27 February 2019 incorrectly recorded that you had administered a 5th loading dose of Vitamin B12 to an unknown patient on 27 February 2019 when you had not.

13. During a training session on Surgical Drains did not look at Colleague A when she was addressing the session and/or got up and left the session.

14. In March 2019 did not calibrate your blood glucose monitor in a timely manner or at all.

15. On various dates demonstrated intimidating and/or aggressive behaviour towards Colleagues including the following;

A. In respect of Colleague A

- i. Became abusive during a phone call when Colleague A was speaking to you about supporting a diabetic patient;
- ii. On / around Christmas 2018, followed Colleague A in to the stock room and/ or grabbed Colleague A's hand and/or pulled Colleague A towards you and/or said Merry Christmas and pushed her away;
- iii. Drove past Colleague A's allotment without reason and/or
- iv. Followed Colleague A around the office

B. In respect of Colleague B, during a conversation came close to her face and asked her if she had a problem.

16. On one or more occasions, asked for or accepted money from patients and/or patient's family members as set out below;

- a. On 01 March 2019, when you told a Patient C/Patient C's family member you needed £25 to buy petrol
- b. On 11 March 2019, when you told Patient C/Patient C's family member you needed £40 to pay for a vehicle recovery service to assist you

17. Spent Trust money in the form of hardship loan issued to pay for expenses associated with your company vehicle to pay household bills.

18. Your conduct at Charge 17 above was dishonest because you knew that the Trust money had been allocated to you for use on your company vehicle rather than household bills.

19. On an unknown date prior to 19 July 2019 took one or more of clinical items, which belonged to Oxford Health NHS Foundation Trust, for your own personal use.

20. Your actions at charge 19 above were dishonest because you knew you were not entitled to remove hospital property for your own personal use.

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

The panel heard submissions from you that you did not oppose the proposed amendments.

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

The panel was of the view that such an amendment, as applied for, was in the interest of justice. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

Decision and reasons on application to partially admit Witness 1's witness statement

The panel heard an application made by Ms Bailey under Rule 31 to allow Witness 1 to give hearsay evidence. Ms Bailey submitted that all of Witness 1's hearsay evidence relied on to adduce information from missing patient records and patient accounts in this case is relevant and reliable and that it is in the interests of justice to admit it. She submitted that the serious nature of the case is a factor that needs to be considered and the information is relevant and important to the NMC being able to present its case.

Ms Bailey submitted that Witness 1 is a senior nurse manager who was tasked with identifying professional concerns in your practice and Witness 1 can be questioned and challenged on all of his evidence. Much of Witness 1's evidence is corroborated by his colleagues and other documentary evidence. If the panel are satisfied as to admissibility, it is submitted that the panel can properly hear the evidence without unfairness or prejudice to you. Any potential unfairness to you in challenging the evidence and putting your case can be met through the hearing process. The panel will assess all of the evidence in this case, including any evidence you wish to put before it. Ms Bailey reminded the panel that it is for it to decide what weight to give to all evidence in due course to meet any potential for unfairness to you.

Ms Bailey invited the panel to admit Witness 1's written statement.

You submitted you never met Witness 1 nor had any interaction with him. You said that Witness 1 created a story about you. You informed the panel that the allegations raised by Witness 1 were never investigated by the police and you are innocent of these allegations. You told the panel that most of Witness 1's evidence is unreliable and hearsay.

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

The panel took into consideration all the disputed paragraphs, namely paragraphs 4, 7, 13, 18, 19, 20, 21, 22, 23, 36, 37, 38, 45, 49, 50, 55, 58, 59, 60, 63, 65, 71, 87, 92, 93, 94, 95, 96, 97, 101 of Witness 1's first statement and paragraph 15 of Witness 1's second witness statement, and determined whether they were fair and relevant.

In regard to paragraph 4 of Witness 1's witness statement, the panel was of the view that this paragraph was relevant, as it speaks to Charge 10. However, it determined that it was not fair to you if the sentence beginning "*Nuno did not flush...*" was admitted into evidence. It noted that this sentence could not be cross referenced or tested by any other relevant evidence or exhibits, such as patient records. The panel therefore determined not to allow this sentence to be admitted into evidence.

In regard to paragraph 7 of Witness 1's statement, the panel was of the view the paragraph contained relevant information, as it related to Charges 10 and 11. Furthermore, the panel noted that this evidence was also fair, as it could be tested by you in the hearing and it is supported by other relevant evidence provided by a witness due to attend this hearing to give oral evidence. Therefore, the panel was of the view that this evidence is fair and relevant to admit.

In regard to paragraph 13, the panel was of the view that the evidence is relevant, as it speaks to Charge 1 and 11. Furthermore, the panel was of the view that this evidence is fair, as it can be tested with other relevant information within the bundles prepared for this case. It noted that the evidence within this paragraph is hearsay evidence, however it concluded that you have the opportunity to test this evidence in the hearing. The panel decided to admit this paragraph into evidence, and judge how much weight to be placed on it following Witness 1's oral evidence.

In regard to paragraphs 18 and 19, the panel was of the view that they do not speak to any of the charges, as listed above. The panel was of the view therefore that this evidence is irrelevant. It determined to not admit these paragraphs into evidence, as they do not relate to any of the charges.

In regard to paragraphs 20, 21, 22 and the first sentence of paragraph 23, the panel noted that the NMC are relying on them as evidence for Charge 5. However, the panel was of the view that Charge 5 is too vague and the evidence within these paragraphs do not directly support it. Therefore, the panel was of the view that the evidence contained in these paragraphs are not relevant.

The panel noted that that there is no supporting evidence that can test the content of paragraph 20, therefore, the panel determined that it would be unfair to you to admit this paragraph into evidence. The panel further noted that in paragraphs 21, 22 and 23, a reference is made to a patient's daughter who raised complaints regarding your practice. The panel noted that the patient's daughter mentioned in these paragraphs was not due to give evidence at this hearing, therefore you would not be able to test her evidence. Furthermore, the panel noted that Witness 1 did not directly speak to the patient's daughter. However, it noted that other witnesses due to give evidence did speak directly with her. The panel therefore determined that the aforementioned paragraphs were not able to be tested by you, and would therefore be unfair to admit into evidence. The panel determined to not admit these paragraphs into evidence.

In regard to paragraphs 36, 37 and 38, the panel was of the view that this evidence is relevant, as it goes to Charge 9. Furthermore, the panel noted that this evidence can be tested by other relevant evidence within the bundle and you have the ability to test this evidence during Witness 1's oral evidence. In addition, the panel noted that you had already admitted to this charge. Therefore, the panel determined that these paragraphs be admitted into evidence.

In regard to paragraphs 45 and 49, the panel was of the view that they are relevant as they go to Charges 6 and 7. The panel noted that the incident reported in paragraphs 45 and 49 relate directly to another witness due to give evidence in this hearing and is supported by other relevant evidence within the bundles. Therefore, the panel determined that it would not be unfair to you to admit this evidence, as you have the ability to test this evidence with Witness 1 and with the other witness who directly speaks to these paragraphs. The panel therefore decided to admit these paragraphs into evidence.

In regard to paragraph 50, the panel was of the view that it was relevant as it relates to charge 7. The panel noted that the content of paragraph 50 relates directly to another witness due to give evidence in this hearing and is supported by other relevant evidence within the bundles. Therefore, the panel determined that it would not be unfair to you to admit this evidence, as you have the ability to test this evidence with Witness 1 and with the other witness who directly speaks to these paragraphs. The panel therefore decided to admit this paragraph into evidence.

In regard to paragraphs 55, 58, 59 and 60, the panel was of the view that they are relevant as they speak to Charge 12. The panel noted that the content of these paragraphs can be directly tested by other evidence within the bundles provided today. Therefore, the panel determined that it would not be unfair to you to admit these paragraphs into evidence, as you have the ability to test them within the hearing during Witness 1's oral evidence. The panel decided to admit these paragraphs into evidence.

In regard to paragraphs 63 and 65, the panel was of the view that this evidence is relevant, as it goes to Charge 9. Furthermore, the panel noted that this evidence can be tested by other relevant evidence within the bundle and you have the ability to test this evidence during Witness 1's oral evidence. In addition, the panel noted that you had already admitted to this charge when questioned earlier. Therefore, the panel determined that these paragraphs be admitted into evidence.

In regard to paragraph 71, the panel was of the view that this evidence is relevant as it goes to Charge 8, which you had admitted. The panel first noted that the date of the incident within paragraph 71 was incorrect. Therefore, the panel determined that it would be fair for you to question the evidence of Witness 1. The panel further noted that there was other relevant information contained within the bundles that supports the evidence in paragraph 71. The panel decided that this paragraph should be admitted into evidence.

In regard to paragraph 87, the panel was of the view that it was relevant as it speaks to Charge 17. The panel noted that the evidence within this paragraph can be tested by other relevant information within the bundles provided at this hearing. The panel therefore determined that this evidence can be admitted.

In regard to paragraph 92, 93, 94, 95, 96 and 97, the panel was of the view that the evidence contained in these paragraphs was relevant as they speak to Charge 16. The panel noted that these paragraphs are supported and can be tested against other substantial evidence contained in the bundle. The panel was of the view that it would not be unfair to you to admit this evidence as you have the ability to test the content of the paragraphs during Witness 1's oral evidence. The panel therefore decided to admit these paragraphs into evidence.

In regard to paragraph 101, the panel was of the view that some of the evidence within this paragraph and the accompanying police report are relevant, as they speak to Charge 19. However, the panel noted that the paragraph and the police report also contains very prejudicial information that amounts to hearsay and does not relate to any of the charges. The panel was of the view that, in these circumstances, it would be unfair to you to admit this evidence. The panel therefore determined that this paragraph should not be admitted into evidence.

In regard to paragraph 15 of Witness 1's second witness statement, the panel was of the view that this evidence is relevant as it speaks to Charge 8, which you had already admitted. The panel noted that there was other relevant information contained within the bundles that supports the evidence in paragraph 71. Therefore, it would not be unfair to you to admit this evidence as you have the opportunity to question Witness 1 directly about this paragraph. The panel decided that this paragraph should be admitted into evidence.

It also considered further redactions to paragraphs 27, 28, 29, 31, 43, 44, 52, 61, 62, 74, 76, 79, 81, 98, 100, 102, 103, 104 in Witness 1's first statement and to paragraphs 8,9 and 10 in his second statement, which had been proposed by Ms Bailey and agreed by you. It agreed these further redactions should be made on the grounds of relevance and fairness.

In summary, the panel determined that the parts of paragraphs 4, 18, 19, 20, 21, 22, 23, 24 and 101, referred to above, should not be admitted into evidence. However, it determined that the other disputed paragraphs should be admitted.

Application for Witness 2's witness statement to be amended

Ms Bailey informed the panel that parts of Witness 2's witness statement had been accidentally redacted. She informed the panel that paragraphs 6, 7, 8, 9 and 16 had been redacted in error. She informed the panel these paragraphs speak directly to charges 15 A i and 15 A iv, and are therefore relevant. She informed the panel that it would not be unfair to you if these paragraphs were to be unredacted. She invited the panel to allow this application.

Following questions from the panel, Ms Bailey informed the panel that the unredacted version of the statement was sent to you in November 2021 alongside other material gathered by the NMC, at the time the case was being considered by the case examiners. She informed the panel that you did ask for unredacted copies of the bundles following the pre-case conference in August 2022, but you were sent the redacted bundles instead.

Ms Bailey further informed the panel that herself and you agreed to redact paragraphs 5, 12, 18 and 19 of Witness 2's witness statement.

You confirmed that you agreed to these redactions.

With regards to the requested un-redactions, you then informed the panel that part of paragraphs 7 and 8 contain hearsay information, in particular Witness 2's conversations with other members of staff who are not being called as witnesses today. You asked the panel to keep paragraphs 7 and 8 of Witness 2's statement redacted. You informed the panel that you asked for an un-redacted version of the witness bundles on Friday 23 September 2022 and during the pre-hearing conference in August 2022, therefore you have only just seen this un-redacted version of Witness 2's witness statement. You told the panel that you had not been given a chance to adequately prepare your case in light of these paragraphs should they be admitted. You told the panel that it would be unfair to you if all these paragraphs, i.e. 6, 7, 8, 9 and 16, were to be admitted into evidence.

The panel accepted the advice of the legal assessor, who referred to Rule 11 (3) of the Rules.

The panel took into consideration all the information before it. The panel noted the agreed redactions to paragraphs 5, 12, 18 and 19 of Witness 2's witness statement. As both Ms Bailey and you were content for these paragraphs to be redacted, the panel decided to grant the application.

The panel then considered paragraphs 6, 7, 8, 9 and 16 of Witness 2's witness statement. The panel noted that the evidence within paragraphs 6, 7, 8, 9 and 16 is the sole and decisive evidence for charges 15 A i and 15 A iv. The panel also heard and accepted that you had only seen the un-redacted version of Witness 2's witness statement today, and had therefore not been given adequate time to prepare your case with the inclusion of these documents. The panel was of the view that you had not been given adequate notice that the NMC now intended to rely on parts of the evidence previously redacted.

Therefore, the panel found that the evidence had not been '*sent sufficiently in advance*' and that it would be unfair to you to admit these paragraphs. The panel therefore determined to reject the application for paragraphs 6, 7, 8, 9 and 16 to be un-redacted.

Application for special measure in regard of Witness 2

Mrs Bailey informed the panel that Witness 2 has made a request for special measures. She informed the panel that Witness 2 gives evidence to Charges 11, 13 and 15 a. She informed the panel that, due to the nature of the charges Witness 2 speaks to (being that you allegedly acted in an intimidating way toward Witness 2), Witness 2 has stated that special measures would allow her to give evidence in a comfortable manner. Ms Bailey submitted that special measures are appropriate and fair in the circumstances, to allow Witness 2 to feel comfortable and secure when giving her evidence. Ms Bailey informed the panel that Witness 2 has requested that she does not see you, nor do you see her and also that an NMC Witness Liaison Officer sits in the hearing with her to offer support. She invited the panel to accept this application.

You told the panel that, in your occupational health report, you had reported that Witness 2 made you feel uncomfortable and had bullied you. You informed the panel that you would want to cross examine Witness 2 whilst being able to speak to her, so the panel can see her body language. You told the panel that you feel as if you would not be able to cross examine Witness 2 in the way you would like if these special measures are allowed. You told the panel that, if this application is granted, you feel as if the panel has already passed judgement on the allegations that you were intimidating already.

The panel accepted the advice of the legal assessor.

The panel took into consideration the submissions from you and Ms Bailey. The panel noted that Witness 2 had requested that you cannot see her nor can she see you. The panel was of the view that Witness 2's special measures were partially agreeable. It was of the view that Witness 2 should have witness support in the call with her whilst she is giving her evidence. Further, the panel was of the view that Witness 2 was vulnerable, and was felt as if she could not give her best evidence if she could see you virtually. Therefore, in light of this, the panel granted the application so that she would not be able to see you in the hearing.

The panel bore in mind the advice of the legal assessor that the Court of Appeal has said it is only in rare cases that a defendant should not be allowed to observe a witness giving evidence. The panel noted that intimidation is serious, but not extreme. Therefore, the panel determined that, in fairness to you, you should be allowed see Witness 2 whilst she gives evidence.

The panel decided to grant the application for Witness 2's special measures in part.

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

At the outset of the hearing, the panel made a request, on your behalf and after consultation with you, that this case be held partly in private on the basis that proper exploration of your case involves reference to your health. The application was made pursuant to Rule 19 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms Bailey indicated that she supported the application.

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

The panel determined to go into private session as and when your health is mentioned.

Application for partial admission of Witness 5's witness statement and the admission of the anonymous Police Officer's statement

Ms Bailey submitted that the NMC would be relying on paragraphs within Witness 5's witness statement that contain hearsay evidence and also exhibits referred to by Witness 5, which also contain hearsay evidence. She informed the panel that paragraphs 8, 9, 12, 14, 16, 17, 18, 19 and 20 would be relied on by the NMC. She also informed the panel that the NMC would be relying on JH/1 (Chronology) at pages 330-332 of Exhibits Bundle, JH/2 (Photographs) at pages 333-350 of Exhibits Bundle, and the police statement. She informed the panel that the NMC does not intend to call the Police Officer who made the witness statement. Ms Bailey submitted that this hearsay evidence is relevant, as it speaks to several charges in this case. Further, she submitted that this evidence would not cause any unfairness to you if it were to be admitted, as this evidence can be cross referenced and tested, as Witness 5 is attending to give oral evidence. Therefore, she invited the panel to grant this application.

Ms Bailey informed the panel that both her and you had agreed redactions to paragraphs 7, 10, 13 and 22. She invited the panel to accept these redactions.

You informed the panel that you agreed to the above redactions, in respect of 7, 10, 13 and 22.

You then told the panel that you believe that the hearsay elements of Witness 5's witness statement and the anonymous Police Officers statement and exhibits should not be admitted into evidence. You told the panel that it would be unfair to you if the aforementioned paragraphs from Witness 5's witness statement and the exhibits and statement from the anonymous Police Officer are admitted into evidence. You invited the panel to decline the application.

The panel accepted the advice of the legal assessor.

The panel first took into consideration the agreed redactions, namely paragraphs 7, 10, 13 and 22. The panel was of the view that, as you and the NMC have agreed to redact these paragraphs, it was fair to redact these paragraphs as presented. Therefore, the panel determined to redact the aforementioned paragraphs.

The panel noted the paragraphs in Witness 5's witness statement that the NMC are relying on, namely paragraphs 8, 9, 12, 14, 16, 17, 18, 19 and 20. The panel considered each of the paragraphs, assessing their fairness and relevance.

In regard to paragraphs 8 and 9. The panel noted that these paragraphs relate to a conversation between you and Witness 5. The panel was of the view that this information is corroborated by other evidence within this case. Therefore, it determined that this evidence is relevant. The panel noted that, as these paragraphs relate to a conversation between you and Witness 5, it would not be unfair to you to admit them into evidence as you have the ability to cross examine Witness 5 in this hearing. The panel determined that these paragraphs are admitted into evidence.

In regard to paragraph 12, the panel was of the view that it was relevant as it speaks to Charge 12. The panel noted that there is other relevant evidence to cross reference the evidence contained in this paragraph. Further, the panel noted that there are other witnesses due to attend this hearing to give oral evidence who corroborate the evidence in paragraph 12. The panel was of the view that admitting this evidence would be fair to admit, as you have the ability to test this evidence during Witness 5's oral evidence and during the other witnesses' oral evidence, who corroborate this evidence. The panel therefore determined to admit this paragraph into evidence.

In regard to paragraph 14, the panel was of the view that it is relevant as it speaks to Charge 16. The panel noted that there is other relevant evidence to cross reference the evidence contained in this paragraph. The panel was of the view that admitting this evidence would be fair to admit, as you have the ability to test this evidence during Witness 5's oral evidence. Therefore, the panel decided to admit this paragraph into evidence.

In regard to paragraphs 16, 17, 18, 19 and 20, the panel was of the view that these paragraphs are relevant as they relate to Charge 4 and 19. The panel noted that there is other direct evidence that can test the evidence contained in these paragraphs. The panel was of the view that admitting this evidence would be fair to admit, as you have the ability to test this evidence during Witness 5's oral evidence. Therefore, the panel decided to admit this paragraph into evidence.

The panel then looked at the Police Statement (the Statement) and Police Interview Record found in the exhibits bundle. The panel was of the view that the evidence within both the Statement and the Interview was relevant, as it speaks directly to the Charges. However, the panel did note that there was prejudicial information included within both the Interview and the Statement. The panel carefully considered the document, and decided to redact all the prejudicial information contained within it, including any references to incidents that do not speak directly to the charges. A redacted copy of the Statement and the Interview will be sent to both Ms Bailey and you.

The panel then considered the pictures taken by the Police. The panel was of the view that these pictures are fair and relevant, as they speak directly to the charges and they can be tested by other relevant evidence provided within the bundles. The panel also noted that you have the ability to test this evidence. Therefore, the panel decided to admit the pictures into evidence.

Application for special measures in regard of Witness 5

Ms Bailey informed the panel that Witness 5 had made a request that she has special measures whilst giving her oral evidence today. Ms Bailey informed the panel that these special measures consist of her not being able to see you. She submitted that the special measures were requested to allow Witness 5 to give her best evidence. She invited the panel accept the application.

You informed the panel that you had agreed to this special measures application.

The panel accepted the advice of the legal assessor.

The panel took into considerations the submissions from Ms Bailey and you. The panel noted that both you and Ms Bailey had agreed to these special measures. In light of this, the panel determined to grant the application.

Application for partial admission of Witness 3's witness statement

Ms Bailey made an application to admit paragraphs 9 and 10 of Witness 3's witness statement into evidence. She informed the panel that she no longer relied on paragraphs 4, 5, 7 and 8 of Witness 3's witness statement, and invited the panel to redact them. She then informed the panel that paragraphs 9 and 10 of Witness 3's witness statement were relevant as they related to Charges 12. She informed the panel that this evidence can be tested by other evidence within the bundles and can also be tested by you during the course of Witness 3's evidence. Therefore, she submitted that it would be fair to you if paragraphs 9 and 10 are admitted into evidence.

You told the panel that you agreed with Ms Bailey's proposed redactions to paragraphs 4, 5, 7 and 8. You then told the panel that you do not oppose Ms Bailey's application to admit paragraphs 9 and 10 into evidence.

The panel accepted the advice of the legal assessor.

The panel first noted the agreed paragraph redactions, namely 4, 5, 7 and 8. The panel was of the view that, in light of both Ms Bailey and you agreeing that they should be redacted, it was fair for the panel to accept the invitation to redact these paragraphs. The panel also noted that the aforementioned paragraphs are not relevant. Therefore, the panel decided to redact these paragraphs.

In regard to paragraphs 9 and 10, the panel was of the view that the paragraphs are relevant as they speak to charges 12. It noted that there are other witnesses and other relevant evidence that can be used to test these paragraphs. The panel was of the view that it would not be unfair to you to allow these paragraphs into evidence as you have the opportunity to test this evidence during Witness 3's evidence.

Application for special measures in regard to Witness 3

Ms Bailey informed the panel that Witness 3 had made a request that she has special measures whilst giving her oral evidence today. Ms Bailey informed the panel that these special measures consist of her not being able to see you, you not being able to see her and to allow a witness liaison officer in the hearing with her to provide support. She submitted that the special measures were requested to allow Witness 3 to give her best evidence. She invited the panel to accept the application.

You informed the panel that you had agreed to this special measures application in regard to Witness 3 not being able to see you and to allow her to have a witness liaison officer in the call to offer her support. However, you told the panel that it would be unfair to you if you are not allowed to see Witness 3 whilst you are asking questions.

The panel accepted the advice of the legal assessor.

The panel took into considerations the submissions from Ms Bailey and you. The panel noted that both you and Ms Bailey agreed to the special measures, in that Witness 3 can have a witness liaison officer in the call to offer her support and for her not to see you. In light of this, the panel determined to grant the application in relation to these special measures.

The panel bore in mind the advice of the legal assessor that the Court of Appeal has said it is only in rare cases that a defendant should not be allowed to observe a witness giving evidence. The panel noted that intimidation is serious, but not extreme. Therefore, the panel determined that, in fairness to you, you should be allowed see Witness 3 whilst giving evidence.

The panel decided to grant the application for Witness 3's special measures in part.

Application to partially admit Witness 4's witness statement and the exhibits referred to within his witness statement

Ms Bailey made an application to partially admit parts of Witness 4's witness statement along with the exhibits he refers to within his witness statement. Before submitting on their admissibility, she informed the panel of several redactions she would like the panel to consider. She submitted that parts of paragraphs 5, 12, 15, 16 and 22 can be redacted, as the NMC will not be relying on them. She also listed the pages and specific sentences in the corresponding exhibits that the NMC will no longer be relying on. She invited the panel to redact the pages and specific sentences she outlined.

Ms Bailey then submitted that she would be relying on several paragraphs which contain hearsay evidence, namely paragraphs 6, 7, 9, 10, 11, 12, 17, 18 and 19. She submitted that paragraphs 6 and 7 speak to Charges 10 and 11, paragraph 9 speaks to Charge 1, paragraph 10 goes to Charge 9 (which has already been admitted by you), paragraph 11 goes to Charge 7, paragraph 12 goes to Charge 12 and paragraphs 17, 18 and 19 go to Charge 16. She submitted, therefore, that these paragraphs are relevant. She further

submitted that it would not be unfair to you if the panel were to admit these paragraphs as there is other relevant information that this evidence can be tested against. She therefore invited the panel to admit the aforementioned paragraphs into evidence.

In regard to the accompanying exhibits mentioned by Witness 4 in his witness statement, Ms Bailey submitted that the NMC would be relying on the following sections:

***“Investigation Appendix 7 Incident Report B12 p145-146 Charge 4
Investigation Appendix 8 Incident Report PICC Line p147 Charge 8
Appendix 9 Incident Report Notes re Charge 16 p148
Appendix 11 Incident Report P149 (Charge 6/7)
Investigation Appendix 12 Incident Report Dalteparin p150-151 Charge 9
Investigation Appendix 13 Incident Report Loading Dose p152-153 Charge 12
NR response IV p93 to be found at Exh Bundle p128 (Charge 17)
Pt C Incident Form p245-246 Charge 16
Addendum Investigation Report 24 Sept 2019 (323-324) Charges 14 & 19 and
326-329
Appendix 2 to sept 2019 incident Report DATIX p325 Charge 19”***

Ms Bailey submitted that the sections mentioned above were relevant as they speak to several of the charges. Further she submitted that it would be fair to you if the panel were to admit them as you have the opportunity to test this evidence yourself during Witness 4’s evidence. She invited the panel to admit the evidence, as seen above, into evidence.

You told the panel that you agreed with Ms Bailey in regard to the suggested redactions to paragraphs 5, 12, 15, 16 and 22, and the proposed redactions to the corresponding sections of the exhibits bundle.

However, you informed the panel that the paragraphs Ms Bailey proposes to be admitted into evidence contain hearsay evidence. You told the panel that it would be unfair to you to admit these paragraphs into evidence. In addition, you told the panel that the areas of the exhibits bundle Ms Bailey proposed to admit into evidence would be unfair to you, as they contain hearsay evidence. You invited the panel not to accept Ms Bailey's application.

The panel heard the advice of the legal assessor.

The panel first considered the agreed redactions to paragraphs 5, 12, 15, 16 and 22 and to the areas of the accompanying exhibits bundle. The panel was of the view that, as both parties had agreed to redact these paragraphs and sections, and the NMC would not be relying on them for their case, it was fair and appropriate to accept the invitation to redact those paragraphs and sections. The panel therefore decided to redact the aforementioned areas of Witness 4's witness statement and the accompanying sections of the exhibits bundle.

The panel then considered Ms Bailey's application to admit paragraphs 6, 7, 9, 10, 11, 12, 17, 18 and 19 of Witness 4's witness statement and the corresponding areas in the exhibits bundle.

In regard to paragraphs 6 and 7, the panel noted that this evidence is relevant as it relates to Charge 11 and refers directly to the PICC line. The panel also noted that there is other evidence within the exhibits bundles that can be used to test this evidence. In addition, the panel noted that you have the ability to question Witness 4's evidence in the hearing. Therefore, the panel decided to admit paragraphs 6 and 7 into evidence.

In regard to paragraph 9, the panel was of the view that this evidence was relevant as it goes to Charge 1. The panel also noted that there is other evidence within the exhibits bundles that can be used to test this evidence. In addition, the panel noted that you have the ability to question Witness 4's evidence in the hearing. Therefore, the panel decided to admit paragraph 9 into evidence.

In regard to paragraph 10, the panel was of the view that this evidence is relevant, as it speaks to Charge 9, which you have already admitted to. The panel noted that this evidence can be tested against other relevant evidence included within the bundles and you also have the opportunity to question this evidence during Witness 4's oral evidence. Therefore, the panel decided to admit paragraph 10 into evidence.

In regard to paragraph 11, the panel was of the view that this evidence was relevant as it goes to Charge 7. The panel also noted that there is other evidence within the exhibits bundles that can be used to test this evidence. In addition, the panel noted that you have the ability to question Witness 4's evidence in the hearing. Therefore, the panel decided to admit paragraph 11 into evidence.

In regard to paragraph 12, the panel was of the view that this evidence was relevant as it goes to Charge 12. The panel also noted that there is other evidence within the exhibits bundles that can be used to test this evidence. In addition, the panel noted that you have the ability to question Witness 4's evidence in the hearing. However, the panel did note that the final sentence of paragraph 12 was neither relevant nor fair to admit into evidence. It was of the view that the final sentence was prejudicial to you and should be redacted. Therefore, the panel was of the view that paragraph 12 should be admitted into evidence, excluding the final sentence.

In regard to paragraphs 17, 18 and 19, the panel was of the view that this evidence is relevant as it goes to Charges 16 a and 16 b. Further, the panel also noted that there is other evidence within the exhibits bundles that can be used to test this evidence. In addition, the panel was of the view that you have the ability to question Witness 4's evidence in the hearing. Therefore, the panel decided to admit paragraphs 17, 18 and 19 into evidence.

In regard to Witness 4's exhibit, the panel first considered the disputed areas. The panel considered page 128, and noted that these are notes of an interview you had with Witness 4 during which you were asked about a hardship loan. This is relevant to Charge 17, and therefore the panel admitted this part of the interview notes, though redacted other parts on this page which were not relevant to the charges.

In regard to the three incident reports found on pages 147, 148, 149 and 150 of the exhibits bundle, the panel was of the view that this evidence is relevant, as these incident reports were written contemporaneously near the time of the incidents. The panel was of the view that these incident reports are important, due to them being written near the time of these alleged incidents occurring. The panel was of the view that the incident report written by Witness 3 on page 150 can be tested by you when she gives her oral evidence. The panel was of the view that it would not be unfair to you to admit these incident reports, as it has the ability to test this evidence with other relevant evidence within the exhibits bundle. The panel therefore decided to admit the incident reports on pages 147, 148, 149 and 150 into evidence.

In regard to the incident report on page 245 and 246, the panel was of the view that this evidence is relevant as it goes to Charges 16. The panel also noted that there is other evidence within the exhibits bundles that can be used to test this evidence. In addition, the panel was of the view that you have the ability to question Witness 4's evidence in the hearing. Therefore, the panel decided to admit pages 245 and 246 into evidence.

In regard to pages 323 to 324, the panel decided to admit paragraph 2 and 3. It was of the view that these are relevant to Charges 19 and 14, respectively.

In regard to pages 325, 326, 327 and 328, the panel was of the view this information is relevant, as it relates to Charge 14. The panel also noted that there is other evidence within the exhibits bundles that can be used to test this evidence. In addition, the panel was of the view that you have the ability to question Witness 4's evidence in the hearing. Therefore, the panel decided to admit pages 325, 326, 327 and 328 into evidence.

In summary the panel decided to admit paragraphs 6, 7, 9, 10, 11, 12, 16, 17 and 18 into evidence along with partial admissions to Witness 4's corresponding exhibits. A redacted copy of Witness 4's witness statement and corresponding exhibits will be sent to you and Ms Bailey.

Application to partially admit Witness 6's witness statement and the exhibits referred to within her statement

Ms Bailey informed the panel that she would be relying on exhibit MA/1 pages 154-158 of the Exhibits Bundle, the same exhibit referred to by Witness 4 above. She submitted that it is fair and relevant to admit this exhibit into evidence, as it relates to Charge 15 B and you have the ability to test this evidence during both Witness 6's oral evidence and during Witness 4's oral evidence. She invited the panel to admit this exhibit into evidence.

Ms Bailey also informed the panel that the NMC would no longer be relying on paragraph 10 of Witness 6's witness statement. She invited the panel to redact this paragraph.

You informed the panel that you agreed with Ms Bailey in regard to redacting paragraph 10 of Witness 6's witness statement.

However, in regard to the exhibit Ms Bailey applied to admit into evidence, you told the panel that this would be unfair to you, as it contains hearsay evidence. You asked the panel to consider not admitting it into evidence.

The panel accepted the advice of the legal assessor.

The panel first considered the agreed redaction to paragraph 10, the panel was of the view that, as both parties had agreed to redact these paragraphs and the NMC would no longer be relying on it as part of its evidence, it is fair and appropriate to redact this paragraph.

The panel next considered the exhibit Ms Bailey referred to. The panel noted that this exhibit is the same one referred to in Witness 4's hearsay application. Therefore, the panel determined that this exhibit be allowed into evidence with the same redactions as previously stated.

Application to partially admit Witness 7's witness statement and the exhibits referred to within her statement

Ms Bailey informed the panel that the NMC would be relying on evidence in Witness 7's witness statement and corresponding exhibits that contain hearsay evidence. She submitted that the panel should admit paragraphs 9 and 13 of Witness 7's statement. She submitted that these paragraphs, whilst not relating directly to any charge, provide an important context surrounding the charges. Therefore, she submitted that paragraphs 9 and 13 were relevant. Further, she submitted that it would not be unfair to you if the panel admitted these paragraphs as you have the ability to test this evidence during Witness 7's oral evidence. Ms Bailey invited the panel to admit these paragraphs into evidence.

Ms Bailey then submitted that the panel should consider admitting exhibit SM/2 and SM/3, found on pages 375 to 381, 398-405 and 414 respectively, into evidence. She submitted that these exhibits relate to a broad package of support provided to you. They include notes of meetings with the Clinical Development Lead and Witness 7. Given that your case is that there was a lack of support provided to you, the documents in this exhibit go to give the panel a full picture of the relevant background. She invited the panel to admit these exhibits into evidence.

Ms Bailey then informed the panel that the NMC would no longer be relying on two sentences of paragraph 15 in Witness 7's witness statement, starting with "*He asked another nurse...*", and invited the panel to redact it.

You informed the panel that you agreed with Ms Bailey in regard to the redaction to paragraph 15. You invited the panel to redact this paragraph.

You then told the panel that, if it were to admit paragraphs 9 and 13 of Witness 7's witness statement and exhibits SM/2 and SM/3, it would be unfair to you as they contain hearsay and prejudicial information. You invited the panel not to admit these paragraphs and exhibits.

The panel accepted the advice of the legal assessor.

The panel first considered the agreed redaction to paragraph 10, the panel was of the view that, as both parties had agreed to redact these paragraphs and the NMC would no longer be relying on it as part of its evidence, it is fair and appropriate to redact this paragraph.

The panel then considered the disputed paragraphs, namely 9 and 13. The panel was of the view that, although these paragraphs do not speak directly to any of the charges listed, they did provide important context to the charges. The panel therefore determined that these paragraphs are relevant. In regard to fairness to you, the panel was of the view that you have the ability to question Witness 7's oral evidence in regard to this context. The panel decided to admit these paragraphs into evidence.

In regard to exhibits SM/2 and SM/3, the panel was of the view that these exhibits are relevant. Although they do not go directly to any of the charges, they provide background and context. The panel did note that there was some prejudicial and personal information contained in these exhibits, therefore it determined that these select sections should be redacted in fairness to you.

Application for special measures in regard to Witness 7

Ms Bailey informed the panel that Witness 7 had made a request that she has special measures whilst giving her oral evidence today. Ms Bailey informed the panel that these special measures consist of her not being able to see you, you not being able to see her and to allow a witness liaison officer in the hearing with her to provide support. She submitted that the special measures were requested to allow Witness 7 to give her best evidence. She invited the panel to accept the application.

You informed the panel that you had agreed to this special measures application in regard to Witness 7 not being able to see you and to allow her to have a witness liaison officer in the call to offer her support. However, you told the panel that it would be unfair to you if you are not allowed to see Witness 7 whilst you are asking questions.

The panel accepted the advice of the legal assessor.

The panel took into considerations the submissions from Ms Bailey and you. The panel noted that both you and Ms Bailey agreed to the special measures, in that Witness 7 can have a witness liaison officer in the call to offer her support and for her not to see you. In light of this, the panel determined to grant the application in relation to these special measures.

The panel bore in mind the advice of the legal assessor that the Court of Appeal has said it is only in rare cases that a defendant should not be allowed to observe a witness giving evidence. The panel noted that intimidation is serious, but not extreme. Therefore, the panel determined that, in fairness to you, you should be allowed see Witness 7 whilst she is giving evidence.

The panel decided to grant the application for Witness 7's special measures in part.

Application for the panel to recuse itself from this case

Following the numerous redactions to prejudicial material contained within this case, in light of advice from the legal assessor, the panel asked you and Ms Bailey to make submissions on whether or not the panel should recuse itself from this case.

Ms Bailey submitted that it is a matter for the panel's judgment. She submitted that, as this is a professional and experienced panel, it can put irrelevant matters from its mind. She submitted that this panel can continue to hear the case so that you can have a fair hearing. Further, she submitted that there is a strong public interest in expeditious disposal of this case. She submitted that, given the panel's determination on admissibility, questions of fairness have already been addressed. Therefore, she submitted that it is fair that this panel can continue.

You told the panel that you were content for this panel to continue considering this case. You told the panel that you could see that it had made redactions, you are confident that it was a professional panel and it would be able to consider your case fairly and said the panel has the ability to "*tell A from B*". You told the panel that you would like it to continue considering this case.

The panel accepted the advice of the legal assessor. The legal assessor informed the panel that the test is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased (*Porter v Magill* [2001] UKHL 67). The question is not whether the panel itself considers it is biased, but whether an independent observer would conclude there is a real possibility a tribunal would not be able to conduct a fair hearing because of the inadmissible material it has seen.

Generally, a specialist panel is expected to be capable of understanding the need to disregard irrelevant or prejudicial material (*R(Hill) v Institute of Chartered Accountants of England and Wales* (2012) EWHC 1731 QB and *Mahfouz v General Medical Council* [2004] EWCA Civ 233). In the *Mahfouz* case the Court of Appeal said ‘*Of particular importance are the experience of the Committee, and the availability of independent legal advice to ensure that irrelevant matters do not play any part in their deliberations.*’

The Court of Appeal in *Mahfouz* considered the situation where the panel was aware of inadmissible and potentially prejudicial material. It said the question to be addressed in such cases was whether or not the proceedings were irretrievably poisoned by the matters the panel had wrongly been made aware of.

Finally, the panel can and should take account of the views of the parties, although ultimately it is a decision for the judgment of the panel.

The panel considered the test set out by the legal assessor above. The panel noted that a fair-minded and informed observer would note that the panel had seen prejudicial information but would also be cognisant of the way in which the panel had handled admissibility issues during the case so far. It was of the view that, as an experienced and professional panel, it is fully capable of continuing this case in a fair manner and putting any irrelevant or prejudicial information out of its decision making. Further, the panel noted that both the NMC and you have confidence in it to proceed with the case in a fair manner and have asked it to continue to hear this case.

The panel did not consider itself to be ‘*irretrievably poisoned*’ by the inadmissible material that had been placed before it. It noted that it has made several decisions on the admissibility of prejudicial and irrelevant information, taking into account relevance and fairness. The panel was of the view that there is a public interest in expeditious disposal of this case. Therefore, the panel determined that it should not recuse itself and should continue hearing this case.

This hearing went part heard on 14 October 2022 and resumed on 9 May 2023.

Decision and reasons on application to amend the charge

The panel heard an application made by Ms Bailey, prior to the close of the NMC's case, to amend the wording of charge 8. Ms Bailey noted that you admitted this charge at the outset of the hearing.

The proposed amendment was to change the date referred to in the charge. It was submitted by Ms Bailey that the proposed amendment would provide clarity and more accurately reflect the evidence of Witness 1 and Witness 8.

Current wording of Charge 8

“That you, a registered nurse:

...

8. *On 21 February 2019 did not complete patient records for the care you had provided to patients at Didcot Community Hospital.”*

Proposed amendment to Charge 8

“That you, a registered nurse:

...

8. *On ~~21 February 2019~~ **9 February 2019** did not complete patient records for the care you had provided to patients at Didcot Community Hospital.”*

The panel heard submissions from you. You stated that you admitted this charge earlier in the hearing and that you would provide information as to why you had to leave early that day. You said that this charge was an attempt to make another allegation against you and added that, you did not see the relevance of changing the date of the charge. You said that some of these allegations that have been brought against you were '*fished*' and that this was an example of that.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of the Rules.

The panel was of the view that such an amendment, as applied for, aligns with the evidence and was sensible to allow in the circumstances. The panel considered that the proposed amendment was in the interest of justice. The panel took into consideration that your submissions did not dispute the change in date outlined in the charge. The panel bore in mind that the original charge would now fall away and that you would be invited to clarify whether you admit this charge in its new form. The panel was therefore satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

Withdrawal of your admission to charge 8

Following the amendment to charge 8, you told the panel that you did not admit this charge now.

Decision and reasons to call Witness 8 to give live evidence

Ms Bailey submitted that as charge 8 is now denied by you, the NMC relies on the evidence of Witness 1 and Witness 8. She submitted that Witness 8 gives substantive evidence in respect of this charge and that at the last listing of this hearing, she was 'stood down' before she was called to give evidence as you had previously taken no issue with what she had stated in her NMC statement.

Following the application to amend charge 8 and your subsequent denial to the amended charge 8, Ms Bailey submitted that the appropriate way forward in this case would be to call Witness 8 before the NMC brings its case to a close. Ms Bailey also submitted that you would have the opportunity to challenge Witness 8's evidence and also the panel could ask her any questions. She noted that calling Witness 8 would affect the hearing timetable as Witness 8 is unable to attend this afternoon but is available to attend tomorrow afternoon.

You objected to Witness 8 being called to give live evidence. You said that you were not worried about contesting her evidence or asking her questions. You referred to the timeline of Witness 8's evidence. You noted that this would delay your evidence and closing submissions.

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

The panel determined that it would be fair and in the interests of justice to facilitate Witness 8's attendance at the hearing as you have now changed your position with regard to charge 8. The panel was of the view that the NMC should be allowed the opportunity to present its case in light of this. The panel considered that Witness 8's attendance at the hearing would not cause any significant delays to the hearing and you will have the opportunity to ask questions to this charge that you are now denying.

Admission to charge 8

You told the panel that you have had time to consider the new wording of charge 8 and that you would now like to admit this charge. You noted that you are not represented at this hearing. You told the panel that you are not making this admission just to shorten the length of the hearing. You accepted that you did not complete the records on 9 February 2019.

The panel determined to accept your admission in relation to charge 8.

Withdrawal of application for Witness 8 to give live evidence

Following your admission to charge 8, Ms Bailey withdrew her application for Witness 8 to give live evidence at the hearing and stated that Witness 8's attendance at the hearing was no longer required.

Ms Bailey subsequently closed the case on behalf of the NMC.

Decision and reasons on application of no case to answer

The panel considered an application from Ms Bailey that there is no case to answer in respect of charges 5, 15a(i) and 15a(iv).

In relation to this application, Ms Bailey submitted that in respect of charge 5, the relevant paragraphs of Witness 1's NMC statement in relation to this charge have been redacted. She reminded the panel of its earlier decision that Witness 1's statement contained second hand information received by Witness 1 from patients. She noted the panel's earlier finding that you would be limited in challenging this evidence. In these circumstances, it was submitted that this charge should not be allowed to remain before the panel.

Ms Bailey submitted in respect of charges 15a(i) and 15a(iv), the NMC relied on Witness 2's NMC statement. She noted that some of the paragraphs in Witness 2's NMC statement had been erroneously redacted prior to the hearing taking place. Ms Bailey reminded the panel of her earlier application in these proceedings to adduce the erroneously redacted paragraphs of Witness 2's statement. She submitted that the panel rejected this application as the NMC had already sent these bundles to you, at your request, and had included these redactions.

Ms Bailey submitted that the redacted paragraphs in Witness 2's NMC statement were the sole and decisive evidence to determine these charges and now that they were no longer before the panel, it could not go on to find these charges proved.

Ms Bailey invited the panel to dismiss charges 5, 15a(i) and 15a(iv). She submitted that by doing so, it would assist you as these charges would not need to be addressed in your evidence.

You accepted the submissions made by Ms Bailey.

The panel took account of the submissions made and heard and accepted the advice of the legal assessor.

In reaching its decision, the panel considered the evidence presented to it in respect of charges 5, 15a(i) and 15a(iv). The panel was solely considering whether sufficient evidence had been presented, such that it could find the facts proved and whether you had a case to answer in relation to these charges.

The panel was of the view that, taking account of the evidence before it, there was not a realistic prospect that it would find the facts of charges 5, 15a(i) and 15a(iv) proved. It therefore found that there was no case to answer in respect of charges 5, 15a(i) and 15a(iv).

Decision and reasons on application for adjournment

Ms Bailey addressed the panel on an email trail sent by Mr Rebelo to the hearings coordinator on Wednesday 10 May 2023 (day 18). In the email trail, Mr Rebelo had stated that *“I will not be attending the hearing this morning as there [sic] documents that only reach me yesterday night and I need time to go through them.”* Ms Bailey submitted that Mr Rebelo was seeking an adjournment for one day to provide him with more time to prepare his defence. She submitted that it was a matter for the panel’s professional judgement as to whether to grant Mr Rebelo’s request. She noted that the NMC has now closed its case, and that Mr Rebelo is willing, able and expecting to give evidence tomorrow.

Ms Bailey reminded the panel of the hearing timetable. She noted that the panel should weigh the public interest against that of Mr Rebelo’s right to fully and properly prepare his defence.

The panel accepted the advice of the legal assessor.

The panel took into consideration that the documents sent to Mr Rebelo had been previously provided to him at the last hearing and that none of the documents contained any new information. However, the panel also noted that there has been a long gap between the listing of this hearing and the last hearing. The panel considered the public interest in hearing this case expeditiously and considered that Mr Rebelo’s request was an adjournment for one day. The panel noted that the adjournment would not cause any inconvenience to any witness. The panel bore in mind that Mr Rebelo is unrepresented and that he has sought guidance from the legal assessor regarding the hearing process and procedure. [PRIVATE] The panel accepted that Mr Rebelo requires time to prepare his defence which will later assist it when it considers the facts of the case. The panel therefore determined to grant Mr Rebelo’s request for an adjournment for one day.

Decision and reasons on application for adjournment

Part way through your oral evidence on day 19 of the hearing, you invited the panel to adjourn the hearing for the day. You stated that you are working a night shift in the evening which starts at 7pm and finishes at 6am. You reminded the panel that you have been giving evidence all day. You told the panel [PRIVATE] it was becoming difficult to follow the questions being asked in cross examination.

Ms Bailey submitted that she had no representations to make in relation to this request for an adjournment.

The panel accepted the advice of the legal assessor.

The panel bore in mind that you had been giving evidence for a long time and that you will require a rest before you go to work in the evening. It noted that you will be required to be awake for your shift although you will have a break at 3am. The panel took into consideration [PRIVATE] the questions were becoming difficult for you to follow. The panel determined to adjourn for the day and the hearing would resume in the morning.

Decision and reasons on application for adjournment

The panel invited Ms Bailey to make submissions in an email sent by Mr Rebelo to the hearings coordinator on Monday 15 May 2023 (day 21). In the email trail, Mr Rebelo had stated that *“I am held at work due to a colleague not turning up. I have to stay until 2pm. My apologies I will be able to resume tomorrow morning as I explain to the panel on Friday I am free the rest of the week without any work commitments.”* Ms Bailey submitted that she had no representations but reminded the panel of the stage reached in the hearing and that by granting this application, a day of the hearing would be lost.

The panel accepted the advice of the legal assessor.

The panel considered Mr Rebelo's request for an adjournment. It noted that Mr Rebelo would be free to attend the hearing from 2pm but it noted that he would have been awake and working all night and the following morning. The panel determined to adjourn the hearing until the next morning (day 22) to enable Mr Rebelo time to rest and prepare his closing submissions on facts.

The panel considered how it could make the best use of its time in Mr Rebelo's absence. It noted that it has not heard the closing submissions from Mr Rebelo and the legal assessor's advice on facts. It proposed to undertake a preliminary review of the evidence.

The legal assessor referred the panel to the case of *Labrouche v Frey* [2012] EWCA Civ 881. He stated that the panel should be mindful that it "*does not close its mind*" to Mr Rebelo's closing submissions and legal advice yet to be heard on the Facts stage. The legal assessor reminded the panel to ensure during its preliminary review of the evidence that it "*does not cross the bridge into decision making*".

The panel accepted the advice of the legal assessor and invited submissions from Ms Bailey.

Ms Bailey submitted that she had no comments and that she supported the panel's proposition.

The panel determined that it would use the time that Mr Rebelo was away from the hearing to undertake a preliminary review of the evidence.

Decision and reasons on application to amend the charge

The panel of its own volition sought to amend the wording of charge 4. The proposed amendment was to include the wording “and/or recorded” which would provide clarity and more accurately reflect the evidence. The panel was of the view that this amendment was in the interest of justice. The panel noted that the NMC and you had both closed its case. The panel reminded itself that it heard evidence in relation to the proposed change and it was satisfied that there would be no prejudice or injustice caused to either party by the proposed amendment.

Current wording of Charge 4

“That you, a registered nurse:

On 06 February 2019 administered a B12 injection to the abdomen of Patient E rather than their arm.”

Proposed amendment to Charge 4

“That you, a registered nurse:

On 06 February 2019

*a) administered **and/ or***

***b) recorded** that you administered a B12 injection to the abdomen of Patient E rather than their arm.”*

The legal assessor repeated the legal advice the panel had heard in camera.

The panel invited submissions from Ms Bailey and you on this proposed amendment.

Ms Baily submitted that it was a matter for the panel's professional judgement as to whether to amend charge 4. She accepted the legal advice provided by the legal assessor. She noted that the panel may have made some preliminary considerations of the charges but that the panel had not delivered any final determinations of the charges and it was still open to changing its preliminary considerations on hearing your closing submissions and the legal assessor's legal advice. She submitted that there is no injustice to amend the charge.

You stated that you had no objection to this amendment.

The panel determined to adopt this amendment which would ensure clarity and accuracy to the charge.

Background

You entered the NMC register as a registered nurse on 11 February 2016.

On 1 August 2017, you commenced employment with Oxford Health NHS Foundation Trust (the Trust) and on 5 March 2018 you began working as a Band 5 nurse in the community nursing team based out of Abingdon Community Hospital (Hospital). In July 2018, you moved to the Longfurlong and Stert Street team as a Community Nurse. On 29 May 2019, the NMC received a referral from the Trust.

Between February and March 2019, it is alleged that you were involved in multiple incidents of medication administration errors.

There were also allegations of intimidation towards your colleagues.

On 1 March 2019 and 11 March 2019, you allegedly attended a patient's home and borrowed money in the amounts of £25 and £40 respectively.

- Witness 2 /Colleague A: At the material time she was a Band 6 Registered Nurse at the Trust. She was a Team Leader who managed you when you joined the department.
- Witness 3: Employed by Abingdon District Nurses Team as an Assistant Practitioner. She had a professional relationship with you.
- Witness 4: Employed by the Trust as a Patient Safety Lead and is Registered Nurse. He had a professional relationship with you and knew you through the investigation he conducted.
- Witness 5: Employed by the Trust as a Clinical Development Lead at the material time. You worked together in the same team, and she managed you from January 2019. She had professional relationship with you.
- Witness 6/ Colleague B: Employed by the Trust as a Team Leader for the District Nursing Team. She knows you in a professional capacity. You worked in different teams but the teams supported one each other.

- Witness 7: Employed by the Trust as a Community Nurse Team Leader and is a Registered Nurse. She was your line manager and had a professional relationship with you.

The panel had regard to the following witness whose evidence was agreed between the NMC and you:

- Witness 8: Employed by the Trust as a Ward Sister. She knows you in a professional capacity only.

The panel also heard evidence from you under affirmation.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor which included reference to the judgement of *Ivey v Genting Casinos* [2017] UKSC 6 in relation to the dishonesty charges. It considered the witness and documentary evidence provided by both the NMC and you.

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

Charge 1

“That you, a registered nurse,

On or around 18 October 2018 made an entry in Patient B’s record indicating that you were administering treatment to Patient B between 0900-0940 when you did not administer treatment to Patient B at all.”

This charge is found NOT PROVED.

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

The panel considered the electronic care notes of Patient B for 18 October 2018. It noted that the electronic care notes recorded a start time of 9:00 and end time of 9:40 and records the contact type as *“Face to Face Communication”*. It noted that the care notes did not contain any detailed information regarding the visit.

The panel considered the evidence of Witness 1. In his NMC witness statement, he stated *“On 18 October 2018, NR completed a record to state that he completed a visit, stating that he was at a patient’s home from 09:20-09:40 to deal with a urethral catheter. On examining the patient held care record, there is no written evidence of the visit, no entry in the evaluation and no entry in the electronic patient record of any interventions undertaken. The NR explained that on arrival at the home the patient told him to 'Fuck off' and that he didn't want his care delivered by NR. The registrant had said that he could not therefore access the notes to record this. The expectation would be that if he was not able to obtain access to notes in the home that this information would be recorded in the electronic notes in the DN office.”*

Further, Witness 1’s statement stated, *“Mr NR’s attendance during the timeframe identified is entirely possible, though no records of clinical contact were made. Patient B relocated with his family to Staffordshire in 2021 and sadly died later that year. He and his family inadvertently removed the paper clinical records and did not return these to the Oxfordshire DN team. As such no record remains of the nursing interaction on that date. [Witness 4] had access to the paper clinical record when investigating the concerns and examined it at the time of the investigation.”*

In his oral evidence, Witness 1 said of the electronic care notes of Patient B for 18 October 2018, *“This is a diary appointment record, which indicates that there was a patient intervention required for a urethral catheter check on the aforementioned date, and that that visit was due to start at 9 and end at 9.40. And it - also includes an out coming which is an indication of the time that the out coming was completed.”*

During cross examination by you, Witness 1 said that he did not have access to any written information by you about the action that you took when you attended on Patient B in the electronic care notes that Witness 1 had exhibited. Witness 1 also stated during his cross examination that he was not informed at the material time that you had called the office to inform them that Patient B had not allowed you access to his home.

The panel next considered the evidence of Witness 4. In his NMC witness statement he stated, *“On the 18 October 2018 the registrant was meant to attend to Patient B to deal with a catheter. The electronic patient record showed no entry or evidence of the registrant having been there. He said he made entries on the paper records but he couldn’t have as he didn’t access the house.”* In Witness 4’s oral evidence, he stated that the paper records for Patient B had not been found.

The panel had regard to your oral evidence. You said that you spent 40 minutes speaking to Patient B trying to gain access to his home and that you were not allowed into Patient B’s home. You said that you spoke to Witness 5 and told her that you could not gain access to Patient B’s home at the material time. The panel noted that Witness 5 did not provide evidence in respect of this charge. You told the panel that you could not have made any entries to the paper records as you did not have access to them. You stated that the only entry you could make was to the electronic records.

The panel took into consideration that it did not have access to the paper records for Patient B that were kept at his home. The panel bore in mind that the electronic care notes of Patient B for 18 October 2018 indicate that you visited Patient B at his home but they did not record explicitly state that any treatment had been administered to Patient B when you attended his home. Nor did they explain that you were unable to gain entry to Patient B's home, the steps you took to try to gain entry or that you had escalated this information with Witness 5. The panel therefore found this charge not proved on the balance of probabilities.

Charge 2

“Your conduct at Charge 1 above was dishonest as it presented a misleading impression of the care and/or treatment that Patient B received from you.”

This charge is found NOT PROVED.

In reaching this decision, the panel took into account that it found charge 1 not proved and it concluded that it could not find that your entry in Patient B's records was dishonest.

Consequently, the panel determined that charge 2 is not proved.

Charge 3

“In respect of Patient B above, you did not inform the shift manager that Patient B had not received the treatment that was required.”

This charge is found NOT PROVED.

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

The panel considered the evidence of Witness 1. In his NMC statement, he stated *“If you are unable to undertake any care during a visit, this needs to be raised at the time or at the end of the shift with the manager and should have been recorded in the notes.”* In his supplementary witness statement, he clarified *“Whilst it was not mandatory to make notes in the comments section of the electronic record, I would expect staff to make a note that they didn’t attend and to state why and/or alert someone senior on shift that care was not given. There is no record that Mr NR reported to a senior or anyone else in the team that care was not given to Patient B”*

The panel next considered your oral evidence. You said that you spoke with Witness 5 at the material time, stating that Patient B did not receive the treatment that was required. The panel also noted that during your cross examination of the NMC’s witnesses you indicated that you had contacted the office to inform them that you were not able to administer care to Patient B.

The panel considered the electronic care notes of Patient B for 18 October 2018 and that you had not recorded that you spoke with Witness 5 about Patient B not receiving the required treatment. The notes do not state that you were unable to gain entry to Patient B’s home and the steps you took to try to gain entry.

The panel also took into consideration that Witness 5 was working as a Clinical Development Lead at the material time. It noted that Witness 5 did not give written or oral evidence in respect of this charge. The panel did not have a rota to confirm that Witness 5 was working on the day in question nor was there any telephone call log regarding your phone call.

The panel was not satisfied that the NMC had provided sufficient evidence to discharge its burden of proof in respect of this charge. The panel therefore found this charge not proved on the balance of probabilities.

Charges 4a and 4b

“On 06 February 2019

a) administered and/ or

b) recorded that you administered a B12 injection to the abdomen of Patient E rather than their arm.”

Charge 4a is found NOT PROVED.

Charge 4b is found PROVED.

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

The panel had regard to the evidence of Witness 1. In his NMC statement, he stated *“On 6th February 2019; the registrant wrote in the patient record for Patient E that he administered a B12 injection into the patient’s abdominal wall... In this situation a nurse attended on 1 May to give a second injection and noticed on the record for this patient, that the previous injection, administered on 6 February, had been administered subcutaneously. It was administered with a orange subcutaneous needle which when used would have meant that the drug was not effectively absorbed.”*

In Witness 1’s oral evidence clarified the entries on the medications administration record for Patient E. He referred to the entry on 6 February 2019. He said, *“As far as I can recognise it, that’s Mr Rebelo’s signature... I’ve identified that as his signature from a list of registered nurses’ signatures that we maintain with the record in order to be able to help us identify individuals.”* He explained that the entry in the column for ‘site’ for the entry 6 February 2019 means *“That means that an intramuscular injection was given into the abdomen, of the vitamin B12.”* He confirmed that every other entry on the page appears to read *“arm”*, whereas the panel noted that the entry in question appears to say *“ABDO”*. The panel was of the view that Witness 1 was consistent in his evidence and this made him a credible and reliable witness.

The panel next considered the evidence of Witness 4. In his NMC statement he stated, *“The incident on the 6 February 2019 involved the registrant administering a B12 injection to the abdominal wall rather than the other arm. It shouldn’t have been given in the abdomen. ... In the notes it said he administered abdominally but he said his notes were incorrect. The patient died before my investigation so I was unable to speak with them... Several weeks later the registrant admitted it was given via the abdomen. It appears he was not trained in administering B12 injections”.*

In Witness 4’s oral evidence he said, *“So my recollection is that he didn’t inform me that he’d done it, that it was a conversation with other staff and the team, perhaps his team leader or the team - the CDL, the clinical development lead. But I don’t think it was disclosed to me. I got no recollection of that being disclosed... And as far as training for B12 injections go, then we receive general training in - intra muscular and intravenous training through pre-reg training...”* The panel was of the view that Witness 4 was consistent in his evidence and this made him a credible and reliable witness.

The panel considered the Investigation Meeting dated 21 June 2019, between you and Witness 4. During the interview you said in relation to this incident *“I remember the patient. I would have to be a very thick person to inject into an abdominal wall and you can’t do it without a Direction to Administer form. It states it on the form.”* When asked to confirm if you did not do it, you stated *“No, I have never done it. I never would have done it in my life.”*

The panel also considered the contemporaneous Incident Report completed on 2 February 2019, completed by Witness 5. It states, *“During a routine visit to administer 12 weekly Hydroxocobalamin IM injections, as a protocol I checked when the previous dose had been administered and at this point I realised it appeared this last dose had been documented as being administered into the Right Abdomen”.* The report indicated that the type of error was a *“wrong route”* and that the correct route was *“intramuscular injection”* whilst the actual route given was *“subcutaneous injection”*.

The panel had regard to your evidence. In your oral evidence you denied that the entry for 6 February 2019 on the medications administration record for Patient E was your entry and that this was your signature.

The panel considered the evidence before it. The panel took into account that your explanations in respect of this incident are inconsistent. The panel bore in mind that at the Trust interview you stated that you did not administer the B12 injection to Patient E and at this hearing, you have said that it was not your entry on the medication administration record for 6 February 2019.

In respect of charge 4a, the panel noted that it did not have direct witness evidence of you giving the injection from Patient E or another person. It determined that there was inadequate evidence to prove that on 6 February 2019 you administered a B12 injection to the abdomen of Patient E rather than their arm. The panel therefore found this charge not proved.

In respect of charge 4b, the panel relied on the evidence of Witness 1 and Witness 4 outlined above. Further, while the panel recognised that it was not expert in judging handwriting it considered that the signature appeared to be similar to those on other documents signed by you. It determined that on 6 February 2019 you had recorded that you administered a B12 injection to the abdomen of Patient E rather than their arm. The panel therefore found this charge proved.

Charges 6 and 7

“6. On a date prior to 07 February 2019 removed the ‘Direction to Administer’ Form from an unknown patient’s notes causing a delay to the administration of medication.

7. On 07 February 2019 did not properly file Patient G's patient notes after taking them to the office meaning that Patient G's medication could not be administered'

These charges are found PROVED.

In reaching this decision, the panel considered these charges together. It took into account the evidence of Witness 5, Witness 1, Witness 4 and your evidence.

The panel considered the evidence of Witness 5. In her NMC statement she stated *"The incident that took place on the 7 February 2019 involved a lady who required insulin. The registrant took the patient notes from her home and brought the notes back to the office. If you bring them back, you need to put them in the outgoing box and add a note to care notes so the next nurse is aware they will need to take the patient notes with them on the next visit. In this instance, the registrant put the notes away instead of in the outgoing box and so the next nurse had no idea they weren't in the patient's house, the admin staff couldn't find them in the outgoing box so we couldn't find the prescription for the insulin...When I spoke with the registrant, he just said he didn't know the process."* It found Witness 5 to be a credible and reliable witness.

The Panel had regard to Witness 1's evidence. In his NMC witness statement, he stated *"On 7th February 2019, the incorrect filing of notes led to a delay in medication administration. NR had attended to give insulin on the previous day and had removed the patient records which contained the Direction to Administer form Therefore, there was no patient records in the premises and without a direction to administer, the patients medication could not be given the required insulin the following morning . Essentially there was a delay as the notes were not in the right place"*

The panel considered Witness 4's evidence. It noted that in his NMC statement he stated *"On the 7 February 2019 the nurse arrived at a patient's home but couldn't find the patient notes in the home. Normally if notes are taken from a house, they are placed in a box in the nurse's office but they couldn't be found."*

The panel took into consideration your evidence. In your oral evidence you accepted that you removed the notes. You stated that you did this with justification as the dose of insulin needed adjusting and that you discussed it with the office before doing so. You said that you then filed the notes away using the correct system.

The panel considered the evidence before it and that the witnesses were speaking about the same patient, in relation to the unknown patient in charge 6 and Patient G in charge 7. The panel took into consideration that the NMC presented the evidence for these charges together. It also took into account that the NMC and you have both treated the unknown patient in charge 6 as the same patient referred to in charge 7, Patient G. The panel noted that the patient notes could not be found where they were supposed be and there was a subsequent delay to administering the patient's insulin as the prescription could not be found.

In respect of charge 6, the panel determined that on a date prior to 7 February 2019 you removed the 'Direction to Administer' Form from an unknown patient's notes causing a delay to the administration of medication. The panel therefore found this charge proved.

In respect of charge 7, the panel preferred the evidence of Witness 5. The panel determined that on 07 February 2019 you did not properly file Patient G's patient notes after taking them to the office meaning that Patient G's medication could not be administered. The panel therefore found this charge proved.

Charge 10a

“On or around 22 February 2019

a. Failed to flush Patient A’s PICC line and/or”

This charge is found NOT PROVED.

In reaching this decision, the panel took into account the evidence of Witness 1, who in his NMC statement stated:

“I am unable to produce a copy of the patient notes as the incidents occurred in the community and are not held on a central system. We were unable to locate the patient notes... the allegation against NR is that a saline flush was not recorded by NR as the registrant attending the patient, who was responsible for managing their PICC line on that occasion. The issue arose when the saline flushing was recorded, but NR had not completed training in relation to administration of drugs through a PICC line. NR maintained that he had completed training in a previous job, but there was still a requirement to complete training and competences with Oxford Health, which were not completed at the time administration... We cannot be sure that NR carried out this process correctly as it was not recorded at the time.”

In a supplemental statement from Witness 1 he exhibited the relevant patient notes.

Witness 1 said in his oral evidence, in relation to the relevant medical notes for Patient A, *“...the following line is: “dressing and changed and line flushed.”*

The panel noted that there was no patient identifier on the medical notes but that you did not dispute that these were Patient A’s notes. The panel bore in mind that Patient A’s medical notes were a contemporaneous record and there was a record for the sodium chloride flushes completed at an entry made on 22 February 2019. The panel determined

that you had flushed Patient A's PICC line on 22 February 2019. It therefore found this charge not proved.

Charge 10b

"On or around 22 February 2019

b. Failed to ensure that the correct paperwork related to Patient A's saline flush on the Administration of Medication form"

This charge is found PROVED

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

The panel had regard to Witness 4's evidence. In his NMC statement he stated *"There was another incident on the 22 February 2019 involving a routine visit for PICC line care. The admin form was not there, and the registrant had documented that he had done a PICC line flush. The medication record was only completed on the 14 March and the flush was completed on the 22 February. This shows there was a delay in documenting this."*

The panel had regard to the District Nurse Referral Form Line Care which was undated. It noted the request to complete a *"PICC/Hickman line flush and dressing change on 22/2/19"* with Patient A.

The panel considered the Incident Report completed by Witness 5 on 23 March 2019. It stated *"When to visit [patient] for routine visit for PICC line care, noted no direction to administer (DAM) form could be found in the notes...call colleague in the office who found it and emailed it to me. Patient had been seen the last two weeks by NR and documented PICC flushed. Administration of medication record chart only completed on 14/3/2019 even though in evaluation states also flushed on 22/2/2019."*

The panel considered the evidence of Witness 1. In his oral evidence he said that Patient A's saline flush would be recorded on, "*a normal direction to administer. No additional form, I don't believe.*" He stated, that in relation to Patient A's records and the entry on it that states, "*Dressing changed and line flushed*" to mean clinically "*that 5 mls of 0.9 saline had been administered.*"

The panel had regard to your evidence. It noted that you accepted in your oral evidence you failed to record the saline flush in the medication administration chart but that you had recorded it in the care notes.

The panel was of the view that it did not have the complete medical records of Patient A. However, based on the evidence before it, the panel determined that on or around 22 February 2019, you had failed to ensure that the correct paperwork related to Patient A's saline flush on the Administration of Medication form. The panel therefore found this charge proved.

Charge 11

"On or around 22 February 2019 attempted to administer/administered medication via Patient A's PICC line when you have not been signed off as competent to do by so your Employer."

This charge is found PROVED.

In reaching this decision, the panel took into account the evidence of Witness 5, Witness 4, Witness 1, Witness 7, Colleague B and your evidence.

The panel considered the evidence of Witness 5. In her NMC statement, she stated *“The incident on the 21 March 2019 involved a young patient. The registrant had a chance to showcase his nursing skills. In his competencies I couldn’t see that he’d done the IV training and it turned out that he hadn’t attended. He hadn’t been trained on IV medication administration.”* The panel was of the view that Witness 5’s evidence was credible, measured and reliable.

The panel took into account the Incident Report completed by Witness 5 and reported on 25 March 2019. It noted that the Incident Report states *“Patient had been seen the last two weeks by NR and documented PICC flushed. Administration of medication record chart only completed on 14/3/2019 even though in evaluation states also flushed on 22/2/2019... Was informed on 14/3/2019 by NR that [redacted] all notes completed. Initially assessment partially completed, most boxes ticked but no explanations. Braden and MUST completed. Care plan index shows 1 &2 for central line care and bloods but no care plan, pressure area, prevention not completed.”*

The panel next considered the evidence of Witness 1. In Witness 1’s NMC statement he stated, *“The issue arose when the saline flushing was recorded, but NR had not completed training in relation to administration of drugs through a PICC line. NR maintained that he had completed training in a previous job, but there was still a requirement to complete training and competences with Oxford Health, which were not completed at the time administration”.* The panel noted in Witness 1’s oral evidence you did not provide the folder with your training. It noted that this was requested before you were suspended and no longer allowed in the building.

The panel considered the evidence of Witness 4. In his NMC statement he stated *“I couldn’t find any training that the registrant had had around PICC lines. He said that he had completed training at a Previous Trust. It is not appropriate that someone would be signed off after just one supervision.”*

The panel considered the evidence of Witness 7. In her oral evidence she said *“I can’t actually remember whether he actually did fulfil the training before he came to us from his previous job, where he - he would be - would have given intravenous antibiotics. I’m not sure whether he did PICC line care, I can’t remember that, but there would have been bespoke training for PICC line care and IV training as part of his induction with community nurse - care, because it would be a little bit different from being on a ward setting, which is why we have training specifically for the community.”*

The panel considered the evidence of Colleague A. In her oral evidence she said *“There’s a general - even health care assistants that went into patients with PICC lines knew that there was a level of care, but for a band 5 there was very specific training to care for that PICC line, in flushing, to make sure that there were no signs of infection, that the line hadn’t slipped, hadn’t come away from its anchor, because all those - all those instances, if they occurred, there are set protocols for what band 5 or band 6 going into that house would have to do. And that was all part of the training.”* She stated that she couldn’t comment as to whether you had completed your PICC line training as she did not know.

The panel took into consideration the Investigations Meeting held on 6 June 2019, between you and Witness 4. During the interview, you were asked about your time as a district nurse and if you had completed PICC line training. You stated, *“Not in depth, we rarely use these. I did the standard IV therapy course. My line manager at the time, RW showed me how to do PICC lines and syringe drives.”* You noted that you did not get PICC lines in district nursing often and you stated that you did not have problems, you said *“I didn’t give medicines, never.”*

The panel took into account your evidence. In your oral evidence, you said that you were signed off after you observed and shadowed a colleague. You also told the panel that you had completed the training to flush a PICC line at another trust. You rhetorically asked why this work would be allocated to you if you were not trained in this area.

The panel considered the evidence before it. It noted that none of your former colleagues at the Trust had sight of your learning and development training record. The panel determined that on or around 22 February 2019 you attempted to administer/administered medication via Patient A's PICC line when you had not been signed off as competent to do by so your employer. The panel therefore found this charge proved on the balance of probabilities.

Charge 12

“On or around 27 February 2019 incorrectly recorded that you had administered a 5th loading dose of Vitamin B12 to an unknown patient on 27 February 2019 when you had not.”

This charge is found PROVED.

In reaching this decision, the panel took into account the evidence of Witness 5, Witness 4 and Witness 3 and your evidence.

The panel bore in mind that the medication administration record for this patient could not be located.

The panel considered the Incident Report completed by Witness 5 on 8 March 2019. It noted that the 'Incident Description' states *“Went to see patient on 1st March for load dose injection. Husband reported injection was given yesterday, 28th February instead of the 27th February , check the folder, it was documented as being given on the 27th husband insisted it was not given on the 27th but on 28th. I did not give and discussed with the team. NR confirmed that it was given on the 28th and not the 27th as was unable to access the property. Moved visit to the next day for loading dose. Husband also said he phone at 16.00 on the 27th to find out where we were. NR called back and said he would visit first in the morning. On 28th he did not visit until 12.00, the husband phone the duty desk again...*

1/3/2019 [Witness 5] spoke with NR who said he had written the wrong date, [Witness 5] advised NR to check the date with the patient / family, or in dairy[sic] sheet if unsure... NR said that he understood."

The panel also had regard to Witness 5's scoping document regarding this incident. It noted that *"[Witness 5] spoke with NR and showed him the documentation where he had written 27/2/2019, he said it was a mistake. He wrote the wrong date..."* The panel considered Witness 5's scoping document to be a contemporaneous record as it was taken a month after the incident took place.

The panel considered the evidence of Witness 4. He said in his NMC witness statement, *"On the 27 February 2019 the notes had been amended by the registrant to say he attended a patient's home on the 27 February but the family confirmed he didn't attend. The notes were then amended to show the 28th. The registrant said he put the wrong date in."*

The panel also considered Witness 3's evidence. In her NMC witness statement she stated, *"I checked the chart and the registrant put that he had given it on the 27th but he gave it on the 28th. I queried the dates with the registrant and he told me that he just did the dates wrong."* The panel found her evidence to be reliable and credible.

The panel had regard to your evidence. In your oral evidence, you said that you had recorded the date incorrectly [PRIVATE]. You said that you called Witness 5 at the material time, and she told you to cross through the incorrect date (27 February) and write the correct date (28 February) on the record.

The panel considered the evidence before it. It determined that on or around 27 February 2019 you incorrectly recorded that you had administered a 5th loading dose of Vitamin B12 to an unknown patient on 27 February 2019 when you had not. The panel therefore found this charge proved.

Charge 13

“During a training session on Surgical Drains did not look at Colleague A when she was addressing the session and/or got up and left the session.”

This charge is found PROVED.

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

The panel had regard to the evidence of Colleague A. In her NMC statement she said *“Another issue was during the surgical drain training, this was a new training for everyone. I just found the registrant to be rude, he wouldn’t look at me when I was speaking. In the end he just got up and left.”*

In her oral evidence, she said that the surgical drains training took place *“...just after Christmas, in the January. ... often we would have people on our caseload with complex issues, ie different chest drains or whatever, so when that happened... the rep for that said company that - that had chest drains up at the J R would come out to the team, usually ... on a lunchtime with ... and go through how we would have to deal with this person once discharged from the hospital.”* She said that there was an expectation that all community nurses would attend *“to familiarise themselves with the chest drain as well”*. She said *“... although it was a form of training, it was in a very informal style, so anyone that felt apprehensive were able to ask any questions no matter... how silly... they thought that the question was, so it was a very open environment. And I - I will say that the Registrant just sat there, didn’t say anything, stared at me, glared at me. If I asked a question pertaining to the team and about the support from the rep, thereafter, sort of out of hours or whatever, there - there was no come back from - from the Registrant whatsoever. And as the ... rep was sort of winding up and concluding, the Registrant just got up and walked out, didn’t - didn’t excuse himself, just got up and walked out.”*

The panel considered your evidence. In your oral evidence, you said that you didn't look at Colleague A during the training session as you wanted to avoid being accused of intimidation. You said that you got up to leave to sort out your revalidation.

The panel considered the evidence before it and it determined that during a training session on Surgical Drains you did not look at Colleague A when she was addressing the session and/or got up and left the session. The panel therefore found this charge proved.

Charge 14

"In March 2019 did not calibrate your blood glucose monitor in a timely manner or at all."

This charge is found PROVED.

In reaching this decision, the panel took into account the evidence of Witness 4, Witness 5 and your evidence.

The panel considered the evidence of Witness 5. In her NMC statement she stated *"On the 14 June 2019 the registrant returned some of the nursing equipment and informed me that his blood glucose monitor was broken. This affected about 9 patients. There might have been more but we're not sure. If their blood sugar is high below 4 we don't give insulin. We might have to contact the GP and come back in an hour and retake it. The registrant would have no way of knowing what the blood sugar was if the machine was broken. We do have spare ones."*

In Witness 5's oral evidence she said, *"he brought some equipment back and what he brought it back, I remember I met him in the carpark and when he brought it back - he didn't bring all of it back and he said that his blood glucose machine had - was broken, and I said "oh, when was it broken?" And he said "I don't know." And so I didn't know whether it had been broken when he was in our service or whether it had been broken*

after. ...so when you calibrate your machine, you have a book, so your machine and the book stay together. So when the book wasn't returned, and then sort of mid/early September, the book was found in the office, and it was passed to me and I looked at it and I remember - yeah, I was handed the quality control book. The last time it was calibrated was on 25 February, and the respondent had visited patients since then..."

The panel considered the Incident Report, reported on 16 September 2019 and completed by Witness 5. The report states *"last week I was handed NR's quality control record book. The admin who handed it to me, can't remember who gave it to her or where it was found. The last time it was calibrated by 25/2/2019, NR visited diabetic patients on 9 occasions until 14/3/2019 ... NR told me on 14/6/2019 his machine was broken. he said he didn't recall when it had been broken, I said I wasn't aware it was broken."*

In the 'Addendum to Investigation Report' dated 24 September 2019, it states:

"From Mr Rebelo's calibration record book, which we now hold, it is apparent that Mr Rebelo failed to make and record the required checks on his blood glucose monitoring equipment, despite visiting patients on his caseload to administer insulin. Ten visits to patients requiring insulin were made by Mr Rebelo during this time, without any apparent record of the calibrations being checked and recorded. Calibration recordings should have been made on 4th and 11th March 2019... According to the quality control record book, Mr Reblo last recorded a calibration of his blood glucose monitor on 25/2/2019. Mr Rebelo visited diabetic patients to deliver insulin on ten occasions up until time of his suspension from work. There may be a second record book to account for this but this is not evident at the time of writing... When Mr Rebelo was handing in some of his nursing equipment to his Clinical Development Lead, [Witness 5], on 14th June 2019, Mr Rebelo told [Witness 5] that his calibration machine was broken. He said he could not recall when it was broken and [Witness 5] had not been aware of this."

The panel had regard to the photographs of the Blood Glucose Monitoring records. The panel noted that they were of too poor quality for it to read. However, the panel found Witness 5 credible and accepted her interpretation of what the photographs showed.

The panel had regard to your evidence and found it inconsistent. In your oral evidence you said that it was your responsibility to calibrate the blood glucose monitor. You also said that it was common for these monitors to break however you did not address whether you were calibrating your machine.

The panel considered the evidence before it. It took into consideration the detailed account of Witness 5. It noted that she had contemporaneous documents to corroborate her account. The panel determined that in March 2019 you did not calibrate your blood glucose monitor in a timely manner. The panel therefore found this charge proved on the balance of probabilities.

Charge 15a (ii)

“On various dates demonstrated intimidating and/or aggressive behaviour towards Colleagues including the following;

In respect of Colleague A

(ii) On / around Christmas 2018, followed Colleague A in to the stock room and/ or grabbed Colleague A’s hand and/or pulled Colleague A towards you and/or said Merry Christmas and pushed her away;”

This charge is found PROVED.

In reaching this decision, the panel took into account the evidence of Colleague A, Witness 4 and your evidence.

The panel considered the evidence of Colleague A. In her NMC statement, she stated *“I had gone in to work to see the team and the registrant was there completing his revalidation. I went into the stock room to get some dressings and he followed me in. He was really close to me, he grabbed my hand, pulled me towards him, he said merry Christmas and then pushed me away. I was shaking, I left the stock room and went to my desk and sent an email to [Witness 5] explaining what had happened.”*

The panel noted that it did not have sight of the email Colleague A sent to Witness 5 and this email was not mentioned in Witness 5’s evidence.

In Colleague A’s oral evidence, she said that she did not recall any exchange between you before this incident. She said *“I wasn’t on his periphery, he would ... tend to ignore me. ...his sights were on [Witness 7]; she needed to go through his revalidation and all his evidence, so there was a tiny office off the main office that we worked in, so [Witness 7] and he went into that room to go through all the revalidation whilst his son was sat in the main office, so there was no exchange... got up from which was my desk and walked out, turned left and there’s a tiny little corridor where there’s a printer, walked through there; opposite is a door going into the shed/dining area and then literally five, seven steps and then you - you turn left again into the small stock room... It’s difficult to describe but I felt a sixth sense, I felt someone was behind me as I picked up the - and as I turned round, he was just there...he had invaded my personal space, so he was very close...he’s a tall person and I am a tall person, but he grabbed my hand and - when people shake hands, there is a - some people will shake a hand and you think “gosh!, that’s like a wet fish” or” that’s a nice grip,” but he - when he grabbed my hand, he grabbed and squeezed my hand hard, causing considerable discomfort, and then he - as he squeezed hard, he pulled me towards him with force.”*

The panel had regard to the Investigation Meeting dated 21 June 2019, between you and Witness 4. During the interview you said *“No, it didn’t happen like that. I came into the office when I was off sick, I came in with my son to prepare for revalidation. I put out my hand to shake hers and she was the one who took her hand away suddenly. I didn’t know what to think, [Witness 4] (he gestured). We shook hands. I was trying to break the ice. I said merry Xmas to the rest of the team.”*

The panel considered your evidence. In your oral evidence, you said that you spoke to Colleague A in the main area of the office and offered a handshake as a friendly gesture at Christmas.

The panel considered Colleague A’s account to be detailed and consistent, she provided detail regarding the layout of the office and stockroom and what supplies she intended to collect from the stock room. The panel noted she also provided details concerning the physical contact between you at the material time. The panel found Colleague A to be a credible and reliable witness.

The panel considered the evidence before it. It noted that there was a tense relationship between you and Colleague A. It took into consideration the detail provided by Colleague A in respect of this incident and it determined that on the balance of probabilities you had around Christmas 2018, followed Colleague A into the stock room and grabbed Colleague A’s hand and pulled Colleague A towards you and said Merry Christmas and pushed her away. The panel was also satisfied that this was intimidating behaviour towards Colleague A. The panel therefore found this charge proved.

Charge 15a(iii)

“On various dates demonstrated intimidating and/or aggressive behaviour towards Colleagues including the following;

In respect of Colleague A

(ii) Drove past Colleague A’s allotment without reason and/or”

This charge is found NOT PROVED.

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

The panel had regard to Colleague A’s evidence. In her NMC statement she stated *“I have an allotment that I tend to and there were times when I would be in my allotment and the registrant would drive past. There was no reason to be there. As a result, I was given a personal alarm from work.”*

The panel considered Colleague A’s oral evidence. She said, *“his lease car was easily recognisable, it was a new white sort of 4 by 4 very large vehicle. He would drive slowly past. The - the car is recognisable, the number plate, it was recognisable to me, and he would drive slowly past, looking into the allotment... I could see who was driving, clearly... I could see him looking - looking in that direction... I would say a clear three times... they were weekdays, they were - they were early afternoon.”*

The panel noted that there was no contemporaneous record of this incident, and it was not raised with you in the Investigation Meeting on 21 June 2019.

The panel had regard to your evidence. In your oral evidence, you stated that you would pass the allotment twice a day as this was on the way to and from your son’s school.

The panel considered the evidence before it. The panel determined that you did have a clear reason to go past Colleague A's allotment. The panel noted that Colleague A worked part time and she may have been at the allotment a lot, and this may have coincided with when you were collecting your son from school. The panel found this charge not proved on the balance of probabilities.

Charge 15b

"On various dates demonstrated intimidating and/or aggressive behaviour towards Colleagues including the following;

b. In respect of Colleague B, during a conversation came close to her face and asked her if she had a problem."

This charge is found PROVED.

In reaching this decision, the panel took into account evidence of Colleague B, Witness 4 and your evidence.

The panel considered the evidence of Colleague B. In her NMC statement she stated *"The NMC have asked me to provide clarification on an incident I reported in the investigation meeting where Nuno came up very close to me, in my face and said did I have a problem... Nuno was leaving the office. I looked up to see the time and it was before the time he should leave. That's when he came up close to me and said did I have a problem with it. He made me feel very intimidated. I was sitting at my desk and he was standing. He came about 6 to 12 inches from my face and said in an intimidating tone 'did I have a problem'. I don't remember his expression or if he said anything else. I don't remember if I said anything in response. I can't remember who else was in the office at that time but I don't think I was alone."*

The panel considered the Investigation Meeting dated 24 April 2019, between Colleague B and Witness 4. Colleague B said, *“He did clash with me, because I would query what time he was leaving. He would come up very close to me and be in my face and say did I have a problem with it? ... He was that close (made a gesture with her hands). ... He came up to me and said did I have a problem with him?”*

The panel noted that Colleague B’s evidence was consistent, and the panel considered Colleague B to be a clear, credible and reliable witness.

The panel had regard to your evidence. In your oral evidence, you said that you did come close to Colleague B as you did not want to shout across the office and that you were not trying to be intimidating. You accepted that as a man your demeanour could be interpreted as aggressive.

The panel considered the evidence before it and noted that Colleague B found that your actions were intimidating. The panel determined that, during a conversation with Colleague B, you came close to her face and asked her if she had a problem. Further, the panel was satisfied that this behaviour was intimidating. The panel therefore found this charge proved.

Charge 16

“On one or more occasions, asked for or accepted money from patients and/or patient’s family members as set out below;

- a. On 01 March 2019, when you told Patient C/Patient C’s family member you needed £25 to buy petrol*
- b. On 11 March 2019, when you told Patient C/Patient C’s family member you needed £40 to pay for a vehicle recovery service to assist you”*

These charges are found PROVED.

In reaching this decision, the panel took into account the evidence of Witness 1, Witness 4, Witness 5 and your evidence.

The panel considered the evidence of Witness 1. Witness 1's NMC statement stated, *"[Witness 3], approached her manager [Witness 5] and said that the patient [Person C] daughter had disclosed to her that her mother had been approached by NR on 1 March 2019. When delivering care, NR appeared at their door anxious and concerned and said he had left petrol station without paying and did not have the means to pay. She offered him £25 to cover the £21 costs. NR said that 'he shouldn't and that he could lose his job' However, he said he would pay back the money and took it. He repaid the debt later that week... On 11 March 2019, NR went to patient [Person C] home... He asked the patient's daughter if he could access the internet Wi-Fi in the house as he wanted to contact his ex-wife and ask her to transfer some money to his bank as he required £40 to pay for the recovery service to attend his car as he had tyre damage... Once it was clear that his ex-wife could not assist, NR asked the patient's daughter for £40. She agreed and gave him the money."*

The panel considered the evidence of Witness 4. Witness 4's NMC statement stated, *"The registrant said he went to pay for fuel but his car wouldn't work so he asked the patients family when he attended to provide care. Out of kindness they offered him £25 cash to pay for the fuel. He said he shouldn't have accepted it but he did. He did pay this money back. On the 11 March 2019 the registrant attended to a patient he was not allocated to provide care for. He asked to use the Wi-Fi to ask his ex-wife to transfer some money. She couldn't help so he asked the patients daughter for £40. She agreed to give him the money. The money was not paid back and the Trust ended up paying the family back...The registrant did not confirm in words that he asked for money but he did nod his head in answer."*

In his oral evidence, Witness 4 said *“so this was given to me as part of the investigation to review, and I remember calling this lady, and it was quite an emotional call actually with this - with this individual. So she - she acknowledged that they had given £25 and that he had repaid that money, and then subsequently attended, what do I call it - the same patient - anyway, so - to accept - to borrow some more money, but the patient who hadn't been paid back didn't expect to see the money again, but she was also very clear to me that she wasn't looking to get anybody into trouble”* The panel considered Witness 4's oral evidence to be credible and reliable as he recounted a contemporary account of when he spoke with the patient's daughter.

The panel next considered the Incident Report completed by Witness 5 on 1 April 2019. It stated:

“When I was writing my notes, the granddaughter told her Mum to tell me. She then started saying that when he visited one occasion he voiced out that he needed money for petrol but he left his wallet. The daughter offered £25 and NR was hesitate first but then accepted it at the end. He paid the £25 he owed after a few days... But then one day, NR's car broke down near this patient's house. He knocked on their door and told her about his car. He asked if he can borrow £40 to pay the RAC as he's ex-wife couldn't transfer money to his account at that moment. Patient's daughter lent him the money and he said he will pay it back.”

The panel had regard to your evidence. In your oral evidence, you accepted that you had borrowed £25 from the patient's daughter and had paid her back. You also said that you had borrowed £40 from a patient's daughter but did not have the opportunity to pay her back as you were suspended from your role at the Trust. You described the person from whom you had borrowed money from was a friend.

The panel considered the evidence before it and it determined that you had on one or more occasions, asked for and/or accepted money from patient's family members. The panel therefore found charges 16a and 16b proved.

Charge 17

“Spent Trust money in the form of hardship loan issued to pay for expenses associated with your company vehicle to pay household bills.”

This charge is found PROVED.

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

The panel considered the evidence of Witness 1. In his NMC statement he stated, *“NR sought a hardship loan from the trust, stating that the purpose was to pay the excess on his lease vehicle insurance. He was allocated the loan in January 2019; however, it was not used to pay the insurance excess as NR did not engage with the insurers and the claim was closed. NR stated that whilst he didn't use the money for the insurance, he nevertheless was in a financial crisis and used it for living costs. NR did not use the monies for the purposes agreed”*.

The panel also had regard to the Investigations Meeting which took place on 6 June 2019. The panel noted the following exchange between you and Witness 4:

“[Witness 4]: You applied for a hardship loan to repair your car.

NR: Yes, I had to pay the excess fee

[Witness 4]: you had two instances with your car, one was not your fault and the other one was. The lease company closed the claims. My question is, you applied for a hardship loan to pay the excess fee, but you didn't pay the excess. Why was that?

NR: why is it relevant for this investigation?

[Witness 4]: Because it is a matter that concerns the Trust as you have got the car by being employed by the Trust and you use it for work.

NR: I had booked he[sic] engineer but he didn't turn up, so I couldn't pay the fee. Then I used the money to pay bills."

The panel took into consideration your evidence. In your oral evidence, you stated that you had repaid the hardship loan as it had come out of your monthly salary, and you no longer considered it Trust money. You said that you needed the money to pay your bills and thought that it was okay to use the money as you saw fit.

The panel considered the evidence before it. The panel determined that you spent Trust money in the form of a hardship loan, issued to pay for expenses associated with your company vehicle, to pay household bills. The panel therefore found this charge proved.

Charge 18

"Your conduct at Charge 17 above was dishonest because you knew that the Trust money had been allocated to you for use on your company vehicle rather than household bills."

This charge is found NOT PROVED.

In reaching this decision, the panel took into account the evidence and findings outlined at charge 17.

The panel considered whether your conduct at charge 17 was dishonest. It took into consideration your belief at the material time of how the hardship loan worked and it noted that the NMC had not provided any information regarding the terms of the hardship loan you had agreed to. The panel bore in mind your evidence. In your oral evidence, you explained that you had paid the money back in one sum in your following monthly salary.

The panel noted that the Trust was not permanently deprived of the money you had been loaned from the Trust. The panel was of the view that you had a genuine belief that you had not done anything wrong by using the money from the loan to pay for other bills. The panel noted that you had been in hardship in different ways.

The panel next considered what an ordinary, decent member of the public would think of these circumstances. The panel bore in mind that this was a hardship loan which you had paid back and that the Trust would not be permanently deprived of the borrowed amount. The panel took into consideration that the hardship loan money would be difficult to separate from the other money you had access to at the time. The panel was of the view that an ordinary decent member of the public would not think that you had been dishonest to use the money from the hardship loan to pay for your other bills as you were in financial difficulty and had paid the hardship loan back to the Trust.

The panel determined that your conduct at Charge 17 was not dishonest therefore found this charge not proved.

Charge 19

“On an unknown date prior to 19 July 2019 took one or more clinical items, which belonged to Oxford Health NHS Foundation Trust, for your own personal use.”

This charge is found PROVED.

In reaching this decision, the panel took into account the evidence of Witness 4, Witness 5 and your evidence.

The panel considered the 'Addendum to Investigation Report' dated 24 September 2019 which states *"Mr Rebelo was found by the police at the time of his arrest to be in the possession of a large amount what appears to be Trust nursing equipment in his car and in his home, despite the fact that all the equipment should have been returned during his suspension from duty. The equipment included a considerable amount of needles and syringes, which the Trust have photographic evidence of, provided by Thames Valley Police."*

The panel had regard to Witness 5's evidence. In her NMC statement, she stated *"The equipment that was stolen was Trust property. I could identify it was Trust property from the reference number in the photographs. The plastic folder with blood bottles is one of ours. They are all our stock, and everything is what we have in stock, however, it is difficult to prove they are ours. The pulse oximeter is registered to Ward 2. He should have returned all property when he was suspended. I had to chase him for it and he didn't bring everything back and was just rude. He was not aggressive, but he was not very nice. He said he didn't have anything else, but I knew he did as I had a checklist... On the 14 June 2019 the registrant returned some of the nursing equipment and informed me that his blood glucose monitor was broken."*

The panel had regard to the photos from the Thames Valley Police investigation. It noted that the equipment was not neatly stored in boxes and appeared to be in disarray. It noted that some of the equipment was in sealed in its packaging and some of it was not.

The panel had regard to your oral evidence. You stated that you had taken the equipment from the hospital to complete your role. You told the panel that the equipment was neatly stored in boxes in your car, ready to go back to the hospital but needed to use the trunk of your car so moved the boxes into your home. The equipment had become messy due to the police searches and people who had been staying in your house at the time who may have had access to this equipment. You said that you met Witness 5 in the car park near the district nursing office but she did not want to carry this equipment into the office as it

was heavy. You also said that the pulse oximeter was your own from a previous job which you said you were allowed to keep.

The panel considered the evidence before it noting that some of the packages were open. It was of the view that it was unlikely the police would open sealed visible hospital equipment as part of their search. The panel took into consideration that the photographs did not corroborate your account that the hospital equipment was neatly stored ready to be returned to the hospital. The panel noted that the visitors at your house may have accessed the hospital equipment, but it was of the view that the equipment in your possession was your responsibility and that if visitors in your home used this equipment, this counted as personal use. The panel was of the view that the items which were not in sterile packaging had been used by you. The panel had regard to Witness 5's evidence who said that she had a checklist of the items you had taken, that you had not returned all of the equipment and that she had to chase you for it. The panel determined that you had on an unknown date prior to 19 July 2019 took one or more clinical items, which belonged to Oxford Health NHS Foundation Trust, for your own personal use. The panel therefore found this charge proved.

Charge 20

“Your actions at charge 19 above were dishonest because you knew you were not entitled to remove hospital property for your own personal use.”

This charge is found PROVED.

In reaching this decision, the panel took into account its decision and reasons at charge 19.

The panel bore in mind that you had initially taken hospital property in order to complete your job role and not for personal use. The panel acknowledged you needed the equipment for your visits with patients.

The panel considered Witness 5's NMC witness statement. Witness 5 stated that from the photographs provided by Thames Valley Police, she "*could identify it was Trust property from the reference number in the photographs. The plastic folder with blood bottles is one of ours. They are all our stock, and everything is what we have in stock, however, it is difficult to prove they are ours. The pulse oximeter is registered to ward 2. He should have returned all property when he was suspended.*" The panel took into consideration that Witness 5 had to 'chase' you to return the hospital property in your possession and that you were 'rude' in response to her requests.

The panel noted that in your oral evidence you stated that you attempted to return the hospital equipment to Witness 5 but that it was too heavy for her to carry. However, this is contested by the evidence of Witness 5 who the panel found to be credible, balanced and consistent.

The panel considered the evidence before it. It noted that you were told to return the hospital equipment in your possession to the Trust and ultimately you did not do so. The panel was of the view that once you were told to return the hospital equipment, every day that you kept the hospital property in your possession you were depriving the hospital of it. Further, the panel bore in mind that some of the hospital equipment had been unsealed and used, whether this was by you or by guests staying at your home. It considered that you had a responsibility to keep this equipment in a proper state, fit for future use by the hospital. The panel was of the view that an ordinary, decent person would think that you should not have used the hospital's equipment for your own use or allowed others in your home to use it. It was clear that the equipment should have been returned to the hospital for future use. The panel considered that you did not initially take the hospital equipment for personal use. However, once you had been told to return the equipment and did not do so, you knew you were not entitled to retain the hospital equipment in your possession for your own personal use but nonetheless did so. The panel was satisfied that this would be considered dishonest by the standards of ordinary and decent people. The panel therefore found this charge proved.

Decision and reasons on application for adjournment

You reminded the panel that earlier in the week you said that you would be available until Friday without any work obligations. You stated that the panel has adjourned the hearing to make its decision and only returned this afternoon (Friday 19 May 2023). You noted that the hearings coordinator indicated that the hearing was likely to be adjourned as the hearing was listed until 22 May 2023 and there were still further stages of the hearing to be considered. You told the panel that you are not available for the rest of the afternoon as you have to go to work and that you are already making your way to work. You requested that the hearing is adjourned for the afternoon and that the hearing resumes again on Monday 22 May 2023 at 9am. You stated that you will be free of work on Monday.

Ms Bailey submitted that the case could be progressed if the caution charge was put to you and that she could make her submissions on misconduct and impairment. She noted that she was in the panel's hands.

You stated that you did not object to Ms Bailey completing her submissions in your absence.

The panel accepted the advice of the legal assessor.

The panel took into consideration that you are living in Portugal which is an hour ahead of the UK and that it is currently 2.50pm. It noted that you are currently on your way to work for your shift that starts at 4pm and that you would very shortly be starting work. The panel was of the view that these were unsatisfactory circumstances. The panel noted that it has adjourned for whole days and part days at your request and that the adjournments have contributed to the fact that this hearing will not conclude on Monday. The panel took into account that registrants have a duty to make themselves available to their regulator and that the dates for this listing were organised and provided to you several months ago. The panel noted as you would be working, you will not be able to hear Ms Bailey's submissions

on behalf of the NMC which would be unfair to you. In light of this, the panel granted your application for an adjournment until Monday morning.

Decision and reasons on application for adjournment

Ms Bailey addressed the panel on an email trail sent by Mr Rebelo to the hearings coordinator on Monday 22 May 2023 (day 26). In the email trail, Mr Rebelo had stated that [PRIVATE]. She noted that he had provided evidence in support of his email.

Ms Bailey submitted that the panel are aware of the stage that the hearing has reached and that Mr Rebelo observed during his adjournment request last week that this hearing was likely to go part heard. She stated that it was regrettable that the hearing has not gone any further and that it was fair and proper for the panel to have adequate time to consider the case. She noted that Mr Rebelo's absence as a result of his health will have a real effect on the expeditious disposal of this case. She submitted that it is fair to him for this hearing to be dealt with expeditiously. Ms Bailey submitted that she is in a position to proceed with the hearing. She noted that the panel have had sight of an agreed fact in relation to the caution charge and she is able to address the panel on misconduct and impairment.

The panel accepted the advice of the legal assessor.

The panel took into consideration the email from Mr Rebelo sent on 22 May 2023 and it noted that Mr Rebelo's request for an adjournment was made in relation to his health and not to his work. The panel noted that Mr Rebelo has requested an adjournment on a number of occasions for work and other reasons meaning that the panel has lost a significant amount of time to progress matters during the course of this 26-day listing. The panel noted that while there is an agreed fact for it to consider at the next stage there is limited progress which can be made today. The panel reluctantly agreed to today's adjournment request.

The panel however will be very reluctant to accept any further requests for adjournments based on work commitments. In relation to requests to adjourn for other reasons, the panel will expect to see firm evidence provided in support of those.

This hearing was adjourned part heard on 22 May 2023 and resumed on 4 September 2023.

Caution charge

1. *On 10 August 2019 accepted a Police Caution in relation to the following offence;*
 - a. *On 19 July 2019 at Abingdon in Oxfordshire, had in your possession a quantity of diamorphine a controlled drug of class A in contravention of section 5 (1) of the Misuse of Drugs Act 1971*

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

Decision and reasons on facts in relation to the caution charge

Following its decision and reason on facts in relation to the misconduct charges, Ms Bailey informed the panel that there is an additional charge that concerns your fitness to practise and which needs to be considered at the hearing. This additional charge concerns a police caution that you received on 10 August 2019.

You informed the panel that you made full admissions to the caution charge. You stated that when you were arrested you had a small amount of class A drugs in your possession [PRIVATE].

The panel therefore finds the caution charge proved in its entirety, by way of your admission.

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 in charges 4b, 6, 7, 8, 9a, 9b, 10b, 11, 12, 13, 14, 15a(ii), 15b, 16a, 16b, 17, 19 and 20 amount to misconduct and, if so, whether your fitness to practise is currently impaired. The panel also considered whether your fitness to practise is currently impaired by reason of your police caution. 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. It also took into consideration the NMC's guidance on impairment, reference DMA-1, dated 27 March 2023, states *"The question that will help decide whether a professional's fitness to practise is impaired is: "Can the nurse, midwife or nursing associate practise kindly, safely and professionally?" If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired."*

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, the panel must decide whether, in all the circumstances, your fitness to practise is currently impaired as a result of your caution and, only if the facts found proved amount to misconduct, of that misconduct.

Submissions on misconduct

Ms Bailey referred the panel 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 Bailey invited the panel to take the view that the facts found proved amount to misconduct. She submitted that the findings found proved amount to a pattern of failings directly linked to patient care, particularly, around the safe and effective administration of medicines and proper record keeping, including acting outside of your competency, which compromised patient safety and posed a real risk of harm to patients. She submitted that the findings found proved also demonstrate a pattern of serious breaches in relation to professional boundaries and breaches of trust towards colleagues and patients that caused people to feel scared, shaken and uncomfortable. She submitted that your conduct demonstrates a lack of integrity and professionalism indicating underlying attitudinal concerns. She also noted your dishonesty in relation to the equipment entrusted to you as a community nurse. She took the panel through each charge, individually and collectively, as to whether your conduct was so serious that it amounts to misconduct.

Ms Bailey referred the panel to the ‘The Code: Professional standards of practice and behaviour for nurses and midwives (2015)’ (the Code) and she identified the specific, relevant standards where your actions amounted to misconduct.

You submitted that it is the NMC’s intention to strike you off from the register with the information from the Trust. You told the panel that at the material time, occupational health stated that the team and your role were not suitable for you and that you should be moved. You stated that you felt compelled to return to work [PRIVATE]. You said that on your return to work you were assigned ‘mountains’ of patients as the team was short staffed. You stated that you were not provided with any support [PRIVATE]. You accepted that some of your actions might have caused some harm to other people and that you made some mistakes that you should not have. [PRIVATE]

You provided the panel with an employment reference, training certificates [PRIVATE].

Submissions on impairment

Ms Bailey 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), *Cohen v General Medical Council* | [2008] EWHC 581 (Admin) and *General Medical Council v Meadow* [2007] QB 462 (Admin).

Ms Bailey invited the panel to make a finding of current impairment on the basis of your misconduct and police caution on the grounds of public protection and public interest.

Ms Bailey submitted that the four limbs of the *Grant* test are engaged in this case. She submitted that your past behaviour demonstrates a pattern of behaviour which has been repeated over time and that this goes to future risk. She noted that you are currently subject to an interim suspension order and cannot work as a nurse but have been working as a healthcare assistant. She referred the panel to the training certificates and reference, which she accepted was a positive one, that you have provided at this hearing.

In reference to the case of *Cohen*, Ms Bailey submitted that it is a matter for the panel to consider whether you can remediate your failings and if you have provided any evidence of remediation. She reminded the panel that it must consider whether your behaviour is likely to be repeated or not. She submitted that you have denied most of the charges and that there is no information available as to whether you recognise the impact of your actions on patients, their families, your former colleagues and the wider public, your former employer and the reputation of nurses. She noted that you have no intention of returning to the UK to work as a nurse but that you would like to work in Portugal as a nurse. She noted that the panel had not seen any references from your current employer.

She submitted that there remains a real risk of repetition of your past behaviour in the absence of any evidence to show insight, remorse, remediation, targeted training or any strengthened practice to address the failings in your nursing conduct found proved.

You stated that you have worked since 2019 as a health care professional in several healthcare institutions without any concerns. You accepted that you submitted one reference and stated that you felt that this would be enough. You stated that you are not a dishonest person. You stated that the issues with the Trust had made [PRIVATE] you felt 'pushed into a corner'. In considering remorse, you said that you regretted working at the Trust but due to your personal commitments you felt that you had no other choice. You spoke about your employment history and said that whilst you made some mistakes in the past you should not be condemned for the rest of your life. You stated that you have no intention to return to the UK to practise as a nurse.

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

Decision and reasons on misconduct

The panel first considered whether the charges found proved amount to misconduct.

The panel considered charges 4b, 6, 7, 8, 10b and 12 together as they relate to record keeping. The panel considered that the conduct underlying charges 4b, 6, 7 and 8 are not so serious that they would constitute misconduct on their own. The panel considered that your conduct underlying charges 10b and 12, is serious and does amount to misconduct in each case. The panel considered that charges 4b, 6, 7, 8, 10b and 12 when considered collectively are a pattern of failings which are serious and together they amount to misconduct.

The panel next considered charges 9a, 9b and 11 together as these charges relate to administration of medication. The panel bore in mind that you admitted charges 9a and 9b. The panel took into consideration the specialist training required to administer medication via a PICC line and that you had not been signed off as competent for this by your current employer. The panel determined that your conduct underlying charge 11 amounts to misconduct on its own. The panel considered the conduct collectively in charges 9a, 9b and 11 amount to misconduct.

The panel then considered charges 13, 15a(ii) and 15b together. The panel was of the view that these charges demonstrate an escalating pattern of behaviour towards colleagues. The panel was of the view that your conduct underlying charges 13 and 15b, whilst unpleasant and rude, was not so serious that it amounts to misconduct. The panel considered that your conduct in charge 15a(ii) amounted to misconduct on its own. It considered the conduct of charges 13, 15a(ii) and 15b together and found that collectively, your conduct in these charges amount to misconduct.

In respect of charge 14, the panel bore in mind that you were a community nurse going into patient's homes to measure their blood glucose levels and that no other healthcare professional would be likely to visit those patients for some time after your visit. The panel was of the view that it was your responsibility to ensure that you calibrate your equipment as required to ensure that you obtain the right measurement for each patient. The panel noted that nine patients had their blood sugar measured whilst your machine had not been calibrated. The panel determined that your conduct in this charge amounts to misconduct on its own.

The panel next considered charges 16a and 16b together. The panel noted that charges 16a and 16b were two separate incidents in which you accepted money from a patient's family member. The panel was of the view that this conduct was so serious that it amounts to misconduct and that your behaviour underlying these charges demonstrated a pattern of misconduct.

The panel also considered charge 17 and bore in mind that it was not provided any details of the terms of the loan. The panel noted that you repaid this loan back through your salary and that you had already fixed your car. You had used the money from the hardship loan to pay for other household bills. The panel was of the view that your conduct in this charge did not amount to misconduct.

The panel considered charges 19 and 20. In respect of charge 19, it noted that you were to meet with Witness 5 to return the items which you had in your possession. However, not all the items had been returned and Witness 5 stated that the items in the photographs of the property found in your possession at your house, provided by the police, were property of the Trust which you should have returned. The panel was of the view that by not returning the property of the Trust you had potentially deprived NHS patients of equipment needed for their treatment and this amounts to misconduct. In respect of charge 20, the panel determined that as you had kept the Trust's property when you knew that you should not have, this amounts to misconduct. Together, the panel considered that your conduct underlying these charges amount to misconduct.

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

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

'1 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

2 Listen to people and respond to their preferences and concerns

To achieve this, you must:

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

6 Always practise in line with the best available evidence

To achieve this, you must:

- 6.2 *maintain the knowledge and skills you need for safe and effective practice*

8 Work co-operatively

To achieve this, you must:

- 8.2 *maintain effective communication with colleagues*
- 8.3 *keep colleagues informed when you are sharing the care of individuals with other health and care professionals and staff*
- 8.5 *work with colleagues to preserve the safety of those receiving care*
- 8.6 *share information to identify and reduce risk*

10 Keep clear and accurate records relevant to your practice

This applies to the records that are relevant to your scope of practice. It includes but is not limited to patient records.

To achieve this, you must:

- 10.1 *complete records at the time or as soon as possible after an event, recording if the notes are written some time after the event*
- 10.2 *identify any risks or problems that have arisen and the steps taken to deal with them, so that colleagues who use the records have all the information they need*
- 10.3 *complete records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements*

13 Recognise and work within the limits of your competence

To achieve this, you must, as appropriate:

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

13.5 complete the necessary training before carrying out a new role

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

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

To achieve this, you must:

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

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

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

20.6 stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers

20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to

21 Uphold your position as a registered nurse, midwife or nursing associate

To achieve this, you must:

21.1 refuse all but the most trivial gifts, favours or hospitality as accepting them could be interpreted as an attempt to gain preferential treatment

21.2 never ask for or accept loans from anyone in your care or anyone close to them.'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct.

However, the panel was of the view that your actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

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

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

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

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

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

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

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

The panel found that all four limbs of the Grant test were engaged.

The panel finds that patients were put at risk of harm as a result of your misconduct. The panel bore in mind that while you provided a positive reference from your employment in March 2021- July 2022, the panel was not provided with any other references or testimonials from any other employers or colleagues. It noted that you have been unable to work as a nurse whilst you have been subject to an interim suspension order but that you have been working as a healthcare assistant. The panel took into consideration the training you have completed as a healthcare assistant. However, the training undertaken did not explicitly address the concerns raised by this case. The panel had no other evidence before it that the failings identified in your nursing practice have been addressed by training or that you have reflected on what has gone wrong and what you would do differently if you were in those circumstances again. On this basis, the panel was not satisfied that you would not be liable in the future to act so as to put patients at unwarranted risk of harm. The panel also found that your misconduct has breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was also satisfied that confidence in the nursing profession would be undermined if its regulator did not find that the charge relating to dishonesty was serious.

The panel considered that you have minimal insight. It noted that you did not show reflection on the impact your failings had on patients, their families, your colleagues or the wider nursing profession. The panel noted that you tended to lay the blame of your failings on others rather than accepting some responsibility yourself. You asserted that you had been unfairly treated.

The panel was satisfied that some of the misconduct identified in this case is capable of being addressed, namely, the concerns regarding record keeping and medication administration. However, the panel bore in mind that it had no evidence before it that you have taken any steps to strengthen your practice in this regard.

The panel was of the view that the remaining misconduct in this case which relates to inappropriate behaviour and dishonesty are harder to address as they relate to an attitudinal concern. The panel bore in mind that it had not received evidence from you to demonstrate that you had sought to address these issues.

The panel is of the view that there is a risk of repetition based on lack of insight and lack of strengthened practice. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel noted that you accepted a police caution for possession of diamorphine a Class A, controlled drug. [PRIVATE]. However, the panel noted that you had reported to occupational health during a telephone conversation on 16 August 2019 that you were holding the diamorphine (heroin) for a friend. The panel was of the view nevertheless that receiving a police caution for possession of a Class A controlled drug is a serious matter.

The panel determined that, in light of both your police caution and misconduct, a finding of impairment on public interest grounds is required because public confidence in the profession would be undermined if a finding of impairment were not made in this case. It therefore also finds your fitness to practise impaired on the grounds of public interest.

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

Sanction

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

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

Submissions on sanction

Ms Bailey invited the panel to impose a striking-off order in light of its findings that your fitness to practise is currently impaired. She also outlined the aggravating features of the case and noted that there were personal mitigating factors which you may explore further in your submissions. She made submissions on the sanctions available to the panel and the appropriateness of each sanction. She submitted that it is for the panel to weigh up the seriousness of the case as it was not a single incident of misconduct, but a pattern of serious failings found proved. She also submitted that the attitudinal concerns identified include dishonesty, a lack of professionalism and breaches of trust. She referred the panel to your acceptance of a police caution. She reminded the panel of its findings that you have demonstrated minimal insight and that there is a risk that you will repeat your past behaviour. She submitted that you have demonstrated no remediation and little remorse which raises fundamental questions about your professionalism. She submitted that the only sanction which would protect the public and serve the wider public interest is a striking off order.

The panel also bore in mind your submissions. You said that you have shown remorse and that you did understand your wrongdoing. [PRIVATE]. You stated that you are currently working with members of the public which include vulnerable people and that you perform your duties well. You stated that you have not put anyone at risk of harm since these incidents. You stated that you do not feel that you have been treated fairly by the Trust and that you will seek to apply to the European Court of Human Rights following these proceedings to take action against the Trust. You said that you love your profession and accepted you have made some mistakes. You said that you should not be removed from the register permanently as this would support the old culture of punishment and blame. You asked the panel to consider all the information that you have placed before it, including your professional reference.

You told the panel that you have been working as a health care assistant in a private hospital on a surgical and medical ward in Portugal. You said that you have not told anyone at your current place of employment that you have been referred to the NMC and that you did not see any reasons as to why you should. You said that you felt that you would be judged on your past conduct if your colleagues knew about the referral. You stated that you were not dishonest or lying by keeping this from your employer.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Pattern of multiple serious failings.
- Conduct which had the potential to put patients at risk of harm.
- Attitudinal issues demonstrated towards colleagues.
- An abuse of your position of trust and a breach of professional boundaries in relation to borrowing money from a patient's family.
- Minimal insight and remorse.

The panel also took into account the following mitigating features:

- Difficult personal circumstances including financial hardship.
- Difficult working circumstances.
- [PRIVATE]
- [PRIVATE] A lack of timely adjustments made during the period of these failings by the Trust.
- Some admissions during this hearing.
- Some training completed.

The panel noted that you have engaged with the NMC throughout the regulatory proceedings and that you have had no previous NMC referrals.

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 further action.

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

in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The panel noted that some of the misconduct identified in this case was not something that can be addressed through conditions or retraining as the failings were related to attitudinal concerns including dishonesty and a breach of professional boundaries. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public.

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

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour.*
- ...
- ...

The panel bore in mind that the facts found proved in this case were not related to a single incident of misconduct but that several types of misconduct had been found proved over a period of time. It noted the attitudinal concerns underlying the facts found proved in relation to the dishonesty, your lack of professionalism with colleagues and your abuse of trust where you borrowed money from a patient's family. The panel noted that you have

been unable to practise as a nurse due to the interim order currently in place and have not repeated failings of this kind since being referred to the NMC. However, the panel took into consideration its earlier finding that you are likely to repeat the conduct found proved in the absence of any insight and strengthened practice.

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by your actions is fundamentally incompatible with you remaining on the register.

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

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

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

The panel carefully considered your personal mitigation, which included your positive employment reference as a healthcare assistant, [PRIVATE]. [PRIVATE]. The panel took into account the acceptance of your police caution for possession of a Class A controlled drug and that this was not the same level of severity as a criminal conviction. It also noted that you have attended these regulatory proceedings without a legal representative. However, the panel noted the minimal insight and lack of strengthened practice you have demonstrated and considered that this is wholly inadequate to address the fundamental questions about your professionalism.

The panel bore in mind the catalogue of errors and patterns of misconduct found in this case. The panel was particularly concerned about the attitudinal concerns underlying the charges found proved, your lack of insight or remorse regarding the impact of your actions, and the real risk of repetition.

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

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

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

This will be confirmed to you in writing.

Interim order

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

Submissions on interim order

The panel took account of the submissions made by Ms Bailey. She submitted that an interim suspension order is necessary for a period of 18 months on the grounds of public protection and in the wider public interest. She submitted that the interim order is necessary to cover any potential period of appeal. Further, to do otherwise would be incompatible with the panel's earlier findings on sanction.

You stated that you did not think there was anything that you could say to prevent this application from being granted by the panel.

Decision and reasons on interim order

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

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

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

That concludes this determination.