Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Monday 15 January 2024 – Friday 19 January 2024
Monday 22 January 2024 – Friday 26 January 2024
Tuesday 30 January 2024 – Friday 2 February 2024
Monday 5 February 2024 – Friday 9 February 2024
Monday 12 February 2024
Monday 22 April 2024 – Tuesday 23 April 2024

Virtual Hearing

Name of Registrant:	**Tabitha Keri Kendell Williams**
NMC PIN:	13G0031W
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing (Level 1) – 9 December 2013
Relevant Location:	Conwy
Type of case:	Misconduct
Panel members:	Pamela Johal (Chair, Lay member) Jonathan Coombes (Registrant member) Seamus Magee (Lay member)
Legal Assessor:	Robin Ince (15 – 26 January 2024) Oliver Wise (9 February 2024) John Donnelly (30 January 2024 – 12 February 2024) Charles Apthorp (22 – 23 April 2024)
Hearings Coordinator:	Charis Benefo Zahra Khan (22 – 23 April 2024 only)
Nursing and Midwifery Council:	Represented by Tom Hoskins, Case Presenter
Mrs Williams:	Not present and unrepresented
Facts proved:	Charges 1, 2, 3, 4a, 4b, 5a, 5b, 6a, 6b, 9, 11, 12a, 12b, 12c, 13, 14, 15a, 17, 18 and 19

Facts not proved:	Charges 7, 8, 10, 15b and 16
Fitness to practise:	Impaired
Sanction:	**Striking-off order**
Interim order:	**Interim suspension order (18 months)**

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

At the outset of the hearing, Mr Hoskins, on behalf of the Nursing and Midwifery Council (NMC), made a request that this case be held partly in private on the basis that proper exploration of Mrs Williams' case involves [PRIVATE]. Furthermore, reference would be made to [PRIVATE]. The application was made in accordance with Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

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

The panel determined to hold in private the parts of this hearing that involve reference to [PRIVATE] as and when such issues are raised, in order to protect the privacy of the relevant individuals. It was satisfied that this course was justified and that the need to protect their privacy outweighed any prejudice to the general principle of public hearings.

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Williams was not in attendance and that the Notice of Hearing letter had been sent to Mrs Williams' registered email address by secure email on 14 December 2023.

Mr Hoskins submitted that the NMC had complied with the requirements of Rules 11 and 34.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and that the hearing was to be held virtually, including instructions on how

to join and, amongst other things, information about Mrs Williams' right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

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

Decision and reasons on proceeding in the absence of Mrs Williams and Registrant A

The panel next considered whether it should proceed in the absence of Mrs Williams and Registrant A. It considered Rule 21 and heard the submissions of Mr Hoskins who invited the panel to continue in the absence of Mrs Williams and Registrant A.

Mr Hoskins referred the panel to the case of *R v Jones (Anthony William) (No.2)* [2002] UKHL 5 and addressed the panel on the factors to consider in its decision, as set out in that criminal case, namely:

> *"A. The nature and circumstances of the defendant's behaviour in absenting himself*
> *B. Whether an adjournment would resolve the matter*
> *C. The likely length of an adjournment*
> *D. Whether the defendant, though absent wish to be represented or has waived his right to representation*
> *E. Whether the defendant's representatives were able to receive instructions from him and the extent to which they could present his defence.*
> *F. The extent of the disadvantage to the defendant in not being able to represent his account of events*
> *G. The risk of a jury reaching improper conclusion about the absence of the defendant*
> *H. The general public interest that a trial should take place within a reasonable time*
> *I. The effect of delay on the memories of witnesses*

J. Where there is more than one defendant and not all have absconded, the desirability of having separate trials."

Mr Hoskins clarified that his reference to terms like '*absconding*' and '*defendants*' were only relevant because they had been taken directly from the criminal case law. He submitted that there was no suggestion of absconding in these proceedings, although he invited the panel to bear in mind a registrant's obligations under the NMC Code to engage with investigations into their fitness to practise.

Mr Hoskins then addressed then panel in respect of each registrant separately.

In respect of Mrs Williams, Mr Hoskins invited the panel to consider the chronology of events in her case since the referral to the NMC in July 2021. He submitted that there had been some engagement from Mrs Williams in August 2021, followed by a "*drop off*" in the level of her engagement in December 2022. Mrs Williams subsequently sent an email to the NMC in August 2023 but did not respond to the NMC's request to complete the Case Management Form. However, in response to an email from the NMC Case Co-ordinator, Mrs Williams sent two emails on 2 January 2024 indicating that she would not be attending this hearing and that she was content for the hearing to proceed in her absence.

Mr Hoskins submitted that Mrs Williams absented herself in full knowledge of this hearing and in response to the direct question of whether she was '*happy*' for the hearing to proceed in her absence, to which she answered '*yes*'. Mr Hoskins highlighted that there had also been initial engagement from Mrs Williams. He submitted that the nature and circumstances of Mrs Williams absenting herself were indicative of somebody that was not willing to attend.

Mr Hoskins submitted that an adjournment would not resolve this matter as Mrs Williams had indicated that she did not wish to attend. He submitted that there had been no request for an adjournment from Mrs Williams. In relation to likely length of an adjournment, Mr Hoskins submitted that this would depend on whether the attendance of Mrs Williams or

Registrant A could be secured. He submitted that the majority of the NMC's witnesses work within the NHS, but that the reality of listings and arranging the attendance of seven witnesses and two registrants would make the likely length of an adjournment disproportionate in the circumstances.

Mr Hoskins submitted that Mrs Williams has never been represented at any stage of these proceedings, despite correspondence being sent to Mrs Williams making clear her right to be represented at these hearings. Mr Hoskins submitted that there had been a waiving of the right to representation.

Mr Hoskins accepted that by proceeding with the hearing, the panel would only be presented with the NMC's case and would be deprived of Mrs Williams' account. He submitted, however that in mitigation, the burden at the facts stage would be on the NMC, and that Mrs Williams had provided a local level account.

Mr Hoskins submitted that this was already a significantly delayed case, relating to a referral dating back to July 2021. He submitted that this case rested significantly on individuals' recollections of events from late Autumn 2020 and Spring and Summer 2021. He submitted that there was a potential for deterioration of recollections were this hearing adjourned.

In relation to the undesirability of separate trials in a case with more than one registrant, Mr Hoskins submitted that if the panel was to adjourn the hearing for one registrant, notably Registrant A, that would be highly undesirable in the circumstance of Mrs Williams, who has consented to the hearing proceeding in her absence.

Mr Hoskins then invited the panel to consider the chronology of events in Registrant A's case since the referral to the NMC in July 2021. He submitted Registrant A actively participated in the local level investigation and denied the allegations at that stage. Mr Hoskins submitted that as a result of the knowledge of the NMC referral, Registrant A returned a context form, reflective piece and other documentation to the NMC in August

2021. He informed the panel that Registrant A also attended an interim order hearing August 2021 where she made submissions on her own behalf.

Mr Hoskins informed the panel that there was then no engagement from Registrant A until June 2022 where she apologised for the lack of correspondence in this case, [PRIVATE], and then asked for more time to provide forms and documentation, although none of this was received by the NMC. He submitted that since June 2022, there had been no engagement from Registrant A and no response to any of the correspondence sent to her by the NMC as recently as 9 January 2024.

Mr Hoskins then addressed the panel on the factors to consider from the case of *R v Jones (Anthony William)* (No.2).

In relation to the nature and circumstances of Registrant A's behaviour in absenting herself, Mr Hoskins submitted there had been only two episodes of engagement from her, the most recent of which was a significant period of time ago in June 2022. He acknowledged that Registrant A's last contact with the NMC was in reference to [PRIVATE], however he reminded the panel that it had not been assisted by [PRIVATE], the extent of the condition, and the extent to which it would prevent any attendance or engagement in this hearing.

Mr Hoskins submitted that an adjournment would not resolve this matter. In relation to the likely length of an adjournment, Mr Hoskins submitted that this would depend on whether the attendance of Registrant A or Mrs Williams could be secured. He once again submitted that the majority of the NMC's witnesses work within the NHS, but that the reality of listings and arranging the attendance of seven witnesses and two registrants would make the likely length of an adjournment disproportionate in the circumstances. Mr Hoskins submitted that if the panel were to adjourn simply because of concerns of [PRIVATE], the length of an adjournment could not be determined given the lack of information.

Mr Hoskins submitted that there was no suggestion that Registrant A had representation, noting in particular her attendance at the interim order hearing in August 2021, where she made submissions on her own behalf. He submitted that given the lack of any suggestion of representation, the panel should proceed on the basis that such a right had been waived.

Mr Hoskins accepted that by proceeding with the hearing, the panel would only be presented with the NMC's case and would be deprived of Registrant A's account. He submitted that in mitigation, the burden at the facts stage would be on the NMC, and that Registrant A had provided some information in her response to the allegations, albeit with little recollection of the specifics. Mr Hoskins submitted that since Registrant A was not able to assist in greater detail at an earlier stage, the panel might find that were she in attendance today or indeed any future event, the quality of her recollection was unlikely to improve.

Mr Hoskins once again submitted that this was already a significantly delayed case, relating to a referral dating back to July 2021. He submitted that this case rested significantly on individuals' recollections of events from late Autumn 2020 and Spring and Summer 2021. He submitted that there was a potential for deterioration of recollections in circumstances where the hearing was adjourned.

In relation to the fairness of separate trials in a case with more than one registrant, Mr Hoskins submitted that if the panel was to adjourn the hearing for Registrant A, then it would be unfair and undesirable for Mrs Williams, who has consented to the hearing proceeding in her absence. He submitted that if the panel were to proceed today based on the invitation or lack of objection from Mrs Williams, it may be less desirable for Registrant A because there may be prejudice. He submitted, however, that given that Mrs Williams has been overt and clear in her desire, whilst Registrant A has been silent, the last factor should weigh in favour of the registrant that is engaging more than the one that is engaging less.

Mr Hoskins submitted that if the panel decided to proceed with the hearing, then he would suggest that the decision be sent by e-mail to Mrs Williams and Registrant A in order that they are informed of the panel's decision to proceed, and reminded that if they do wish to attend, they can do so from day two when the hearing commences by way of opening. He submitted that this was essentially a "*last ditch*" effort, particularly in the case of Mrs Williams, who responded promptly to the NMC as early as January 2024.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of registrants under the provisions of Rule 21 is not absolute and is one that should be exercised *'with the utmost care and caution'* as referred to in the case of *R* v *Jones (Anthony William)* (No.2). The panel also had regard to the NMC guidance on '*Proceeding with hearings when the nurse, midwife or nursing associate is absent*' (Reference: CMT-8).

The panel decided to proceed in the absence of Mrs Williams and Registrant A. In reaching this decision, the panel considered the submissions of Mr Hoskins, the representations from Mrs Williams, and the advice of the legal assessor. It had particular regard to the factors set out in the decision of *R v Jones* and agreed with Mr Hoskins' submissions in relation to those factors for both registrants. The panel also had regard to the factors set out in the decision of *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. In respect of Mrs Williams, it noted that:

- No application for an adjournment has been made by Mrs Williams (or by Registrant A);
- There had been limited engagement from Mrs Williams at an early stage of the NMC's investigation;
- Mrs Williams has informed the NMC that she has received the Notice of Hearing and confirmed she is content for the hearing to proceed in her

absence, so adjourning the hearing in an effort to secure the attendance of Registrant A most likely would prejudice Mrs Williams;

- There is no reason to suppose that adjourning would secure Registrant A's attendance at some future date;
- Eight witnesses are due to attend to give live evidence;
- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred in 2020 and 2021;
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.
- It would be in the interests of justice to have one hearing to deal with these matters, taking into account the interests of the NMC's witnesses.

The panel accepts that there is some disadvantage to Mrs Williams and Registrant A in proceeding in their absence. However, although the evidence upon which the NMC relies will have been sent to them at their respective registered email addresses, they have made no response to the allegations, nor have they expressed any interest in attending the hearing to dispute those allegations.

Although Mrs Williams and Registrant A will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on their own behalf, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, any such disadvantage is the consequence of Mrs Williams and Registrant A's decisions to absent themselves from the hearing, waive their rights to attend, and/or be represented, and to not provide evidence or make submissions on their own behalf.

In these circumstances, the panel decided that it is fair, appropriate and proportionate to proceed in the absence of Mrs Williams and Registrant A. The panel will draw no adverse inferences from Mrs Williams' and Registrant A's absences in its findings of fact.

The panel noted Mrs Williams' indication that she is content for the hearing to proceed in her absence. However it decided to adjourn the hearing until day two, in order for the NMC to inform Mrs Williams and Registrant A of the panel's decision to proceed in their absence, and remind them of their right to attend the hearing, should they wish to do so.

The hearing resumed on 16 January 2024, and Mrs Williams and Registrant A did not attend.

Details of charge

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

1) In September 2020 did not acknowledge and / or support and / or include Student Nurse E to work alongside you;

2) Between April and May 2021 inappropriately delegated blood glucose observations to Student Nurse B;

3) On 5 April 2021 in relation to Patient I said "she's rotting from the inside" or words to that effect;

4) In around November 2020 did not intervene in relation to Patient J when Colleague C:
   a) Said "go on, you might as well do it" or words to that effect;
   b) Laughed;

5) Before 25 April 2021 did not intervene when Colleague C said to Student Nurse B, in relation to Patient F:
    a) On one or more occasion “I’m not bothered” or words to that effect;
    b) “but thank you for telling me” or words to that effect in a sarcastic tone;

6) On 4 May 2021 in relation to Student Nurse C:
    a) Did not intervene when Colleague C pulled faces and / or laughed and / or put their hands on their hips in relation to them sitting in a chair;
    b) Laughed;

7) Did not support and / or include Student Nurse D to work alongside you and / other nurses;

8) On one or more occasion requested Student Nurse D to commence a medication round unsupervised;

9) On one or more occasion openly discussed student nurses in negative terms with Colleague C;

10) On an unknown date in relation to an unknown nurse laughed and / or said, “that’s just common sense, a first year student could do that” or words to that effect;

11) On an unknown date in relation to Student Nurse A said, “she doesn’t do much anyway” or words to that effect;

12) On an unknown date in relation to Patient I:
    a) Said to them, “Stop being dramatic” or words to that effect;
    b) Said to them, “Stop making that noise” or words to that effect;
    c) Did not check on them when they were heaving and / or bringing up bile;

13) On unknown dates on one or more occasion said to Patient B to “stop it” and / or “shut up” and / or “give it a rest” or words to that effect;

14) On an unknown date said you “have no interest working with dementia patients” or words to that effect;

15) On an unknown date in relation to Colleague B:
    a) Shared their reason for absence with colleagues;
    b) Did not intervene when Colleague C said Colleague B “does fuck all anyway” or words to that effect;

16) On one or more occasion refused to assist with patient care;

17) On an unknown date permitted Colleague C to change the staff rota using your login details;

18) On one or more occasions in relation to Colleague D:
    a) Ignored them;
    b) Didn’t support them;
    c) Said negative things about them in their absence

19) Your actions at one or more of 1-18 above created an intimidating and / or hostile and / or degrading and / or humiliating environment for one or more student nurses and / or staff on Morfa Ward

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

Background

The NMC received a referral in respect of Mrs Williams on 28 July 2021. Mrs Williams first entered onto the NMC's register on 9 December 2013.

Mrs Williams was employed as Band 5 Registered Nurse by [PRIVATE] (the Health Board) at Llandudno General Hospital on a Care of the Elderly Ward known as the Morfa Ward (the Ward). Mrs Williams started working on the Ward on 15 March 2018.

At the time of the allegations, the Ward provided inpatient care to older people with varying needs including rehabilitation, care for patients with dementia and patients requiring palliative and end of life care. Staffing on the Ward would generally be two Band 5 nurses, each being responsible for up to 12 patients and four Band 2 healthcare support workers.

As the events took place during the COVID-19 pandemic, the Ward would take patients of other types depending upon the demands of the acute hospitals in the area.

During the relevant period, Mrs Williams had been promoted on an interim basis from her substantive Band 5 post to a Band 6 Deputy Ward Manager. This was to cover the absence of the Ward Manager who was on sick leave. This role commenced in February 2021 and concluded in August 2021.

It is alleged that between September 2020 and June 2021, Mrs Williams and Registrant A demonstrated bullying and intimidating behaviour towards colleagues, particularly student nurses. Mrs Williams also allegedly failed to act in accordance with her role as Deputy Ward Manager. She allegedly failed to maintain confidentiality in respect of colleagues and patients, failed to manage staff appropriately and failed to support and direct students and other members of staff. In addition, there were multiple allegations of inappropriate treatment of patients by Mrs Williams and Registrant A, including verbal abuse and failure to show empathy or compassion for vulnerable patients in their care.

The Health Board became aware of the concerns on 2 June 2021, when they were notified by Bangor University, following a number of reports made by the student nurses of poor patient care they witnessed on the Ward, as well as direct experience of examples of poor leadership and bullying and intimidating behaviour by Mrs Williams.

A disciplinary hearing took place at the Health Board on 4 March 2022.

Decision and reasons on Witness 1 to give evidence with her daughter present

The panel heard an application made by Mr Hoskins to allow Witness 1 to give evidence in the presence of her daughter. This was to enable her daughter to assist with any IT issues that might arise during the course of her giving evidence. He submitted that this application was not being made under Rule 23, as there was nothing to satisfy the criteria of a vulnerable witness in these circumstances. Mr Hoskins submitted, however, that this was a public hearing and that Witness 1's daughter would be able to assist with the technology of Witness 1 joining and leaving the virtual hearing and dealing with any technical difficulties.

The panel accepted the advice of the legal assessor.

The panel gave due consideration to Mr Hoskins' application for Witness 1's daughter to be present during her live evidence. It noted that this application was not to find Witness 1 a vulnerable witness under Rule 23. Witness 1 was also receiving support from an NMC Public Support Officer, who was due to join the virtual hearing and to support her throughout her live evidence.

The panel considered that it was reasonable for Witness 1 to ask to rely on her daughter's support in relation to IT, as this would make the giving of her evidence less stressful and would avoid potential interruptions during the hearing.

The panel therefore decided to grant the application for Witness 1's daughter to be present in order to assist with her joining and leaving the hearing, and any technical difficulties that might arise during her live evidence.

Decision and reasons on application to admit Witness 5's additional written statement

The panel heard an application made by Mr Hoskins under Rule 31 to allow Witness 5's second written statement dated 29 June 2022 into evidence. Mr Hoskins told the panel that Witness 5 had provided an additional NMC written statement which related just to Mrs Williams, but it had not been included in the witness statement bundle before the panel. The written statement had been served on Mrs Williams in preparation for the Case Examiners reaching their decision on the case to answer. In addition, the statement was the subject of a Request for Views as to Witness 5's attendance and any objections to her statement in the Case Management Form (CMF) dated 29 August 2023, none of which were received.

Mr Hoskins submitted that after this case was joined with Registrant A's case in late 2023, it was thought mistakenly by a reviewing lawyer at the NMC that Witness 5's statements in respect of each Registrant were in such similar terms, that all of the allegations would be covered by the panel receiving only Witness 5's statement in relation to Registrant A. Mr Hoskins submitted that however, on his review, that was not, in fact, the case. He submitted that there was some new information in this written statement relating to Mrs Williams' charges and therefore invited the panel to admit it into evidence.

Mr Hoskins submitted that there was no prejudice to Mrs Williams in admitting Witness 5's second written statement into evidence. He submitted that it was clear that she had been aware of the statement at the earlier stages of proceedings, prior to it being joined with Registrant A's case. Mr Hoskins highlighted that the reason for its exclusion from the witness statement bundle was an "*administrative oversight*".

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 otherwise admissible in civil proceedings.

The panel gave the application in regard to Witness 5 serious consideration. The panel noted that Witness 5's second written statement had been prepared and contained the following, '*This statement … is true to the best of my information, knowledge and belief*' and was signed by her.

The panel considered that the evidence in Witness 5's written statement was relevant to the charges against Mrs Williams. The panel noted that the written statement had previously been disclosed to Mrs Williams, and accepted that it had been excluded from the final witness statement bundle due to an administrative error.

The panel found that there was no prejudice to Mrs Williams in the admission of Witness 5's written statement into evidence. It noted that Mrs Williams had been provided with a copy of Witness 5's statement (so was familiar with its contents and therefore this was not 'new' evidence) and the panel had already determined that Mrs Williams had chosen voluntarily to absent herself from these proceedings. There was also a public interest in the issues before the panel being explored fully which supported the admission of this evidence into the proceedings.

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

Decision and reasons on application to admit Witness 7/Student Nurse E's text messages into evidence

During the course of Witness 7's live evidence, reference was made to text messages she sent to her university "*link tutor*" or personal tutor about concerns she had for her placement on the Ward during the relevant period. Witness 7 indicated that these text messages were still available should the panel wish to have sight of them.

The panel of its own volition made a request for these text messages to be made available.

Mr Hoskins submitted that the panel has the power to request documents to be provided as part of its inquisitorial function. He submitted that it would not be irrelevant or unfair for these text messages to be placed before the panel. He referred to the case of *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin) and submitted that the panel should consider the content of the text messages before ruling on admissibility and relevance.

Witness 7 indicated that she had no objection to providing the text messages.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of its request for the text messages referred to by Witness 7. This again 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 was satisfied that Witness 7's text messages were relevant as they related to matters raised in her live evidence about how Mrs Williams had allegedly treated another student nurse more favourably than her.

The panel noted that Mrs Williams had chosen not to attend this hearing, and that she was not aware at the time of making that decision of this request for Witness 7's text messages to be placed into evidence. The panel considered, however, that the contents of the text messages were purely factual and merely corroborated Witness 7's existing written and

oral evidence. It found that there was no disadvantage to the NMC or Mrs Williams in the admission of Witness 7's text messages into evidence.

In these circumstances, the panel came to the view that it would be fair and relevant to accept into evidence Witness 7's text messages, but would give them what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

Decision and reasons on application to admit hearsay evidence

At the conclusion of the evidence from the NMC's live witnesses, the panel heard an application made by Mr Hoskins under Rule 31 to admit hearsay evidence. He provided the panel with a written skeleton argument in respect of the following evidence:

1. Type 1: The transcript of a meeting between the Health Board and University on 10 June 2021 which was an occasion during which complainants (both those student nurses who appeared as live witnesses in the case and others who have not - including some whose accounts are subject to further application below) were gathered to discuss their experience of their time on the Ward.

2. Type 2: Documents which summarise or comprise the investigation carried out at local level by Witness 8, namely the redacted full investigation report and appendices; and the disciplinary hearing minutes of 15 March 2022.

3. Type 3: The formal investigation interview minutes of persons not called to give evidence on behalf of the NMC, namely:
    i) Mr 1's investigation interview minutes - 20 August 2021
    ii) Ms 2's investigation interview minutes - 27 August 2021
    iii) Ms 3's investigation interview minutes - 31 August 2021
    iv) Ms 4's investigation interview minutes - 27 August 2021
    v) Ms 5's investigation interview minutes - 31 August 2021
    vi) Ms 6's investigation interview minutes - 9 September 2021.

4. Type 4:
    i) Mrs Williams' investigation interview minutes - 8 September 2021
    ii) Registrant A's investigation interview minutes - 7 September 2021.

5. Type 5: an anonymous statement collected during the course of the investigation of a witness who was not called on behalf of the NMC and which addresses a matter not charged. Mr Hoskins submitted that it was not asserted that this statement was admissible, and invited the panel to put it out of its mind.

Mr Hoskins referred to the cases of *R (Bonhoeffer) v GMC* [2011] EWHC 1585 (Admin), *NMC v Ogbonna* [2010] EWCA Civ 1216, *Thorneycroft v NMC* and *El Karout v NMC* [2020] EWHC 3079 (Admin).

Mr Hoskins submitted that none of this evidence was the sole and decisive evidence in relation to any individual charge, the evidence of which predominantly came from the written and live evidence of the NMC's witnesses. He submitted that although that arguably limited their relevance, it did not extinguish it. Mr Hoskins submitted that as an overarching matter, but also relevant to the final charges faced by Mrs Williams and Registrant A, there were allegations of a '*clique*' having been formed on the Ward which allegedly comprised of Mrs Williams, Registrant A, Ms 6 and Ms 7. He submitted that this was an important background in the context of an '*us and them*' situation developing to canvass the wider attendees on the Ward. Mr Hoskins also drew the panel's attention to the fact that some of the additional evidence was supportive of Mrs Williams and Registrant A in that references were made to the absence of any such clique and to staff being able to report concerns to Mrs Williams and Registrant A.

In relation to fairness, Mr Hoskins submitted that the extent of the challenge to the contents of the additional statement and documents was almost nil, save through the panel's processes in light of the non-attendance of Mrs Williams and Registrant A. He submitted that the possibility of unfairness on the admission of the hearsay evidence was

particularly notable in Mrs Williams' case as she did not attend any disciplinary hearing at the Health Board and so did not respond directly to the totality of the report following its completion. Mr Hoskins submitted, however, that any such unfairness was entirely mitigated because she chose to resign rather than to attend any such hearing and likewise, she had indicated that she wished this NMC hearing to proceed in her absence. He submitted that albeit imperfectly, any such potential unfairness was mitigated by the fact of Mrs Williams having responded to material parts of the allegations in her investigation interview.

Mr Hoskins submitted that the documents generated as part of the disciplinary meeting, most notably those in Type 3, were subject to checking by the participants in most cases. He submitted that additionally, each of these documents was disclosed to Registrant A and Mrs Williams in preparation for their disciplinary hearing. Mr Hoskins stated that all of the additional documents had been provided by the NMC to Registrant A and Mrs Williams prior to the Case Examiners deciding there was a case to answer.

Mr Hoskins submitted that Mrs Williams and Registrant A had been given the opportunity to comment on the content at the CMF stage, but had chosen not to do so. Mr Hoskins submitted that the panel's decision to proceed in the absence of Mrs Williams and Registrant A was made in the knowledge that this would limit their ability to object to evidence. Further, he submitted that the disciplinary investigation was carried out in accordance with a formal Health Board disciplinary policy which, on its face, is road tested and protects fairness of all. Mr Hoskins then referred to the specific areas in which it was fair to admit hearsay evidence Types 1 – 4.

In response to the legal assessor's advice, Mr Hoskins referred to the efforts made by the NMC to have witnesses attend this hearing. He submitted that in respect of hearsay evidence Type 4 (namely the evidence "*directly from the mouths*" of Mrs Williams and Registrant A) and the disciplinary hearing minutes in Type 2, that factor was irrelevant because of Mrs Williams' and Registrant A's position as respondents in these proceedings. He submitted that they were afforded the same choice as others to attend

the hearing, and that even if that were not the case, they were not compelled to give evidence on their own behalf.

In relation to the hearsay evidence of the individuals who had not been called to give evidence on behalf of the NMC, Mr Hoskins submitted that the NMC had not sought to call these witnesses because their evidence was background and often indirect to all matters alleged. He submitted that although not irrelevant, their evidence was far from the sole and decisive evidence, and they need not, therefore, have been asked questions during the NMC investigation, nor been called to be witnesses.

Mr Hoskins told the panel that there was no information to suggest that any efforts had been made to contact these particular witnesses. He submitted that it seemed the view was taken by the NMC that either they would be admissible as hearsay or they would be excluded. Therefore, as they were not central to the case, the concept of proportionality, both in terms of the investigation and presentation of this case, meant that their oral evidence was unnecessary. Mr Hoskins invited the panel to exercise its discretion and submitted that the issue of the efforts made by the NMC to secure the attendance of these witnesses was not the most relevant, nor the weightiest, consideration in this case.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This once again 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 legal assessor advised the panel to consider the following questions:

(1) '*Why are the witnesses not attending the hearing to give evidence? Normally, if a witness is apparently willing to give evidence voluntarily then this may argue against admitting the evidence; if they are not a willing witness, the opposite may apply.*

(2) *What efforts have the NMC taken to ensure the attendance of the witnesses. Have such efforts been reasonable? The lesser the efforts, the less likely is it that his evidence should be admitted; of course, the converse applies.*

(3) *How serious and grave are the charges in respect of which the evidence relates? The more serious the charges, the less likely it is that the statement should be admitted.*

(4) *What would be the consequences to the Registrant's career and reputation if the allegations were proved? Again, the more serious the consequences, the less likely it is that a statement be admitted.*

(5) *Is there a conflict of evidence between the witness and the registrant? If there is no conflict then it is more likely that the statement can be admitted.*

(6) *Is there any other source of evidence before you that might touch upon the charge? If so, you would entitled to conclude that there may be no prejudice to the registrants to the evidence being admitted; again, the converse applies.*

(7) *Is there a possibility that the evidence of the witness is tinged with malice against the registrants? If there is, then this points towards the evidence not being admitted but, in the present case, you would also be entitled to note the argument put forward by Mr Hoskins that the admission of the evidence may assist in establishing whether there was any specific evidence of such malice.*

(8) *[In this particular case] The facts that (i) you have already found that the Registrants have voluntarily absented themselves from the hearing and (ii) the evidence being sought to be admitted has already been disclosed to the Registrants and they have made no objection to it being relied upon? If the evidence is admitted, then it follows that the registrants would not actually be denied an opportunity to cross-examine any witnesses because they have*

chosen not to attend the hearing. (This distinguishes their case from those cited above, since those registrants had attended their respective hearings and wished to challenge the evidence from absent witnesses). Although the absence of witnesses means that you as a Panel would not be able to ask them any questions, it must not be forgotten that you do not cross-examine or challenge, but seek to clarify as part of your inquisitorial role. You would still be entitled to decide what weight to attach to any piece of evidence and, in any event, follow the principle of attaching less weight to evidence from absent witnesses. You would therefore be entitled to take (i) and (ii) above into account.'

The panel took the above questions into account when making its decisions. It also noted that some of the documents contained within the hearsay evidence had already been referred to by some of the NMC's live witnesses during questioning, whilst others related to individuals who had not been called by the NMC to give live evidence.

In relation to questions 1 and 2 above, the panel noted that no specific reason had been given for the non-attendance of the absent witnesses and the panel had no information before it to suggest that any efforts were made by the NMC to ensure their attendance. Having said that, the panel noted that the hearsay evidence Types 1 – 4 had been served on Mrs Williams and Registrant A and they had been given the opportunity to challenge or comment on the content, but had chosen not to do so. Although the panel was careful not to speculate, it was aware of the fact that, as no request was made by Mrs Williams and Registrant A to have these witnesses attend, it was perhaps understandable that their attendance was not arranged. In addition, Mrs Williams and Registrant A had voluntarily absented themselves from these proceedings, so arguably had waived any right to cross-examine witnesses.

In relation to questions 3 and 4 above, the panel considered that the charges in both Mrs Williams' and Registrant A's cases are serious and grave, and potentially could result in their removal from the NMC register.

In relation to question 5 above, the panel noted that, as none of the charges have been admitted by either Mrs Williams or Registrant A, there was a potential conflict of evidence between them and the absent witnesses. However, the panel noted that, whilst some of the additional evidence was consistent with the evidence of the live witnesses (particularly in relation to the existence of a '*clique*' and the difficulties in raising concerns) some of the witnesses had indicated that the background on the Ward was not like that, in that Mrs Williams and Registrant A were approachable and that there was no *'clique*'. Accordingly, some of the additional evidence actually supported them.

In relation to question 6 above, the panel noted that the additional hearsay evidence was not the sole and decisive evidence on any of the charges, that almost all of the specific charges against Mrs Williams and Registrant A had already been addressed by the live witnesses, and that the additional evidence mainly went to the background issues concerning the culture on the Ward. The panel therefore considered that it could be of particular assistance in a case where context is a significant element.

In relation to question 7 above, the panel was aware of Registrant A's suggestion that the student nurses had effectively conspired together to make false allegations as they did not like her. However, the panel noted Mr Hoskins' submission that the admission of the hearsay evidence might assist it in establishing whether there was any specific evidence of malice against Mrs Williams and Registrant A.

In relation to question 8 above, the panel was aware that, if the additional evidence was admitted, neither Mrs Williams nor Registrant A would be able to challenge it as they were not present. However, it also noted that they had prior knowledge of the evidence and had not objected to its inclusion. Further, they had voluntarily absented themselves from the hearing. Consequently, their cases could be distinguished from the various authorities (*Ogbonna* etc) cited by Mr Hoskins and the legal assessor in that, as they were voluntarily absent, they had arguably waived their right to cross-examine witnesses. In addition, there were mitigations in place because the burden of proof still remained on the NMC to prove

its case and it was for the panel to decide what weight to give the additional hearsay evidence.

In making its final decision on the application, the panel took account of all the above factors. It appreciated the gravity of the allegations and the potential impact upon Registrant A's and Mrs Williams' careers. It took into account that some of the additional hearsay evidence supported the allegations against them, but some was supportive of them. Further, the panel considered that it would be almost impossible to separate out the various strands of evidence, allowing some to be admitted and some not, as they were so intertwined.

Having said all that, the panel considered that the additional evidence was not the sole and decisive evidence against Registrant A and Mrs Williams but would be of assistance in assessing the culture on the Ward. Further, it agreed with Mr Hoskins that it would assist the panel in answering the question of whether the allegations were tinged with malice against Registrant A and Mrs Williams. The panel also considered that there was a public interest in the issues being explored fully which supported the admission of this evidence into the proceedings. Finally, the panel placed significant weight upon the facts that Mrs Williams and Registrant A had prior knowledge of the additional evidence and had raised no objection to it being admitted, and had voluntarily absented themselves from the hearing – indeed, Mrs Williams had agreed to it proceeding in her absence.

In conclusion, the panel agreed with Mr Hoskins' submissions. In these circumstances, the panel came to the view that it would be fair and relevant to accede to Mr Hoskins's application and accept into evidence Types 1 – 4 of the additional hearsay evidence (but not, as indicated by him, Type 5), but would give that evidence what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

Decision and reasons on facts

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

The panel has drawn no adverse inference from the non-attendance of Mrs Williams.

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

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

- Witness 1: Healthcare Support Worker on the Ward during the relevant period;

- Witness 2/Student Nurse B: Second Year Student Nurse who was completing a nursing placement on the Ward during the relevant period;

- Witness 3/Colleague B: Healthcare Support Worker on the Ward during the relevant period;

- Witness 4/Student Nurse A: First Year Student Nurse who was completing a nursing placement on the Ward during the relevant period;

- Witness 5: Band 4 Nurse who subsequently commenced a Band 5 Nurse role on the Ward during the relevant period;

- Witness 6/Student Nurse D: First Year Student Nurse who was completing a nursing placement on the Ward during the relevant period;

- Witness 7/Student Nurse E: Second Year Student Nurse who was completing a nursing placement on the Ward during the relevant period; and

- Witness 8: Associate Director of Nursing Workforce during the relevant period who undertook the investigation into the allegations.

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

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

Charge 1

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

1) *In September 2020 did not acknowledge and / or support and / or include Student Nurse E to work alongside you;*

This charge is found proved.

In reaching this decision, the panel took into account Student Nurse E's written statement dated 11 October 2023, which stated:

> '*On the first day of my placement, in September 2020, I turned up to the Ward excited and ready to learn. I met Tabitha, who I knew was my mentor, however, they did not acknowledge me, which made me feel very uncomfortable. I understood that as my mentor, Tabitha was supposed to show me around the Ward and start teaching me, but they did not seem interested in me, and seemed to ignore the fact I was there...*
>
> *I consistently made attempts throughout my placement to try and reach out to Tabitha, but they would still not assist with my learning, or help me around the Ward...*
>
> *... I felt as though I was not supported by Tabitha in the way I would expect from a mentor, and had to find others to assist me in learning and developing. Generally, I felt like Tabitha was not bothered about me, or the job, and that I was a hindrance to them.*'

The panel also noted Student Nurse E's evidence from the transcript of the meeting held on 10 June 2021 to discuss the issues on the Ward. She stated that:

> '*...Tabitha was supposed to be my mentor and I had to report it to [Ms 6] as she didn't even say hello to me, she didn't acknowledge me, I felt like I was on my own*'.

In addition, the minutes from Student Nurse E's interview conducted by an investigator on behalf of the Health Board on 18 August 2021 stated:

> '*[Student Nurse E]: On the first day I didn't get acknowledged at all by Tabitha Williams and just followed any nurse to gain knowledge on the ward.*
>
> *...*

[Student Nurse E]: [Mrs Williams] didn't go through anything with me. I was only doing health care jobs. [Mrs Williams] had no interaction with me whatsoever. I felt uncomfortable on Morfa ward.'

Student Nurse E's oral evidence was consistent with this account. Student Nurse E explained that from the first day she arrived on the Ward, there was no involvement with Mrs Williams. She said that she "*didn't get anything back*" and it made her feel awkward. Student Nurse E stated that Mrs Williams made her feel like she was not wanted, and that she had no relationship or engagement from Mrs Williams but felt ignored.

This allegation was put to Mrs Williams during her interview for the local investigation at the Health Board on 8 September 2021. She responded by stating that:

'*Ive never not acknowledged a student. You can't help but acknowledge them on their first day. They're usually looking extremely lost. If students haven't done care before, for example [Ms 6] would introduce them to staff, show them the ward and where there was no care experience they would work with the Health Care Assistance [sic]. Doing basic dressings, washing, feeding, beds and introduce them to clinical skills. I wouldn't have been working with her. It was a new placement and to be put with Health Cares, that's how [Ms 6] wanted it. Health Cares have got more time with patients, theres no point throwing them in if they do not know how to make a bed. Some had done care and had experience so they knew. Some had never made a bed in uni, they hadn't had that. We put them with the Health Cares and did explain gonna put you with so and so or whoever to work, to get the basics and not throwing a drugs trolley at you when you've never washed a patient before. We had a student pack we compiled, I compiled myself, [Ms 6], [Ms 9] and [Registrant A] for the students to have outlining what's expected of them. What they could achieve and take part but [Ms 6] would always make a point to work with the Health Cares to find their feet without the staff nurse down your neck and feel confident. I've had student's with supervision and doing well. They come in, never done it before so better to ease them in doing something nurse related.*'

However, the panel found Student Nurse E's evidence to be clear, credible and consistent. It therefore accepted her account and determined charge 1 proved on the balance of probabilities.

Charge 2

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

2) *Between April and May 2021 inappropriately delegated blood glucose observations to Student Nurse B;*

This charge is found proved.

In reaching this decision, the panel took into account the minutes from Student Nurse B's local investigation interview on 18 August 2021, which stated:

> '*...[Registrant A] would log in and give me the authority to do the BM(bloods) and a couple of shifts when [Mrs Williams] and [Registrant A] were on the same shift they asked me to do all of the observations and all of the BM(bloods) and it wasn't until recently I found out that I wasn't supposed to be doing the BM(bloods) as I haven't received any training. [Registrant A] logged in under her details and gave me the things to take the blood and get on with it, but I didn't know otherwise.*'

Student Nurse B explained in oral evidence that Mrs Williams and [Registrant A] would ask her to do all the blood glucose observations. She said that she was asked to do this after being on the Ward for three weeks. Student Nurse B stated that the patients she took blood glucose observations from were allocated to Mrs Williams, and that she would report the readings to Mrs Williams.

This allegation was put to Mrs Williams during her interview for the local investigation at the Health Board on 8 September 2021. She responded by stating that:

> *'All BM's were supervised until they were competent, there was conflict if students were allowed to do BM's or not. The last mentorship course said they can, and be supervised initially.*'

Having found Student Nurse B's evidence to be credible and reliable and accepting her account, the panel considered that Student Nurse B should not have been asked to do observations without appropriate training. It therefore determined that between April and May 2021, Mrs Williams inappropriately delegated blood glucose observations to Student Nurse B.

Charge 3

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

3) *On 5 April 2021 in relation to Patient I said "she's rotting from the inside" or words to that effect;*

This charge is found proved.

In reaching this decision, the panel took into account the undated local statement produced by Student Nurse B following the Health Board and University discussion, which stated:

> '*On the 5th of April, while I was doing obs in Bay 1 [Registrant A] went up to a patient that was in bed 1 and encouraged her to drink, the patient said "what" and [Registrant A] shouted to the patient "your breath stinks" the patient replied "I can't hear you as I'm deaf" [Registrant A] then said in a loud voice "your breath stinks" the patient replied "it's no use love, I can't hear you" [Registrant A] then walked*

away and went to the nurse's station where the deputy manager was and told her "her breath is rank" the deputy manager said "she's rotting from the inside".'

The panel noted that the alleged comment made by Mrs Williams was not mentioned in any of Student Nurse B's other written statements. Student Nurse B was asked about why this issue was not raised in any of her other written statements and she told the panel that she "*found it very distressing, to the point where I physically couldn't talk about it as it upset me so much.*" The panel accepted Student Nurse B's explanation, and also considered that her local statement was written closer to the time of the incident, where her recollection of events was likely to have been more accurate and credible.

Student Nurse B confirmed in oral evidence that Mrs Williams made the comment about Patient I. Student Nurse B stated that it was not possible that she had misinterpreted the comment because of how Mrs Williams responded to Registrant A "*so loudly that everyone could hear*".

Mrs Williams was not asked about this particular incident during the local investigation interview.

The panel found Student Nurse B's account to be reliable and credible, and accepted her evidence. The panel therefore determined charge 3 proved.

Charge 4

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

4) *In around November 2020 did not intervene in relation to Patient J when Colleague C;*
   a) *Said "go on, you might as well do it" or words to that effect;*
   b) *Laughed;*

This charge is found proved.

In reaching this decision, the panel took into account Student Nurse E's written statement dated 11 October 2023, which stated:

> '*There was one incident, in or around late November 2020, where [Registrant A] shouted at a patient who had mental health difficulties and was in one of the side rooms. The patient, Patient J, expressed that they wanted to commit suicide, and [Registrant A] would essentially encourage it, in front of staff, students and other patients on the Ward by making comments to the patient to the effect of "go on you might as well do it". Rather than intervene, Tabitha would laugh at the situation, while observing from outside the bay, and at the patient, who was suicidal. The patient could not see Tabitha laughing but was distressed by the way they were treated by [Registrant A]. It was a horrible environment to work in, and not nice to see Tabitha allowing such behaviour by more junior members of staff.*'

Student Nurse E's oral evidence was consistent with this account. Student Nurse E explained that Patient J was a challenging patient, and she provided details of the context surrounding the incident, in particular that it was during the COVID-19 pandemic where no visitors were allowed on the Ward and there was a heavy reliance on staff to engage with patients.

Student Nurse E told the panel "*Mrs Williams would laugh at the situation – I witnessed this. When [Registrant A] came out, they would laugh at the situation. Mrs Williams would laugh about it. [Registrant A] would think it was funny but others around her didn't think it was funny.*"

The panel found that Student Nurse E's evidence was reliable and consistent, and she had a clear recollection of this event.

In addition, the panel noted Student Nurse B's written statement dated 2 August 2022, which stated:

> '*My concerns with Mrs Williams did not generally relate to their direct conduct and behaviour, rather their failure to intervene and step in when they witnessed concerning behaviour by other staff members, particularly [Registrant A]. As a senior member of staff on the Ward it caused me concern that they did not take action when concerning behaviour was witnessed, which I felt made it appear as though such behaviour was acceptable on the Ward.*'

The panel considered that Student Nurse B's account provided corroborative evidence in support of the allegation that Mrs Williams did not intervene when appropriate.

The panel considered that as a senior practitioner and acting deputy manager during the relevant period, Mrs Williams had a responsibility and an obligation to intervene and take action at the time of the incident involving Registrant A and Patient J in or around November 2020.

Mrs Williams was not asked about this particular incident during the local investigation interview.

The panel accepted the evidence of Student Nurse E and the corroborative evidence of Student Nurse B in relation to this charge. It therefore determined that, on the balance of probabilities, Mrs Williams did not intervene in relation to Patient J when Colleague C said "*go on, you might as well do it*" or words to that effect; and laughed.

Charge 5

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

5) *Before 25 April 2021 did not intervene when Colleague C said to Student Nurse B, in relation to Patient F:*
   a) *On one or more occasion "I'm not bothered" or words to that effect;*
   b) *"but thank you for telling me" or words to that effect in a sarcastic tone*

This charge is found proved.

In reaching this decision, the panel took into account Student Nurse B's undated local statement, which stated:

> '*On a shift in April (unsure of the date) I noticed that a patient had had a nose bleed, I assisted in changing him and went to inform the nurse (my mentor) I said to her that I had assisted the patient to change as he had a nose bleed to which she replied in front of the deputy Manager ([Mrs Williams]) "I'm not bothered" I said "sorry what?" to which she replied again "I am not bothered but thanks for telling me" I turned round and walked away as I was so angry*.'

The panel also noted Student Nurse B's evidence from the transcript of the meeting held on 10 June 2021 to discuss the issues on the Ward. She stated that:

> '*There was another patient had a bit of a nose bleed one day and I'm not sure what happened, I helped them get changed and thought I'd better tell someone, I told [Registrant A] and she said "I'm not bothered", I said "sorry, what?" she said "I'm not bothered but thanks for telling me." And Tabitha Williams, the deputy manager at the time was right next to her...*
> *She didn't respond, she just sat there and didn't respond, she carried on doing what she was doing on the computer.*'

Student Nurse B's first written statement (in respect of Registrant A's case) dated 2 August 2022 stated:

> '*...I did not know what else to do as Mrs Williams had heard the conversation and didn't say anything in response to [Registrant A] dismissing my concerns. I therefore decided to walk away, and as I walked away, [Registrant A] sarcastically said but thank you for telling me".*'

In a further witness statement (in respect of Mrs Williams' case) dated 2 August 2022, Student Nurse B stated:

> '*Mrs Williams' failure to intervene further angered me, as I thought they would act upon the concerns even if [Registrant A] chose to dismiss them, but instead they just sat and ignored what was being said.*'

Student Nurse B's oral evidence was consistent with her written accounts. She said that she knew that Mrs Williams heard Colleague C/Registrant A's comments "*as... [Registrant A] was clear and spoke loudly. They were within touching distance.*" In oral evidence, Student Nurse B said that she was "*shocked and surprised*" by this incident. The panel was satisfied that Student Nurse B had provided a clear and detailed account of the incident.

The panel determined that Registrant A had made the comments. It noted that this comment was made in the presence of Mrs Williams who was Registrant A's line manager.

The panel considered that as a senior practitioner and acting deputy manager during the relevant period, Mrs Williams had a responsibility and an obligation to intervene and take action at the time of the incident involving Colleague C and Student Nurse B in relation to Patient F.

This allegation was put to Mrs Williams during her interview for the local investigation at the Health Board on 8 September 2021. She responded by stating that:

> *'I don't recall that particular incident. If I was sat on the computer, I would have being doing the nursing assessment or something which took a lot of concentration, focusing on what you're doing.*'

The panel found Student Nurse B's evidence to be clear and credible, and accepted her evidence. The panel therefore determined charge 5 proved in its entirety.

Charge 6

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

6) *On 4 May 2021 in relation to Student Nurse C:*
   a) *Did not intervene when Colleague C pulled faces and / or laughed and / or put their hands on their hips in relation to them sitting in a chair*
   b) *Laughed*

This charge is found proved.

In reaching this decision, the panel took into account Student Nurse B's written statement dated 2 August 2022, which stated:

> '*After [Student Nurse C] sat on the chair, [Registrant A] stood behind them pulling a silly face and looking at [Student Nurse C] as if to say they were going to sit on the chair, [Registrant A] did not say anything to [Student Nurse C]. Whilst stood behind [Student Nurse C] pulling faces, Mrs Williams and [Ms 6] (Ward Manager) were giggling, and [Registrant A] proceeded to put their hands on their hips. [Student*

Nurse C] would not have been able to see [Registrant A] and proceeded with their handover professionally, ignoring the giggling.'

The panel noted Student Nurse B's undated local statement, which stated:

'*...the ward Manager and Deputy Manager was [sic] there and started to giggle...*'.

Student Nurse B confirmed in oral evidence that Mrs Williams did not say anything during the incident.

The panel considered that as a senior practitioner and acting deputy manager during the relevant period, Mrs Williams had a responsibility and an obligation to intervene and take action at the time of the incident involving Colleague C and Student Nurse C on 4 May 2021. However, the evidence before the panel suggested that Mrs Williams did not intervene, but rather encouraged Registrant A's behaviour by laughing.

This allegation was put to Mrs Williams during her interview for the local investigation at the Health Board on 8 September 2021. She responded by stating that:

'*...The student sat down and when she turned around she was like oh okay but didn't pull a face. She had a mask on so we couldn't see her face. I did think this is uncomfortable. [Ms 6] was there and didn't do or say anything, she was literally opposite. I don't recall [Ms 6] giggling, I wouldn't giggle, it was awkward. You wouldn't sit in a staff nurses seat.*'

The panel noted that Mrs Williams did not consider this incident to be of any significance.

The panel found Student Nurse B's evidence to be clear and credible, and accepted her evidence. The panel therefore determined charge 6 proved in its entirety.

Charge 7

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

7) *Did not support and / or include Student Nurse D to work alongside you and / other nurses*

This charge is found NOT proved.

In reaching this decision, the panel took into account the minutes from Student Nurse D's local investigation interview on 20 August 2021, which stated:

> '*...Tabitha was my mentor, I was put with her quite often but didn't really enjoy it that much...*'

The panel also noted Student Nurse D's written statement dated 13 July 2022, which stated:

> '*From the beginning of my placement I would spend very little time with Mrs Williams, despite being under the impression that as my mentor I was supposed to be with them around 60% of the time...*
> *Mrs Williams' behaviour, and leaving me out, had a big impact on my placement, as I felt uncomfortable the whole time.*'

The panel considered that the evidence from Student Nurse D's interview with the Health Board in August 2021 contradicted what she said in her written statement dated July 2022.

In oral evidence, Student Nurse D was asked about what support, if any, she received from Mrs Williams. Student Nurse D told the panel that she could not remember this particular aspect of her experience on the Ward because she had chosen to put it to the back of her mind.

In light of this evidence, the panel could not be satisfied that the elements of charge 7 could be found proved.

Charge 8

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

8) *On one or more occasion requested Student Nurse D to commence a medication round unsupervised*

This charge is found NOT proved.

In reaching this decision, the panel took into account Student Nurse D's written statement dated 13 July 2022, which stated:

> '*My key concern with Mrs Williams related to one incident, although I do not remember if it may have happened more than once, when I was working with Mrs Williams. They asked me to start a medication round, saying that they would 'catch up', or words to that effect. I was very concerned by this, as being a student nurse I was not in any situation, supposed to complete a medication round by myself, due to the risks to patient safety, as I was not trained to administer medication.*
>
> *I do not recall when in my placement this happened, but remember feeling very uncomfortable. I did not do as Mrs Williams requested, but got the trolley ready and waited for them to come and assist me with the drug round.*'

The panel noted Student Nurse D's local statement dated 13 May 2022, which stated:

> '*I did feel Tabitha had put me in some awkward situations regarding medication. She would expect me to go off and "start the medication round" and although I*

NEVER did any of the medication on my own, I felt as though I was a burden or a pain for not starting them as I would wait by the trolly for her to come and assist me.'

Further, the minutes from Student Nurse D's local investigation interview on 20 August 2021, stated:

'*[Student Nurse D]: Tabitha was on the ward and she was busy. I was more than willing to help Health Care side. I asked "Is there something you want me to do? Help you with or do the observations?" which I did ask often, more than once. She said "go grab medication trolley, you start and I'll be with you in a minute", it was an awful situation. I didn't want to be that nurse and was thinking 'oh no'. I would wait for her to come and assist me. I wasn't going to start the medication round on my own. Even as a first year student, you know that you don't do medications on your own.*
[Interviewer]: Was that a common thing on the ward? Did you see students being asked to start medication rounds on their own?
[Student Nurse D]: Never saw it happen with other nurses and students while I was on ward, it only happened with Tabitha.'

The panel then took into account Mrs Williams' reflective statement in respect of the allegations, which stated:

'*In regards to mentoring a student with medication rounds, I would ask them to go and start looking at the medications and charts ahead of me. This was because I was generally in the middle of a task or frequently called away to deal with other matters. It was never meant to be seen as my student being an inconvenience and had I known this is how they felt I would have done my upmost to relay those concerns.*'

The panel considered that Student Nurse D's interpretation of '*start*' was that she should start the medication round by herself, i.e. begin administering medication. However, the panel was not convinced that Student Nurse D would have been given this task to undertake in her second week of placement as a first year nursing student under any circumstances. The panel accepted Mrs Williams' account and was of the view that by asking Student Nurse D to '*start*', it was more likely than not that what she meant and intended was for Student Nurse D to start looking at medications and charts ahead of her until she was present to complete the medication round.

The panel considered that it was more likely than not that Student Nurse D misinterpreted what Mrs Williams had requested.

The panel received no evidence to suggest that Student Nurse D had the keys to the medication trolley to undertake a medication round on her own.

The panel therefore determined, on the balance of probabilities, that Mrs Williams did not request Student Nurse D to commence a medication round unsupervised, but rather she was asked to go and start looking at the medications and charts, as described by Mrs Williams in her statement. The panel found charge 8 not proved.

Charge 9

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

9) *On one or more occasion openly discussed student nurses in negative terms with Colleague C*

This charge is found proved.

In reaching this decision, the panel took into account the minutes from Student Nurse D's local investigation interview on 20 August 2021, which stated:

'*It was the type of environment, I felt Tabitha, [Registrant A] and [Ms 7] were very friendly with each other and I felt I couldn't say anything about anything. They would have targeted me in front of everyone and they weren't scared to hold back. Many times I'd hear them talk about other student nurses on the ward, saying they weren't good or couldn't do certain thing [sic]. I just keep myself to myself and would get on with it.*'

Mrs Williams was not asked about this allegation during the local investigation interview.

The panel found Student Nurse D's written evidence in respect of this charge to be clear, and accepted her evidence. The panel therefore found, on the balance of probabilities, that on one or more occasion, Mrs Williams openly discussed student nurses in negative terms with Colleague C/Registrant A.

Charge 10

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

10) On an unknown date in relation to an unknown nurse laughed and / or said, "that's just common sense, a first year student could do that" or words to that effect

This charge is found NOT proved.

In reaching this decision, the panel considered that this allegation related to an unknown nurse on an unknown date. Student Nurse D had withdrawn the evidence in relation to this charge in her written statement and the NMC did not pursue it during her live evidence. In those circumstances, the panel determined that the NMC had not met the evidential standard required. It therefore found charge 10 not proved.

Charge 11

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

11) On an unknown date in relation to Student Nurse A said, "she doesn't do much anyway" or words to that effect

This charge is found proved.

In reaching this decision, the panel took into account the minutes from Student Nurse A's local investigation interview on 20 August 2021, which stated:

> '*...I'd been ill in the night come in the morning and Tabitha said "you look tired" I said I'd been ill in the night [Ms 7] said "we won't get you do too much" and Tabitha said "she doesn't do much anyway."*"

Student Nurse A explained in oral evidence that she heard Mrs Williams say the words "*she doesn't do much anyway*". Student Nurse A said that she didn't think Mrs Williams meant for her to hear the comment. She stated that she was not on the placement for very long and that it was an inappropriate comment. Student Nurse A said that she did not recall Ms 7's reaction, but that Mrs Williams was being genuine when she made the comment.

Mrs Williams was not asked about this allegation during the local investigation interview.

The panel found Student Nurse A's evidence in respect of this charge to be a clear and consistent account, and accepted her evidence. The panel therefore found, on the balance of probabilities, that on an unknown date in relation to Student Nurse A, Mrs Williams said "*she doesn't do much anyway*" or words to that effect.

Charge 12

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

12) On an unknown date in relation to Patient I:

a) Said to them, "Stop being dramatic" or words to that effect

b) Said to them, "Stop making that noise" or words to that effect

c) Did not check on them when they were heaving and / or bringing up bile

This charge is found proved.

In reaching this decision, the panel took into account Witness 5's undated local statement which, in respect of Mrs Williams, stated:

> '*I have witnessed Patient I be told "stop making that noise, you don't feel sick" whilst Patient I suffered nausea following her wanting to die and refusing food and drink...*'

The panel noted the minutes from Witness 5's local investigation interview on 27 August 2021, which stated:

> '*... the lady had decided that she didn't want to live. She was compos mentis but refused food and drink and wanted to die. She made that choice but when you refuse food you feel sick and start to heave and bring up bile. Tabitha said "stop making that noise, you don't feel sick", how do you know? She hadn't eaten in days, she said "stop being so dramatic" just carried on typing on the computer and again "will you stop doing that noise". In my opinion, I'm baffled it didn't hit me until I wrote it down and thought what on earth.*'

In addition, Witness 5's written statement dated 29 June 2022 stated:

'*... I recall that Patient A had full capacity, and had chosen to refuse food and drink from a couple of weeks into their admission to the Ward, saying that they wanted to die.*

As a result of not eating or drinking Patient A would regularly feel sick, resulting in them heaving and bringing up bile. In response to the noises Patient A was making, Mrs Williams would say to Patient A "stop making that noise", that she did not feel sick and to "stop being dramatic", or words to that effect. This was not an isolated incident and happened on many occasions during Patient A's time on the Ward. Patient A would react to this, getting upset and reiterating to Mrs Williams that they did feel sick. Patient A would respond directly to Mrs Williams, when Mrs Williams was around, although as Mrs Williams would usually make the comments from the nurse's station, not right at Patient A's bedside, this would not be a direct conversation, despite the comments being directed at Patient A from afar.'

The panel noted that the charge referred to 'Patient I' whilst Witness 5's written statement evidence referred to 'Patient A'. The panel had sight of the anonymity schedule produced by the NMC which identified Patient I with the note '*to be redacted from Patient A in TW CPP Masters*'. The panel was satisfied that the NMC had recognised an error related to Patient I being referred to as Patient A in the documentation for Mrs Williams' case, but that this error had not been corrected in Witness 5's written statement.

Witness 5 confirmed in oral evidence that she was referring to a female patient in her account of this incident, and the panel noted that Patient I is female. The panel was therefore satisfied that that Witness 5's reference to 'Patient A' in her written statement was a simple error, and that the relevant patient in respect of this charge was Patient I.

In oral evidence, Witness 5 explained that the patient would feel sick and bring up bile. She said that it happened many times and was brought to the attention of Mrs Williams. Witness 5 stated it was easy to hear the patient because her bed was close to the nurse's

station. She said that Mrs Williams did not bother to check her and instead shouted at her to shut up.

This allegation was put to Mrs Williams during her interview for the local investigation at the Health Board on 8 September 2021. She responded by stating that:

> *'If it's the patient I'm thinking about, they had gone on hunger strike. I was fully aware that they didn't want to ear [sic] and felt nauseas, and I got meds prescribed for them as needed. I wouldn't tell them them [sic] to stop being dramatic, might tell her she wasn't going to be sick She wouldn't pick her head of the table some days. Doctors tried to encourage her, if I was typing at the nurses station, I wasn't near patients anyway.'*

The panel preferred the evidence of Witness 5 which it found to be clear and consistent. The panel determined charge 12 proved, in its entirety, on the balance of probabilities.

Charge 13

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

13) On unknown dates on one or more occasion said to Patient B to "stop it" and / or "shut up" and / or "give it a rest" or words to that effect

This charge is found proved.

In reaching this decision, the panel took into account Witness 5's written statement dated 29 June 2022, which stated:

> '*Another patient on the Ward, Patient B, had dementia, and was on the Ward for around three months in total. Patient B would often cry continuously, and was generally not quiet.*

Mrs Williams deemed Patient B as trouble, and rather than show empathy and support for them, would instead repeatedly make comments such as "stop it", "shut up", and "give it a rest", to Patient B. I directly witnessed these concerns on more than one occasion. These comments would be made by Mrs Williams from the nurses' station, or within the bay but not at Patient B's bed, and could therefore be heard by anyone else in the vicinity, including staff and other patients. Patient B was obviously in distress and would often cry as a result of Mrs Williams' conduct, sometimes telling Mrs Williams to shut up in response and this would sometimes escalate to verbal altercations between them. I found Mrs Williams speaking to them in such a cold manner horrendous.'

The panel noted Witness 5's undated local statement which, in respect of Mrs Williams, stated:

'*I have witnessed Patient B be told to "be quiet, give it a rest" whilst she was obviously in distress. Speaking to dementia patients in such a cold manner, in my opinion is just horrendous.*'

In oral evidence, Witness 5 described this this patient as a "*wanderer*" who wanted to go home. Witness 5 explained that Patient B was upset and cried a lot, but was not abusive. She stated that Patient B was more unsettled and disruptive and wanted to go home. Witness 5 told the panel that comments like "*shut up*" or "*give it a rest*" were usually said once a week, and it depended on the patient's mood as on some good days she would be calm and other days she would be upset. Witness 5 stated that "*shut up*" was said to Patient B nastily and not in a nice tone. She said that the patient would bite back and there would be a shouting row between her and Mrs Williams, which had an impact on other patients and one patient said she felt sorry for Patient B.

The panel was satisfied that Witness 5 had provided a clear and detailed account in respect of this allegation.

This allegation was put to Mrs Williams during her interview for the local investigation at the Health Board on 8 September 2021. She responded by stating that:

> *'No, again you might think to yourself 'just give it a rest for five'. We had several patients on the ward at one time who would scream and shout verbal abuse, be aggressive and terrorise other patients, who were petrified. They were inappropriately placed patients and should never have been admitted to the ward. If I would say stop doing what you're doing, that's not how I would word it. What's the matter? What do you need? What are you shouting for? I wouldn't say give it a rest, I just wouldn't.'*

The panel found Witness 5's evidence to be reliable and credible, and therefore accepted her evidence. As such, the panel found that on unknown dates on one or more occasion, Mrs Williams said to Patient B to "*stop it*" and / or "*shut up*" and / or "*give it a rest*" or words to that effect.

Charge 14

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

14) On an unknown date said you "have no interest working with dementia patients" or words to that effect

This charge is found proved.

In reaching this decision, the panel took into account Witness 5's written statement dated 29 June 2022, which stated:

> '*One of the incidents involving Mrs Williams which caused me the most concern took place during a conversation at the nurse's station, in the middle of the Ward, between myself, Mrs Williams, [Ms 6] and [Ms 10], a Dementia Support Worker in*

around May 2021. [Ms 6] told Mrs Williams that they would be responsible for all dementia programmes that shift, to which Mrs Williams responded loudly that they "have no interest working with dementia patients", and that they would do the rota instead. Mrs Williams then started to walk away, and [Ms 6] said to them that they would be working on dementia programmes. Mrs Williams, whilst continuing to walk away, responded "I'm not" and left.'

The panel noted Witness 5's undated local statement which, in respect of Mrs Williams, stated:

'*I have witnessed Tabitha show no compassion or empathy towards dementia patients. Whilst at the Nurses Station she has stated when asked to work with Dementia Support Worker [Ms 10] that she "has no interest in dementia patients" and that "she will do her rota but that's it". The tone is her voice, many of the patients would have heard this.*'

The panel also took into account the minutes from Witness 5's local investigation interview on 27 August 2021, which stated:

'*This is one of the times I thought where am I working? [Ms 6] was working, [Ms 10] she was there, I was there, and I can't remember who else and Tabitha. [Ms 6] said I'll get you to work with [Ms 10], she was a Dementia Support Work. Tabitha said "I have no interest in working with dementia. I'm doing the rota" and started walking away and [Ms 6] said "you are" and she said "I'm not" her voice was so cold. It makes me sad these patients are so vulnerable...*'

In oral evidence Witness 5 stated that Mrs Williams "*worked with dementia patients but had no desire to get involved with the patients and their care*", suggesting that Mrs Williams worked on a 'needs must' basis in relation to dementia patients. Witness 5 also confirmed that the Ward Manager, Ms 6, was present at the time but Mrs Williams' behaviour was ignored.

This allegation was put to Mrs Williams during her interview for the local investigation at the Health Board on 8 September 2021. She responded by stating that:

> '*I have worked with dementia patient since I qualified when I was on Bueno. Predominantly we had dementia patients, that's the nature of care of the elderly they had dementia but that's not why they are in hospital. I never treated dementia patients differently, some are more challenging and you can't fall in the same relationship as you can with others. It's lucky for us as they are lovely, sweet people who we meet. I've gone above and beyond for a lot of dementia patients, to say i've got no compassion. I did have compassion. I'm not going to lie it's not my favourite condition to care for, you can't do anything to make it better.'*

In addition, in respect of her nursing practice, Mrs Williams stated:

> '*... it's not my thing, my passion. I said palliative care is my passion, everyone has an aspect of nursing that they are passionate about. I'll admit it's not something I'm passionate about but I wouldn't have phrased it like that it's just not where my heart lies.*'

This evidence was put to Witness 5 during live evidence and she commented that she had never heard Mrs Williams say that palliative care was her passion, and that she stood by what she had said in relation to dementia patients.

The panel was satisfied that Witness 5 had provided clear and consistent evidence in respect of this allegation, and accepted her evidence. The panel therefore found charge 14 proved on the balance of probabilities.

Charge 15a

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

15) On an unknown date in relation to Colleague B:

a) Shared their reason for absence with colleagues

This charge is found proved.

In reaching this decision, the panel took into account Witness 5's undated local statement which, in respect of Mrs Williams, stated:

> '*I have witnessed Tabitha reading out text messages from Sister [Ms 6] to other Staff Nurses ([Registrant A]) stating the reasons a staff member was off sick...*'

The panel also took into account Witness 5's written statement dated 29 June 2022, which stated:

> '*Another incident I recall clearly, was an occasion when I was on the Ward, and a colleague, [Colleague B] (Healthcare Assistant) was off sick. That colleague had told [Ms 6] why they were off, confidentially, however, this had been shared with Mrs Williams by message from [Ms 6]. Mrs Williams then proceeded to shout out loud from the nurse's station what they had been told, disclosing why our colleague was off that day. I do not recall the reason they were off, but remember that at the time I considered it was quite private. Anyone in the vicinity, including other staff and patients would have been able to hear Mrs Williams share this information.*'

Witness 5 confirmed this account in oral evidence and stated that she and Registrant A were in the room when Mrs Williams received and read the message out loud. Witness 5 stated that "*it was loud and not a whisper, like it was common information*".
The panel was satisfied that Witness 5 had provided consistent evidence about who read the text from Ms 6 and shared the reason for Colleague B's absence from work.

This allegation was put to Mrs Williams during her interview for the local investigation at the Health Board on 8 September 2021. She responded by denying the allegation and stated:

> '*... I wouldn't do that, I don't recall a text with a personal message being off sick...*'

The panel preferred Witness 5's evidence in respect of the incident, and accepted her account. It therefore found that on the balance of probabilities, on an unknown date, Mrs Williams shared Colleague B's reason for absence with colleagues.

Charge 15b

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

15) On an unknown date in relation to Colleague B:

b) Did not intervene when Colleague C said Colleague B "does fuck all anyway" or words to that effect

This charge is found NOT proved.

In reaching this decision, the panel took into account the Witness 5's undated local statement drafted following a meeting on 16 June 2021, which stated:

> '*I have witnessed [Mrs Williams] reading out text messages from Sister [Ms 6] to other Staff Nurses ([Registrant A]) stating the reasons a staff member was off sick and saying "she does fuck all anyway" to which [Registrant A] agreed. This made me feel incredibly nervous and uneasy about sharing my personal information with the sister incase [sic] it was voiced to other members of staff with no thought.*'

The panel also noted Witness 5's first written statement (in respect of Registrant A's case) dated 29 June 2022, which stated:

'*On a date I do not recall, in around March or April 2021, I was with [Registrant A] and Mrs Williams on the Ward when Mrs Williams received a text message from [Ms 6]. The text message was informing Mrs Williams that one of the HCSW's, [Colleague B], was going to be off sick that day, and explaining why. Mrs Williams proceeded to read out this confidential information, in the middle of the Ward in front of other staff members and patients. In response, Mrs Williams stated, again in front of me, as well as other staff and patients on the Ward, that [Colleague B] "does fuck all anyway", or words to that effect.*'

In a further written statement (in respect of Mrs Williams' case) dated 29 June 2022, Witness 5 stated:

'*In response to Mrs Williams reading this message out, one of the other Band 5 Staff Nurses, [Registrant A], responded that our colleague "does fuck all anyway", or words to that effect. Rather than challenge this unkind and inappropriate comment by [Registrant A], Mrs Williams said nothing...*'

In oral evidence, Witness 5 said that Registrant A was the one who said Colleague B "*did fuck all anyway*". She stated that this comment was made in Ms 6's office. However, in written evidence Witness 5 stated that the comment was made in the middle of the Ward.

The panel noted Witness 5's evidence given closer to the time which indicated that it was Registrant B who said that Colleague B "*does fuck all anyway*" or words to that effect.

In addition, there was conflicting evidence as to where on the Ward this comment was made.

The panel found the evidence in respect of this charge contradictory and inconsistent with other evidence. It was therefore unable to reach a conclusion as to who actually said the words that Colleague B *"does fuck all anyway"*, and it found charge 15b not proved.

Charge 16

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

16) On one or more occasion refused to assist with patient care

This charge is found NOT proved.

In reaching this decision, the panel took into account Witness 5's written statement dated 29 June 2022, which stated:

> '*... from the day I started on the Ward I found Mrs Williams was very lazy and avoided the patient care elements of their role, preferring to sit at a computer sorting out rotas and other admin...*
>
> *Mrs Williams' attitude was horrible, and they would speak down to others all the time. They would also fail to help out with tasks on the Ward, causing everyone else working extra pressure and stress, which was not necessary, as there was no reason Mrs Williams could not assist, again demonstrating their laziness..*.'

In oral evidence, Witness 5 told the panel that Mrs Williams "*did not want to do any tasks at all*". However, in her oral evidence, Witness 5 did not provide specific reference to instances where Mrs Williams "*refused*" to carry out patient care.

The panel considered that an integral part of the allegation was to identify any positive act of refusal by Mrs Williams. It noted Witness 5's clear evidence that Mrs Williams did not like to assist with tasks on the Ward, which included patient care. However, there was no evidence before the panel to indicate that Mrs Williams refused to assist with patient care.

The panel therefore found charge 16 not proved.

Charge 17

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

17) On an unknown date permitted Colleague C to change the staff rota using your login details

This charge is found proved.

In reaching this decision, the panel took into account Witness 5's undated local statement which stated:

> '*I have witnessed [Registrant A] receiving log in information from [Mrs Williams] and changing shifts to suit them. In particular one incident where housekeeper [Ms 7] was having a house warming so [Registrant A] changed the shifts and said "[Ms 8] can do it" quite openly behind the nurses desk. I feel this is so unfair on other staff nurses.*'

The minutes of Witness 5's local investigation interview on 27 August 2021 stated:

> '*This incident, [Mrs Williams] had messaged [Registrant A] her log in details to change rota as [Ms 7] was having a house warming and wanted to make sure they was [sic] all off.*'

The panel also noted Witness 5's written statement dated 29 June 2022, which stated:

> '*... [Registrant A] then text Mrs Williams, (who was not working that shift) about this, I do not know exactly what the text said. In response, Mrs Williams sent [Registrant A] their log in details for the roster on the computer and told them to check the rota. I did not see the message but was told by [Registrant A] that Mrs Williams sent their log in details so they could see who was working... On logging in as Mrs Williams,*

whilst at the nurse's station with me, [Registrant A] found that they were down to work on the night of the party. They text Mrs Williams again, who agreed that they could change the rota to make sure they were off.'

Witness 5 confirmed her account of this incident in oral evidence and told the panel that Mrs Williams was at home at the time. Witness 5 stated that she saw Registrant A/Colleague C read the login details from her phone as she typed them into the computer.

This allegation was put to Mrs Williams during her interview for the local investigation at the Health Board on 8 September 2021. She responded by denying that the details were shared and stated that:

'*No, she had safe care details initially because a lot of staff couldn't get on. It didn't matter what we would say, if we couldn't get on, we still needed to do it. From a ward perspective doing staffing and beds out, she didn't have my details she had her own. [Ms 6] set her up.*'

However, the panel preferred the evidence of Witness 5 who, in the panel's view, had provided clear, consistent and credible evidence in respect of this allegation. It therefore accepted Witness 5's account in relation to this charge.

The panel determined that it was more likely than not that by sending her login details to Registrant A, Mrs Williams was permitting Registrant A to change the rota. The panel was not satisfied that Mrs Williams had any other intention when she sent the login details to Registrant A.

The panel therefore found that, on the balance of probabilities, on an unknown date, Mrs Williams permitted Colleague C to change the staff rota using her login details.

Charge 18

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

18) On one or more occasions in relation to Colleague D:

a) Ignored them

b) Didn't support them

c) Said negative things about them in their absence

This charge is found proved.

In reaching this decision, the panel took into account Student Nurse E's written statement dated 11 October 2023, which stated:

> '*The way Mrs Williams and [Registrant A] treated some of their fellow nurses was also awful. I remember, one, [Colleague D], she was redeployed onto the Ward, from another ward where her role was less demanding, as supernumerary and my understanding was she was a band 7 but the way they treated her was disgraceful. She was often ignored and treated as incompetent. They didn't support her with the duties she sometimes needed help with and laughed at her behind her back.*'

Student Nurse E's oral evidence confirmed this account. She explained that Colleague D, a Band 7 nurse who had been redeployed from another ward, was often laughed at behind her back. She stated that this behaviour occurred on a regular basis and that Colleague D felt she was often ignored.

The panel also noted Student Nurse E's evidence from the transcript of the meeting held on 10 June 2021 to discuss the issues on the Ward. She stated that:

> '*...[Colleague D], I can't remember her second name, she was redeployed and was put on the ward as supernumary [sic] and she was treated disgustingly by all the nurses on there, I felt so sorry for her and she would come to me and say, they don't trust me to do the drug round, they trust the students over me... but the way*

she was treated on there as a grown woman, I believe she used to be a band 7, it was disgraceful, I have to put this out there as they made her life hell...

She was on there as sumpernumary [sic] she was nervous, out of her comfort zone, the way they treated her, no one spoke to her, they all treated her like she wasn't a qualified nurse, it was really, really horrible to witness...'

Mrs Williams was not asked about this allegation during the local investigation interview.

The panel found that Student Nurse E's evidence was clear, consistent and reliable. It accepted Student Nurse E's evidence and determined, on the balance of probabilities, that this allegation occurred as described in relation Colleague D. The panel therefore found charge 18 proved.

Charge 19

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

19) Your actions at one or more of 1-18 above created an intimidating and / or hostile and / or degrading and / or humiliating environment for one or more student nurses and / or staff on Morfa Ward

This charge is found proved.

In reaching this decision, the panel took careful account of the evidence before it and its findings in respect of the charges found proved individually and collectively.

The panel determined that Mrs Williams' actions as found proved created and contributed to an intimidating, hostile, degrading and humiliating environment for student nurses and staff on the Ward. The panel acknowledged that the environment created by Mrs Williams also extended to patients.

The panel therefore determined charge 19 proved on the balance of probabilities.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mrs Williams' fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

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

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

Submissions on misconduct

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

Mr Hoskins referred the panel to the cases of *Roylance v General Medical Council* (No 2), *Meadow v General Medical Council* [2007] 1 All ER 1, *Remedy UK Ltd v General Medical*

Council [2010] EWHC 1245 (Admin) and *Shaw v General Osteopathic Council* [2015] EWHC 2721 (Admin).

Mr Hoskins invited the panel to take the view that the facts found proved amount to misconduct. He submitted that Mrs Williams' and Registrant A's conduct was sufficiently serious to be regarded as deplorable.

Mr Hoskins asked the panel to consider the nature of Mrs Williams' and Registrant A's conduct, the context surrounding their conduct and 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' (the Code).

In relation to the conduct, Mr Hoskins referred the panel to the written statements of the NMC witnesses and submitted that for each charge found proved Mrs Williams' and Registrant A's conduct was shocking and had an effect on student nurses, colleagues and patients on the Ward. Mr Hoskins submitted that by virtue of charge 21 (in Registrant A's case) and charge 19 (in Mrs Williams' case), their conduct essentially amounted to bullying by a so-called 'clique', which they had used to their advantage to "*get away with*" deplorable behaviour.

Mr Hoskins invited the panel to take into account the following contextual matters in view of the evidence from Mrs Williams, Registrant A and the NMC witnesses:

1. The effect of COVID-19 and whether that offered any justification or minimised the extent of the misconduct;
2. The profile of the patients that were being treated and whether there were any exceptional circumstances to explain what took place;
3. The level of staffing on the Ward;
4. The extent of leadership on the Ward;
5. [PRIVATE];
6. [PRIVATE]; and
7. Whether there was evidence of good practice amongst the "*bad*".

Mr Hoskins then referred the panel to the Code which, in his submission, Mrs Williams and Registrant A had breached.

Submissions on impairment

Mr Hoskins 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), *Cheatle v GMC* [2009] EWHC 645 (Admin), *Cohen v General Medical Council* [2008] EWHC 581 (Admin) and *Yeong v General Medical Council* [2009] EWHC 1923 (Admin).

Mr Hoskins referred to the "test" endorsed in the case of *CHRE v NMC and Grant* and submitted that the first three limbs were engaged in Mrs Williams' and Registrant A's case.

Mr Hoskins asked the panel to consider the factors set out in the case of *Cohen v General Medical Council* and whether the concerns identified in Mrs Williams' and Registrant A's nursing practice were easily remediable, whether they had been remedied and whether there was a risk of repetition of a similar kind at some point in the future.

Mr Hoskins highlighted the extent of Mrs Williams' and Registrant A's falling short in the particular circumstances, namely in respect of a 'clique' creating a toxic and bullying environment. He submitted that this was not a momentary lapse of judgement by Mrs Williams and Registrant A; rather it was repeated, calculated and they used COVID-19 as a means by which they were able to get away with their conduct. Mr Hoskins submitted that there was a fundamental deficiency in Mrs Williams' and Registrant A's view of patients and more junior colleagues which was not easily remediable.

Mr Hoskins submitted that there was no evidence to suggest that Mrs Williams' and Registrant A's conduct had been remedied. He submitted that despite knowledge of these proceedings, they had not addressed what they have done since the time of the allegations, nor what they anticipate doing in the future were they permitted to practise, although both Mrs Williams and Registrant A had stated that they value the nursing profession.

Mr Hoskins invited the panel to take account of Mrs Williams' and Registrant A's registrant response bundles. He submitted, however, that even taking into account Mrs Williams' and Registrant A's supporting evidence, there was still misconduct that was difficult to remedy, had not been remedied, and was repeated in the past as it involved different people over a significant period of time. Mr Hoskins submitted that there was no reason to suggest that the conduct would not be repeated in the future. He therefore invited the panel to make a finding of current impairment in the case of Mrs Williams and Registrant A.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Schodlok v General Medical Council* [2015] EWCA Civ 769, *CHRE v NMC and Grant* and *Cohen v General Medical Council*.

Decision and reasons on misconduct

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

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

> *'**1 Treat people as individuals and uphold their dignity***
> *To achieve this, you must:*

1.1 treat people with kindness, respect and compassion

1.2 make sure you deliver the fundamentals of care effectively

1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay

1.5 respect and uphold people's human rights

2 Listen to people and respond to their preferences and concerns

To achieve this, you must:

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

2.4 respect the level to which people receiving care want to be involved in decisions about their own health, wellbeing and care

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

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

To achieve this, you must:

3.4 act as an advocate for the vulnerable, challenging poor practice and discriminatory attitudes and behaviour relating to their car

8 Work co-operatively

To achieve this, you must:

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

8.7 be supportive of colleagues who are encountering health or performance problems. However, this support must never compromise or be at the expense of patient or public safety

9 Share your skills, knowledge and experience for the benefit of people receiving care and your colleagues

To achieve this, you must:

9.4 support students' and colleagues' learning to help them develop their professional competence and confidence

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

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

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

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. The panel considered the charges which had been found proved individually.

In respect of charge 1, namely:

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

1) In September 2020 did not acknowledge and / or support and / or include Student Nurse E to work alongside you

The panel heard evidence that Mrs Williams' relationship with Student Nurse E was intermittent in that some days were good and some were bad. The panel considered that it was not good practice to not acknowledge a student nurse who had come onto the Ward for the first time. However, the panel took into account that the induction process on the Ward had been reported as insufficient, the Ward Manager was off sick during that period and there were staffing issues on the Ward. The panel determined that whilst Mrs

Williams' behaviour at charge 1 should not have taken place, it related to a single individual and an isolated incident and was not serious enough to amount to misconduct.

In relation to charge 2, namely:

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

2) *Between April and May 2021 inappropriately delegated blood glucose observations to Student Nurse B*

The panel noted that Student Nurse B had not had training, but was asked to undertake blood glucose observations. The panel considered that this was concerning and may have had an impact if the observations were taken incorrectly. However, the panel considered that there was no evidence that Student Nurse B had informed Mrs Williams that she had not undertaken training in blood glucose observations. The panel determined that as a single incident, Mrs Williams' conduct at charge 2 did not amount to misconduct.

On charge 3, namely:

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

3) *On 5 April 2021 in relation to Patient I said "she's rotting from the inside" or words to that effect*

The panel noted that Mrs Williams had made the comment about Patient I to Registrant A, and not directly to the patient. It took into account that the comment was made following Registrant A's own comments about Patient I. Mrs Williams was not the instigator, but rather than intervening as she should have done, she endorsed Registrant A's comment and made a further derogatory remark in response. The panel considered that this was not in line with the standards expected of her as a registered nurse. The panel therefore concluded that Mrs Williams' comment at charge 3 amounted to misconduct.

In considering charge 4, namely:

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

4) *In around November 2020 did not intervene in relation to Patient J when Colleague C:*
    a) *Said "go on, you might as well do it" or words to that effect;*
    b) *Laughed*

The panel considered that Mrs Williams had a responsibility to intervene as a registered nurse when Registrant A made the comment to Patient J and laughed. The panel considered that by not intervening, Mrs Williams fell short of what was proper in the circumstances because it encouraged Registrant A to continue, and gave the wrong impression to other staff that behaviour of that nature in relation to patients was acceptable. The panel found that by not intervening in those circumstances, Mrs Williams' actions fell seriously short of what was expected and amounted to misconduct.

In relation to charge 5, namely:

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

5) *Before 25 April 2021 did not intervene when Colleague C said to Student Nurse B, in relation to Patient F:*
    a) *On one or more occasion "I'm not bothered" or words to that effect;*
    b) *"but thank you for telling me" or words to that effect in a sarcastic tone*

The panel decided that in the circumstances at charge 5, there was an obligation for Mrs Williams to intervene. The panel determined that the fact that Mrs Williams had not intervened in those circumstances was not so serious as to amount to misconduct.

In relation to charge 6, namely:

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

6) *On 4 May 2021 in relation to Student Nurse C:*
    a) *Did not intervene when Colleague C pulled faces and / or laughed and / or put their hands on their hips in relation to them sitting in a chair;*
    b) *Laughed*

The panel considered that Mrs Williams had a responsibility to intervene as a registered nurse when Registrant A acted in the way that she did towards Student Nurse C. However, the panel was of the view that in the circumstances at charge 6, whilst there was an obligation for Mrs Williams to intervene, the fact that she said nothing and joined in on the laughing was not so serious as to amount to misconduct.

In relation to charge 9, namely:

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

9) *On one or more occasion openly discussed student nurses in negative terms with Colleague C*

The panel considered that this related to two qualified nurses talking about colleagues behind their backs. The panel determined that whilst inappropriate, this was not so serious as to amount to misconduct.

On charge 11, namely:

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

9) *On an unknown date in relation to Student Nurse A said, "she doesn't do much anyway" or words to that effect*

The panel noted the evidence that Mrs Williams had whispered the comment under her breath in relation to Student Nurse A. However, Student Nurse A happened to hear the comment. The panel determined that whilst inappropriate, this did not fall seriously short of the standards expected of a registered nurse so as to amount to misconduct.

In respect of charge 12, namely:

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

12) On an unknown date in relation to Patient I:

a) Said to them, "Stop being dramatic" or words to that effect;

b) Said to them, "Stop making that noise" or words to that effect;

c) Did not check on them when they were heaving and / or bringing up bile

The panel noted that Patient I was within earshot when Mrs Williams made her comments. These comments were made at least once a week and other patients and staff also heard them. The panel was of the view that these were reprehensible comments made to a vulnerable patient who was distressed and refusing food at the time. It determined that Mrs Williams' actions at charge 12 fell seriously short of the conduct expected of a registered nurse and amounted to misconduct.

At charge 13, namely:

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

13) On unknown dates on one or more occasion said to Patient B to "stop it" and / or "shut up" and / or "give it a rest" or words to that effect

The panel noted that Mrs Williams' comments were shouted towards the patient from the nurse's station. It took into account that other patients and staff heard her comments too. The panel was of the view that these were reprehensible comments made to a vulnerable

patient. It determined that Mrs Williams' actions at charge 13 fell seriously short of the conduct expected of a registered nurse and amounted to misconduct.

In considering charge 14, namely:

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

14) On an unknown date said you "have no interest working with dementia patients" or words to that effect

The panel took into account that Mrs Williams worked with dementia patients on the Ward. However, there was no evidence before the panel that she had refused to work with them. It considered that Mrs Williams had expressed an opinion on her preference in the presence of others. The panel determined that whilst this comment should not have been made, it was not serious enough to amount to misconduct.

In relation to charge 15a, namely:

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

15) On an unknown date in relation to Colleague B:

a) Shared their reason for absence with colleagues

The panel considered that Colleague B's reason for absence from work was a sensitive and private matter that should not have been shared with other colleagues. The panel was satisfied that Mrs Williams' conduct at charge 15a fell seriously short of the conduct expected of a registered nurse and therefore amounted to misconduct.

In respect of charge 17, namely:

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

17) On an unknown date permitted Colleague C to change the staff rota using your login details:

The panel considered that Mrs Williams (a senior colleague) had voluntarily provided her login details to facilitate the changing of the rota by Registrant A/Colleague C. The panel considered that whilst this was inappropriate, there was no evidence to show that this impacted negatively on patient care because the shifts were being covered. The panel found that there was no misconduct in respect of charge 17.

The panel considered charge 18, namely:

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

18) On one or more occasions in relation to Colleague D:

a) Ignored them;

b) Didn't support them;

c) Said negative things about them in their absence

It noted that Mrs Williams' bullying of Colleague D occurred for a period of time, rather than as a one-off incident. It took into account that Colleague D was a more senior colleague. Mrs Williams and the other members of her 'clique' ignored, undermined, isolated and belittled Colleague D, often within the earshot of other colleagues. The panel determined that Mrs Williams' actions towards Colleague D fell seriously short of what would be proper in the circumstances and what would be expected of a registered nurse, and therefore amounted to misconduct.

The panel then considered charge 19, namely:

That you, a registered nurse between 1 September 2020 and 30 June 2021, while working on Morfa Ward:

19) Your actions at one or more of 1-18 above created an intimidating and / or hostile and / or degrading and / or humiliating environment for one or more student nurses and / or staff on Morfa Ward

The panel determined that creating an intimidating, hostile, degrading and humiliating environment for staff and student nurses was not in line with the standards of the nursing profession under any circumstances. The panel also noted that this environment also had an effect on patients and patient care. The panel considered that creating and contributing to such an environment fell seriously short of the standards expected of a registered nurse and therefore amounted to misconduct.

Decision and reasons on impairment

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

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which 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.'*

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and

the lives of their loved ones. To justify that trust, nurses must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

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

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

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

d) …'

The panel determined that limbs a), b) and c) are engaged in this case. The panel found that patients were put at risk of harm as a result of Mrs Williams' misconduct. Mrs Williams' misconduct had breached the fundamental tenets of the nursing profession, and therefore brought its reputation into disrepute.

The panel considered the factors set out in the case of *Cohen v General Medical Council*:

- whether the concerns identified in Mrs Williams' nursing practice were capable of remediation;
- whether they have been remedied; and
- whether there was a risk of repetition of a similar kind at some point in the future.

The panel took into account the working environment and culture on the Ward, which was described as toxic and where many of the student nurse's complained about Mrs Williams' conduct. The panel also noted that the misconduct took place during the COVID-19 pandemic when senior management were not on site. This created a vacuum which allowed Mrs Williams' behaviour to flourish as part of a 'clique' that had developed.

The panel considered that Mrs Williams demonstrated a deep-seated attitudinal issues through her misconduct. However, the panel was satisfied that Mrs Williams' misconduct is capable of being remediated. It was of the view that Mrs Williams was capable of learning from the past by strengthening her practice, if given the right support. The panel noted that Mrs Williams had worked as a registered nurse for over ten years with no known concerns about her practice, prior to these issues being raised.

The panel noted Mrs Williams' undated personal and reflective statement, which largely disputed the allegations and did not address the concerns about her practice and conduct. It also took into account the supportive references from:

- A student nurse who worked with Mrs Williams during an 11-week placement (dated 24 August 2021);
- Mrs Williams' colleague (dated 24 August 2021); and
- A doctor who worked on the Ward from August 2020 to February 2021 (undated).

However, Mrs Williams had not engaged with these proceedings and there was no information before the panel as to Mrs Williams' current circumstances or in relation to whether the concerns had been remedied.

Based on the lack of information as to Mrs Williams' current insight and reflection, the panel was not satisfied that her conduct would not be repeated, nor was it satisfied that she can currently practise safely, kindly and professionally. On this basis, the panel found that there is a risk of repetition and that a finding of current impairment of fitness to practise is necessary on the grounds of public protection.

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

The panel determined that a finding of impairment on public interest grounds is required to mark the unacceptability of Mrs Williams' misconduct and to uphold professional standards. The panel considered that a well-informed member of the public would be concerned about Mrs Williams' actions which created and contributed to an intimidating, hostile, degrading and humiliating environment for staff and student nurses on the Ward, and which also extended to patients.

In addition, the panel concluded that public confidence in the profession and the NMC as a regulator would be undermined if a finding of impairment were not made in this case and

therefore also found Mrs Williams' fitness to practise impaired on the grounds of the wider public interest.

Having regard to all of the above, the panel was satisfied that Mrs Williams' fitness to practise is currently impaired on public protection and public interest grounds.

The panel adjourned on Monday 12 February 2024 and resumed on Monday 22 April 2024.

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Williams was not in attendance and that the Notice of Hearing letter had been sent to Mrs Williams' registered email address by secure email on 11 March 2024.

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

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Williams' right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

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

Decision and reasons on proceeding in the absence of Mrs Williams prior to commencing the stage of sanction

The panel next considered whether it should proceed in the absence of Mrs Williams. It had regard to Rule 21 and heard the submissions of Mr Hoskins who invited the panel to continue in the absence of Mrs Williams).

Mr Hoskins submitted that there had been no engagement at all by Mrs Williams with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor.

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

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

- No application for an adjournment has been made by Mrs Williams;
- Mrs Williams has not engaged with the NMC and has not responded to any of the letters sent to her about this hearing;
- There is no reason to suppose that adjourning would secure Mrs Williams' attendance at some future date;
- 8 witnesses have previously attended to give live evidence; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mrs Williams in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered address,

she has made no response. Mrs Williams will not be able to challenge the evidence relied upon by the NMC and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and it will be able to explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Mrs Williams' decision to not attend the hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

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

Sanction

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

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

The panel accepted the advice of the legal assessor.

Submissions on sanction

Mr Hoskins informed the panel that in the Notice of Hearing, dated 14 December 2023, the NMC had advised Mrs Williams that it would seek the imposition of a striking-off order if the panel found Mrs Williams' fitness to practise currently impaired.

In respect of Mr Hoskins' written submissions, the panel sought clarification in respect of paragraph 6. As drafted, it stated that the *"The panel acknowledged that the environment created by [Registrant A] also extended to patients".* The panel noted that no reference had been made to Registrant A in respect of this. Mr Hoskins confirmed that he had intended to include both nurses. Mr Hoskins, in his oral submissions, amended paragraph 6 to include both nurses.

Mr Hoskins provided the panel with his written submissions regarding sanction. These stated:

> *'…*
>
> *1. Having made a finding that both Registrants in this case are currently impaired, the Committee must next (pursuant to r.24(13)) invite representations from the parties as to any relevant factors which may affect the Committee's decision on sanction, if any, to be imposed. Pursuant to r.13(a) this can extend to written submissions (r.24(13)(a)). In the interests of expedition, the NMC have chosen to make its submissions in writing.*
>
> *2. Should the registrants not seek to attend this hearing, the NMC will invite the Committee to proceed in their absence for the same reasons as previously and for the same reasons the Committee have already found in its earlier determination. There has been no engagement since the last hearing and service has been affected in accordance with the rules.*
>
> *3. In this case, in respect of both registrants, the NMC will invite the Committee to impose a striking off order in respect of both Registrants.*
>
> ***LEGAL AUTHORITIES***

4. The power to impose sanctions is contained in Article 29(5) of the Order. Since each Registrants' case is an allegation of misconduct pursuant to Article 22(1)(a)(i) of the Order, the full range of sanctions available in Article 29 are available to the Committee in this case.

5. Committee will be familiar with the guidance published by the NMC to assist it in making its decision.

a. There is guidance for "Considering sanctions for serious cases" [SAN-2], the contents of which do not specifically relate to the facts found proved, nor the misconduct in the present case. However, "conduct or poor practice which indicates a dangerous attitude to the safety of people receiving "care and "harassment" are described as "particularly serious" within the "How we determine seriousness" Guidance [FTP-3];

b. "Factors to consider before deciding on sanctions" [SAN-1] invites the committee to consider a number of factors:

i. Proportionality; the decision has to be justified and go no further than required to discharge the statutory functions of the Committee to protect the public and address the reasons for impairment. Simply saying a sanction is disproportionate is not enough, it should be justified.

ii. Aggravating features; including abuse of position of trust; lack of insight; pattern of misconduct over time; putting patients at risk of harm (the fact of occasioning harm is less significant than the risk of this).

iii. Mitigating features; evidence of insight; followed the principles of good practice; and personal mitigation such as periods of stress and illness, personal and financial hardship together with a lack of support in the workplace. The purpose of a sanction is not to punish the practitioner but given the

statutory functions of this committee personal mitigation may carry less weight than they would do, for example, in criminal proceedings.

iv. Previous interim orders; which may have impacted on the ability to remediate the misconduct; following the terms of an order can constitute evidence of insight; the length of an interim order may be relevant background in considering the length of a sanction, but it would usually be wrong to simply deduct that length of time from a final sanction

v. Previous fitness to practise history;

c. Each of the individual sanctions are the subject of specific factors within the guidance which may be relevant to the Committee in determining the type of sentence to imposed. Given the NMC's submissions are for a striking off order, the difference between a suspension and striking off order may be the most relevant for the Committee's decision:

i. *Does the seriousness of the case require the temporary removal from the register or the permanent removal from the register? The Committee should look at how far the Registrants fell short of the required standards and whether the concerns raise fundamental concerns about their professionalism.*

ii. *A non-exhaustive "checklist" is provided as part of the suspension guidance which focuses on:*

1. *Whether there is a single incidence of misconduct*
2. *Whether there is evidence of deep-seated personality to attitudinal problems;*
3. *Whether there is repetition of the behaviour?*
4. *The level of insight and risk which the registrants still represent;*

SUBMISSIONS:

6. *The allegations, given the finding in the final charges, clearly amounts to harassment as the Panel has concluded its facts determination by finding, each registrants' actions "created and contributed to an intimidating, hostile, degrading and humiliating environment for student nurses and staff on the Ward." Furthermore, "The panel acknowledged that the environment created by [Registrant A] also extended to patients.". The fact of harassment is identified as a particularly serious case (see above), which this case and feeds into the fact that each registrant has fallen short to a particularly significant extent.*

7. *The Committee, in their finding on impairment, have already addressed the question of whether fundamental aspects or tenets of the profession are raised in this case, and have found they are in respect of both Registrant.*

8. *This are, in reality, extremely limited significant mitigating features:*
    a. *The contents of the Registrants' response bundle for each Registrant together with their accounts at local level investigation are known to the Committee and, if accepted, are capable of identifying some mitigating factors.*
    b. *Neither Registrant has had previous regulatory or disciplinary findings made against them. And the there are supportive references in respect of the Registrants;*
    c. *In respect of Ms Williams, there is a potential argument that notwithstanding her more senior grading she was somewhat led by [Registrant A];*
    d. *The allegations occurred when senior management were not on site and in this sense there is an argument concerning the lack of supervision. However, instead of offering an explanation for the misconduct, the evidence leaves the impression that it instead offered a condition precedent to the misconduct, it is not in reality a mitigating factor but rather the vacuum created "allowed the registrant[s']*

behaviour to flourish". As such the taking of an opportunity to exploit an identifiable vacuum is actually an aggravating factor as it appears more calculating.

e. *The fact that these things happened during the COVID-19 pandemic when in some other circumstances the fear and pressure that registrants operated under would be intense. However the extent of this mitigating factor is of vanishing significance in this case, although raised by the Registrants during the course of the investigation, those on the ground describe a sort of quiet calm on the ward in the absence of the usual bustle of visitors to the ward. Instead the fact of COVID could be better viewed as an aggravating feature for the reasons set out below.*

f. *Each Registrant has been the subject of an Interim Suspension Order since 25 August 2021.*

g. [PRIVATE].

9. *By contrast there were significant aggravating factors:*

a. *The environment was described by the Committee as toxic and where many of the student nurses complained about [Registrant A's] conduct. Again, this is not a case where the Registrants actions were as a result of a contrary environment, it created that environment so this properly regarded as an aggravating factor. The Panel's finding that the working environment and culture on the Ward was of the Registrants own making. The expansive effect of the misconduct to have a cultural effect is an illustration of the extent of the misconduct and is an aggravating factor.*

b. *There is a vulnerability element to both the patients often elderly, invariable isolated given COVID and in some cases seemingly lacking capacity. Vulnerability too in respect of the seniority of those who were targeted (within or outwith their own knowledge). Most notably this includes the student nurses who the Committee may feel had a*

disincentive to speak up, not least because of the culture on the Ward and reputation of the Registrants or worse, the Registrants actively sought to disincentivise them from speaking up by the power to decline to sign off the competencies. Even those full time employees were often not of the same level as the Registrants or were, to a lesser extent, vulnerable by virtue of being less well established on the Ward.

c. *The Registrants occupied a position of authority by virtue of experience on the ward [Registrant A] and banding (Williams) which was more profound given the vacuum in leadership left by COVID and the Band 7's absence in the relevant period.*
d. *The Registrants have not meaningfully engaged with the NMCs processes, notwithstanding most recently the Committee's decision afforded one last opportunity to engage.*

10. *Turning to the specific sanctions available to the Committee:*
    a. *No further action and caution orders are clearly inadequate and unduly lenient given the extent of the misconduct found proved;*
    b. *A conditions of practise would be unsuitable as:*
        i. *There is no indication that they would be abided by registrants who have not engaged in the regulatory process to any meaningful extent;*
        ii. *The nature of the misconduct is too wide ranging and entrenched to be addressed by conditions;*
        iii. *The sorts of failings were not due to a gap or inadvertent deficiency, they are basic traits of human kindness and compassion which the Registrants knew were important.*
    c. *A suspension order should not be favoured notwithstanding a finding that there were remediable aspects found in this case:*
        i. *Neither Registrant's actions can be reduced to a single incident of misconduct, but rather was a repeated and sustained campaign against colleagues and contrary to the interests and*

safety of patients. For the same reasons, there is clear evidence of repetition of the behaviour.

ii. *There is evidence of there existing a deep-seated attitudinal issue here, as already identified by the Committee:*

iii. *On the part of [Registrant A] there is a marked lack of insight (see evidence of [Witness 8]) albeit by the time of the disciplinary hearing there was some evidence of developing reflection. There is no evidence of insight for Ms Williams. This too is a significantly aggravating factor.*

iv. *The Committee have already found a risk of repetition and throughout a not insubstantial period there was repetition.*

11. *Returning to the issue of proportionality, bearing in mind all of the above it cannot be said that a striking off order would be disproportionate in all the circumstances. In fact, it would be the just and proportionate sanction".*

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Abuse of position of trust.
- Lack of insight into poor treatment of patients and harassment of students.
- No remorse or apology for Mrs Williams' actions.
- Pattern of misconduct over a period of time.

- Putting patients at risk of harm.
- Deterring student nurses from wanting to work in the nursing profession.
- The panel noted that during the COVID-19 lockdown, service users were isolated and vulnerable, being separated from their families and outside support. They were reliant upon Mrs Williams and Registrant A to deliver effective and appropriate care. In addition, junior staff were isolated lacking outside support and vulnerable to the abusive environment created by both registrants.
- Both Mrs Williams and Registrant A's actions created and contributed to an intimidating, hostile, degrading and humiliating environment for student nurses and staff on the Ward. The environment created by Mrs Williams and Registrant A also extended to patients.

The panel also took into account the following mitigating features:

- Previous good character.
- Some engagement within the local investigation.

The panel noted and heard evidence that [PRIVATE]. The panel also noted that there were no previous regulatory findings against Mrs Williams.

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.

The panel 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 Mrs Williams' 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 Mrs Williams' 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 Mrs Williams' registration would be a sufficient and appropriate response. The panel was of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case and the deep-seated attitudinal issues identified. The misconduct identified in this case was not something that can be addressed through retraining. Further, the panel concluded that the placing of conditions on Mrs Williams' 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 a 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; and*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour.*

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. Mrs Williams' actions negatively impacted patients, other qualified staff, and student nurses. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mrs Williams' actions is fundamentally incompatible with Mrs Williams 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 found that Mrs Williams' actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with her remaining on the register. It was of the view that the findings in this case demonstrate that Mrs Williams' actions were serious and to allow her to continue practising would put patients at continued risk of harm and 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 Mrs Williams' actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel concluded that nothing short of this would be sufficient in this case.

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

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel 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 Mrs Williams' 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 Mr Hoskins. He submitted that an interim suspension order for a period of 18 months is necessary given the panel's findings in order to protect the public and meet the wider public interest.

Mr Hoskins submitted that this was required to cover the 28-day appeal period and, if Mrs Williams does appeal the decision, the period for which it may take for that appeal to be heard.

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 to cover the 28-day appeal period and any period which an appeal may be heard.

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

That concludes this determination.

This will be confirmed to Mrs Williams in writing.