

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

Substantive Hearing

Monday 10 May 2021

Virtual Hearing

Name of registrant:	Melanie Jayne Hayes
NMC PIN:	09A0751E
Part(s) of the register:	Registered Nurse – Sub Part 1 Mental Health Nursing – March 2009)
Area of registered address:	York
Type of case:	Misconduct
Panel members:	Irene Kitson (Chair, lay member) Linda Pascall (Registrant member) Susan Field (Registrant member)
Legal Assessor:	Lachlan Wilson
Panel Secretary:	Parys Lanlehin-Dobson
Nursing and Midwifery Council:	Represented by Iulia Saran, Case Presenter
Mrs Hayes:	Not present nor represented in absence
Consensual Panel Determination:	Accepted
Facts proved:	All
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	Suspension order (6 months with review)
Interim order:	Interim suspension order (18 months)

Decision on Service of Notice of Hearing

In response to the current COVID-19 crisis, emergency changes were made to the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended (the Rules). The emergency changes allow for the Notice of Hearing (the Notice) to be sent by the Nursing and Midwifery Council (NMC) by email instead of by recorded delivery post. This email must be sent securely to a confirmed email address for the registrant and/or representative.

Ms Saran, on behalf of the NMC, informed the panel that the Notice had been sent to Mrs Hayes's registered email address on 7 April 2021.

The panel took into account that the Notice provided details of the allegations, the time, dates and the nature of the hearing.

The panel accepted the advice of the Legal Assessor.

In the light of all of the information available, the panel was satisfied that Mrs Hayes has been served with the Notice in accordance with the requirements of Rules 11A and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended (the Rules).

Decision on proceeding in the absence of Mrs Hayes

The panel next considered whether it should proceed in the absence of Mrs Hayes.

Ms Saran submitted that it was in all parties' interests to proceed today.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is one that should be exercised '*with the utmost care and caution*' in accordance with the case of *R. v Jones (Anthony William), (No.2) [2002] UKHL 5 (Jones)*.

The panel noted that Mrs Hayes was content for this hearing to proceed in her absence.

The panel decided to proceed in the absence of Mrs Hayes. In reaching this decision, the panel considered the submissions of Ms Saran, and the advice of the legal assessor. It had particular regard to the factors set out in the decision of *Jones*. It 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 Hayes;
- Given that the Consensual Panel Determination: Provisional Agreement (CPD) sets out Mrs Hayes's position and her wish for the hearing to proceed in her absence, an adjournment would serve no useful purpose;
- There is a strong public interest in the expeditious disposal of the case.

In these circumstances the panel decided that Mrs Hayes has agreed in the CPD agreement that the hearing should proceed in her absence and therefore the panel decision is to proceed in absence of Mrs Hayes.

Details of charge

"That you, a registered nurse:

1. *On a date in 2012, said to Colleague B "I have fucking had enough of those lazy bastard spear-chuckers all they do is that they sit on their fat arses reading fucking newspapers all day" or words to that effect*
2. *On a date in 2012, said to Colleague B, about a patient "my brother's got schizophrenia, I'll tell him where he lives and get him to fuck him up" or words to that effect*
3. *On 8 May 2018, said to Colleague A ;*
 - a. *"Hopefully the new job will be better than this one as I will be working with a team of white people" or words to that effect*

- b. *“you got a fucking African who cannot manage a team and a fucking paki who cannot make clinical decisions” or words to that effect*

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

Consensual Panel Determination

At the outset of this hearing, Ms Saran informed the panel that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between the NMC and Mrs Hayes.

The agreement, which was put before the panel, sets out Mrs Hayes’s full admissions to the facts alleged in the charges, that her actions amounted to misconduct, and that her fitness to practise is currently impaired by reason of that misconduct. It is further stated in the agreement that an appropriate sanction in this case would be suspension for a period of six months with a review.

The panel has considered the provisional CPD agreement reached by the parties.

That provisional CPD agreement reads as follows:

1. *The Nursing and Midwifery Council (NMC) and Mrs Melanie Jayne Hayes, PIN 09A0751E (“the Parties”) agree as follows:*
2. *Mrs Hayes is aware of the CPD hearing. Mrs Hayes does not intend to attend the hearing and is content for it to proceed in her and her representative’s absence. Mrs Hayes representative will be available by telephone and can take instructions from Mrs Hayes should any clarification on any point be required, or should the panel wish to make any amendment to the provisional agreement. Mrs Hayes understands that if the panel wishes to make amendments to the provisional agreement that she doesn’t agree with, the panel will reject the CPD and refer the matter to a substantive hearing.*

The charge

3. *Mrs Hayes admits the following charges:*

That you, a registered nurse :

1. *On a date in 2012, said to Colleague B “I have fucking had enough of those lazy bastard spear-chuckers all they do is that they sit on their fat arses reading fucking newspapers all day” or words to that effect*
2. *On a date in 2012, said to Colleague B, about a patient “my brother’s got schizophrenia, I’ll tell him where he lives and get him to fuck him up” or words to that effect*
3. *On 8 May 2018, said to Colleague A ;*
 - a. *“Hopefully the new job will be better than this one as I will be working with a team of white people” or words to that effect*
 - b. *“you got a fucking African who cannot manage a team and a fucking paki who cannot make clinical decisions” or words to that effect*

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

The facts

4. *Mrs Hayes first came onto the register on 9 March 2009 and is a registered mental health nurse.*
5. *Mrs Hayes had been employed by the Derbyshire Healthcare NHS Foundation Trust (The Trust) from 4 June 2016 and started working in the Early Interventions Team in January 2018. The Early Interventions Team supports clients experiencing their first episode of psychosis by conducting assessments coordinating and delivering care and managing risk as part of a multi-disciplinary team.*
6. *On 17 July 2019 the NMC received a referral from The Trust about statements made by Mrs Hayes on her last working day, on 8 May 2018. Mrs Hayes had already left their employ at the time of the referral and there is no suggestion that she left due to the concerns as Mrs Hayes had resigned long before the concerns were raised.*

7. *The Trust decided to investigate the concerns despite the fact that Mrs Hayes had left their employ. The statements investigated by the Trust and referred by them, to the NMC, are set out in charge 3.*
8. *Ms 1 was asked to conduct the local investigation but declined because she said she was unable to be neutral and objective because she had worked with Mrs Hayes at a different Trust some years prior and had heard her make similar statements to the ones being investigated by The Trust. These statements, recalled by Ms 1 are set out at charges 1 and 2.*

Charge 1

9. *Neither Mrs Hayes nor Ms 1 remember the date this was said, but Mrs Hayes worked with Ms 1 at the Nottinghamshire NHS Foundation Trust in 2012. On an unknown date in 2012 Mrs Hayes entered the nurse's office where only she and Ms 1 were present and Mrs Hayes used the words set out in charge 1, or words to that effect.*
10. *This was not reported at the time and has only been raised with the NMC as a result of the more recent referral from The Trust.*

Charge 2

11. *Within a few days of the incident in charge 1 Mrs Hayes entered the nurses office where only she and Ms 1 were present and she was feeling upset by a patient and said the words, or similar words to those, set out in charge 2. Mrs Hayes was referring to a patient but the patient was not present and would not have known what she had said.*
12. *This was also not reported at the time and has only been raised with the NMC as a result of the more recent referral from The Trust.*

Charge 3

13. *On her last working day with The Trust, 8 May 2018, Mrs Hayes was in the nurses office, which is a large office and shared by a number of other teams including the substance misuse team and learning disabilities team. The office*

was not at all busy and the only people there at the time were Mr 2, Mrs Hayes and Ms 3. Ms 3 spoke to Mrs Hayes and said goodbye, knowing that it was her last working day with The Trust. Mrs Hayes responded with the words in charge 3a, or words to that effect. Ms 3 asked Mrs Hayes to explain what she meant and Mrs Hayes replied with the words set out in charge 3b, or words to that effect.

14. Ms 3 was so shocked by the language used that she reported the comments to her clinical supervisor and to her manager.

15. Mrs Hayes was referring to two of the members of the Early Interventions team but neither of them were in the room at the time and would not have heard what she had said. Mrs Hayes was later told that Ms 3 had told the two team members what she had said and that they were shocked by the comments she made.

16. All regulatory concerns as outlined in the charges above are accepted by Mrs Hayes.

Misconduct

*17. The facts amount to misconduct. In coming to this view, the Parties have had regard to The comments of Lord Clyde in *Roylance v General Medical Council* [1999] UKPC 16 provide assistance when seeking to define misconduct:*

'[331B-E] Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a practitioner in the particular circumstances'.

*18. Where the acts or omissions of a registered nurse are in question, what would be proper in the circumstances (per *Roylance*) is to be answered by reference to the Nursing and Midwifery Council's Code of Conduct. The following parts of the Code are engaged and have been breached in this case :*

1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion

8 Work co-operatively

To achieve this, you must:

8.1 respect the skills, expertise and contributions of your colleagues, referring matters to them when appropriate

8.2 maintain effective communication with colleagues

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

To achieve this, you must:

9.1 provide honest, accurate and constructive feedback to colleagues

9.2 gather and reflect on feedback from a variety of sources, using it to improve your practice and performance

9.3 deal with differences of professional opinion with colleagues by discussion and informed debate, respecting their views and opinions and behaving in a professional way at all times

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

...

20.7 make sure you do not express your personal beliefs (including political, religious or moral beliefs) to people in an inappropriate way

...

20.10 use all forms of spoken, written and digital communication (including social media and networking sites) responsibly, respecting the right to privacy of others at all times.

19. Making threats to cause harm to a patient is not only a risk of harm to that patient it is also clearly contrary to the caring nature of the profession and raises fundamental concerns about Mrs Hayes' professionalism.

20. *Racist comments made within the workplace, and about colleagues, indicates concerns about bullying. Although the colleagues Mrs Hayes spoke about were not in the room at the time, comments like these can reasonably be expected to cause upset to other colleagues as well and can have a detrimental impact on entire departments or organisations, which can then impact patient safety.*
21. *With reference to the 12 key principles of fitness to practise published by the NMC, bullying can affect trust in registrants, which is taken very seriously by the public and risks undermining trust and confidence in the nursing profession.*
22. *Mrs Hayes in all the circumstances of this case, departed from good professional practice and the facts admitted are sufficiently serious to constitute misconduct.*

Impairment

23. *Mrs Hayes' fitness to practise is currently impaired by reason of her misconduct.*
24. *In coming to this view the parties has considered that Impairment is conceptually forward looking and therefore considered whether Mrs Hayes is impaired as at today's date (per Cohen (see above) also Zgymunt v General Medical Council [2008] EWHC 2643 (Admin)).*
25. *In line with rule 31(7)(b) of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, a departure from the Code is not of itself sufficient to establish impairment of fitness to practise, that question, like misconduct is a matter for the panel's professional judgment*
26. *The parties have considered the questions outlined by Dame Janet Smith in the 5th Shipman Report (as endorsed in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)) helpful. Those questions are:*
- a. *has [the Registrant] in the past acted and/or is liable in the future to act as so to put a patient or patients at unwarranted risk of harm; and/or*
 - b. *has [the Registrant] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or*

c. *has [the Registrant] in the past committed a breach of one of the fundamental tenets of the [nursing] profession and/or is liable to do so in the future.*

d. *has [the Registrant] in the past acted dishonestly and/or is liable to act dishonestly in the future.*

27. *Mrs Hayes' past actions engage the first three of these questions in that :*

a. *making a threat to cause harm to a patient places that patient at a risk of harm and making racist comments about colleagues can affect team-working to the extent that it affects patient safety.*

b. *Making threats to cause harm to a patient and expressing racist views are so far removed from the high standards of conduct expected of nurses that these actions damage the reputation of the profession.*

c. *The nursing profession is a caring profession, to positively suggest harm to a patient is a breach of this most fundamental tenet.*

28. *The Parties have also considered the comments of Cox J in Grant at paragraph 101:*

The Committee should therefore have asked themselves not only whether the Registrant continued to present a risk to members of the public, but whether the need to uphold proper professional standards and public confidence in the Registrant and in the profession would be undermined if a finding of impairment of fitness to practise were not made in the circumstances of this case.

29. *Mrs Hayes' fitness to practise is currently impaired on the basis that that the misconduct in this case represents a risk of harm to the public, as identified above. The comments made are so far removed from the standards expected of a professional on the nursing register that public confidence in the nursing profession and the NMC as a regulator would be undermined if a finding of current impairment were not made.*

30. *With regard to future risk, the parties have considered the questions asked by Silber J in Cohen, namely, is the misconduct easily remediable, has it in fact been remedied and is it highly unlikely to be repeated.*

31. *The comments made by Mrs Hayes indicate an attitudinal issue in that she expressed racist views in 2012 and again in 2018 which demonstrates that Mrs Hayes maintained those racist views for at least the 6 years between those incidents. Mrs Hayes has shown some degree of insight by admitting the allegations and understands that providing a detailed piece of reflection for any reviewing panel would assist their consideration of remediation, which has not yet been addressed. Whilst attitudinal concerns are described in NMC guidance is more difficult to put right, the misconduct in this case is remediable. Mrs Hayes has undertaken mandatory equality and diversity training in May 2018, April 2019 and December 2019 (**Appendix 1**) which has improved her understanding of the issues surrounding racism in the workplace and its effects on the workforce. More work is needed to explain why the misconduct came about, what has changed since then, and to demonstrate that it will not be repeated.*

Public protection impairment

32. *A finding of impairment is necessary on public protection grounds because making a threat to cause harm to a patient places that patient at a risk of harm and making racist comments about colleagues can affect team-working to the extent that it affects patient safety.*

Public interest impairment

33. *A finding of impairment is necessary on public interest grounds because making threats to cause harm to a patient and expressing racist views are so far removed from the high standards of conduct expected of nurses that these actions damage the reputation of the profession.*

34. *In light of the ongoing risk of repetition of the misconduct, Mrs Hayes' fitness to practise is currently impaired, both on the grounds of public protection and the wider public interest*

Sanction

35. *The appropriate sanction in this case is a six month suspension order with a review. In reaching this agreement, the Parties considered the NMC's Sanctions Guidance ('the guidance'), bearing in mind that it provides guidance and not firm rules. In coming to this view, the Parties kept in mind the principle of proportionality and the principle that sanctions are not intended to be punitive.*

36. *The aggravating features of this case are :*

- *Racist and offensive language in the workplace*
- *Lack of insight*
- *Attitudinal issue*

37. *The mitigating features of this case are :*

- *Previously unblemished career*

38. *Taking no action would be rare in a case where impairment is admitted and found by a panel, this is not one of those rare cases. Risks to public protection and public confidence in the nursing profession have been identified so as to warrant some form of action.*

39. *With reference to the guidance, a caution order would not be sufficient to mark the seriousness of the misconduct and would not give Mrs Hayes an opportunity to reflect and demonstrate insight and a commitment to remediation so as to minimise the risk of repetition.*

40. *Conditions of practice would not be appropriate because there are no clinical concerns which might more obviously lend themselves to remedy by way of retraining or supervision, for example. There are no conditions that would adequately address the concerns in this case.*

41. *The concerns are serious enough to warrant temporary removal from the register. A suspension would send a clear message to the public and the profession about the standard of behaviour expected of a registered nurse and it*

would protect the public for the period it was in force. A period of six months would not only mark the seriousness of the misconduct but also allow time for Mrs Hayes to reflect and develop full insight into her actions. A review before expiry would allow Mrs Hayes the opportunity to demonstrate her insight and any steps taken to ensure the conduct is not repeated.

42. Mrs Hayes is not currently working in a role which requires her NMC registration and understands that she will not be permitted to do so for the duration of any suspension.

43. Accordingly, a suspension order of 6 months is required in this case to provide protection to the public as well as maintain public confidence in the profession.

44. A review of the suspension order is necessary in order to assess Mrs Hayes' progress.

45. Although it is noted that decisions have been upheld where a striking off order has been made to uphold the public confidence in the profession, the allegations are not so serious as to warrant permanent removal from the profession. It is possible for Mrs Hayes to demonstrate remediation and insight, given time. A striking off order would therefore be disproportionate as it is not the only way to protect the public and maintain confidence in nurses.

Referrer's comments

46. The NMC invited the Trust to comment on the proposed CPD agreement. They acknowledged the invitation but have not made any further comments for the panel to take into consideration.

Interim order

47. An interim order is required in this case. The order is necessary for the protection of the public and is otherwise in the public interest (for the reasons given above). The order should be for a period of 18 months to guard against the risk to the public in the event that the Registrant seeks to appeal against the substantive order. The interim order should take the form of an Interim Suspension Order.

48. The parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings impairment and sanction is a matter for the panel. The parties understand that, in the event that a panel does not agree with this provisional agreement, the admissions to the charges and the agreed statement of facts set out above, may be placed before a differently constituted panel that is determining the allegation, provided that it would be relevant and fair to do so.

Decision and reasons on the CPD

The panel decided to accept the CPD.

The panel heard and accepted the legal assessor's advice. Ms Saran referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. The legal assessor reminded the panel that they could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Mrs Hayes. Further, the panel should consider whether the provisional CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the professions and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

The panel noted that Mrs Hayes admitted the facts of the charges. Accordingly the panel was satisfied that the charges are found proved by way of Mrs Hayes admissions, as set out in the signed provisional CPD agreement.

Decision and reasons on misconduct and impairment

The panel agree that the facts proved in this case amount to misconduct. The panel endorsed paragraph's 17 and 18 of the CPD agreement but it was not satisfied that 9.1 and 9.2 of the code were engaged in this case. The panel did agree that the following parts of the code are engaged and have been breached in this case:

1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion

8 Work co-operatively

To achieve this, you must:

8.1 respect the skills, expertise and contributions of your colleagues, referring matters to them when appropriate

8.2 maintain effective communication with colleagues

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

To achieve this, you must:

9.3 deal with differences of professional opinion with colleagues by discussion and informed debate, respecting their views and opinions and behaving in a professional way at all times

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

...

20.7 make sure you do not express your personal beliefs (including political, religious or moral beliefs) to people in an inappropriate way

...

20.10 use all forms of spoken, written and digital communication (including social media and networking sites) responsibly, respecting the right to privacy of others at all times.

The panel then went on to consider whether Mrs Hayes's fitness to practise is currently impaired. The panel took into account that Mrs Hayes accepts impairment in the CPD agreement. Whilst acknowledging the agreement between the NMC and Mrs Hayes, the panel has exercised its own independent judgement in reaching its decision on impairment. It considered the guidance by Dame Janet Smith in her Fifth Report from Shipman, approved in the case of *CHRE v Grant & NMC* [2011] EWHC 927 (Admin) ('Grant') by Cox J.

- 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 the limbs (a, b and c) identified in the case of Grant have been engaged. The panel was of the view that Mrs Hayes's actions amounted to a serious departure from the standards expected and would be considered deplorable by the public and fellow practitioners. It was therefore of the view that Mrs Hayes's actions have brought the profession into disrepute and potentially damaged the public's confidence in the profession. Further, that her actions as set out in the charges breached the fundamental tenets of the profession.

The panel considered that Mrs Hayes misconduct was difficult to remediate but not impossible.

The panel was of the view that there was limited evidence before it to indicate whether Mrs Hayes has sufficient insight into her action and the impact on patients, the

profession and the public. The panel acknowledge that admissions have been made to the charges and the CPD agreement show that Mrs Hayes accepts her misconduct and impairment, but it has not had sight of any further remediation. Whilst the panel accepted there was some insight regarding admitting the charges, the panel determined that a much greater degree of insight remains to be demonstrated. The panel was particularly concerned that there was no indication that charge 2 had been addressed by Mrs Hayes. Therefore the panel determined that there remains public protection and public interest issues to be addressed in order to protect the public from a risk of harm and to maintain confidence in the profession and in the regulator and to declare and uphold proper professional standards.

Decision and reasons on sanction

Having found Mrs Hayes'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.

In relation to the aggravating feature of this case the panel endorsed paragraph 36 of the CPD agreement. The panel considered Charge 2 to be a further aggravating feature as it is directly related to the threat of harm to a patient.

The panel also took into account the mitigating feature and endorsed paragraph 37.

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

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public interest issues identified, an order that does not restrict Mrs Hayes's practice would not be appropriate in the circumstances. The SG

states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mrs Hayes's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. 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 Hayes's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel is of the view that there are no clinical concerns in this case that require remediation. The panel formed the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case.

Furthermore, the panel concluded that the placing of conditions on Mrs Hayes's registration would not adequately address the seriousness of this case.

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

The panel carefully considered whether the misconduct was fundamentally incompatible with remaining on the register and decided that in the particular circumstances of this case, and for the reasons as set out in this determination, it was not.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it considered that it would be unduly punitive in Mrs Hayes's case to impose a striking-off order.

Balancing all of these factors the panel agreed with the CPD that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause Mrs Hayes. However this is outweighed by the public protection and interest issues identified in this case.

The panel considered that this order is 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.

The panel determined that a suspension order for a period of 6 months, with a review, was appropriate in this case to mark the seriousness of the misconduct.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Evidence through a reflective piece, that Mrs Hayes has developed an understanding of why the behaviours in the charges are wholly inappropriate and an explanation of how she would act in the future to avoid repetition
- Evidence of further training and or a course(s) which addresses the standards expected against racism and threatening behaviour.

This will be confirmed to Mrs Hayes in writing.

Decision and reasons on interim order

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

Hayes's own interest until the suspension order takes effect. The panel heard and accepted the advice of the legal assessor.

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

The panel agreed with the CPD 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.

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

That concludes this determination.