

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

**Substantive Hearing  
Friday 14 January 2022**

Virtual Hearing

**Name of registrant:** Miss Claire Robertson

**NMC PIN:** 1011730S

**Part(s) of the register:** Registered Nurse – sub part 1  
Learning Disabilities (31 August 2013)

**Area of registered address:** Helensburgh

**Type of case:** Misconduct/Health

**Panel members:** Adrian Smith (Chair, Lay member)  
Jodie Jones (Registrant member)  
Stacey Patel (Lay member)

**Legal Assessor:** Paul Hester

**Hearings Coordinator:** Parys Lanlehin-Dobson

**Nursing and Midwifery Council:** Represented by George Hugh-Jones, Case  
Presenter

**Miss Robertson:** Not present or represented

**Consensual Panel Determination:** Accepted

**Facts proved:** Charges 1 and 2

**Facts not proved:** None

**Fitness to practise:** Impaired

**Sanction:** **Suspension order (12 months)**

**Interim order:** **Interim suspension order (18 months)**

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Miss Robertson was not in attendance and that the Notice of Hearing letter had been sent to Miss Robertson's registered email address on 1 December 2021.

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

The panel accepted the advice of the legal assessor.

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

In the light of all of the information available, the panel was satisfied that Miss Robertson 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 Miss Robertson**

The panel next considered whether it should proceed in the absence of Miss Robertson. It had regard to Rule 21 and heard the submissions of Mr Hugh-Jones who invited the panel to continue in the absence of Miss Robertson. He informed the panel that Miss Robertson had previously indicated that she would be attending these proceedings, but on the morning of this hearing she told her case officer at the NMC that she could no longer attend [PRIVATE].

Mr Hugh-Jones referred the panel to the email sent by Miss Robertson on 14 January 2022 which stated the following:

*“Good morning. I won’t be able to dial into the hearing this morning, [PRIVATE]. Could you pass along my apologies for not being able to attend. I also understand that the hearing needs to go ahead and that I will not be present [PRIVATE] hopefully I will be able to finally express my thoughts and feelings to those who judge me.*

*Sorry for any inconvenience*

*Claire”*

Mr Hugh-Jones also referred to a second email on 14 January 2022, following the above email where Miss Robertson replied “Yes it can go ahead” to the NMC question as to whether she was content for the hearing to proceed in her absence.

Mr Hugh-Jones further informed the panel that a provisional Consensual Panel Determination (CPD) agreement had been reached and signed by Miss Robertson on 12 January 2022. He submitted that in these circumstances Miss Robertson was aware of these proceedings and had voluntarily absented herself. He invited the panel to proceed in the absence of Miss Robertson.

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 has decided to proceed in the absence of Miss Robertson. In reaching this decision, the panel has considered the submissions of Mr Hugh-Jones, the email from Miss Robertson, the signed CPD agreement 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:

- Miss Robertson has engaged with the NMC and has signed a provisional CPD agreement which is before the panel today
- Miss Robertson's second email on 14 January 2022 states that she is content for this hearing to proceed in her absence
- There is no reason to suppose that adjourning would secure her attendance at some future date
- There is a strong public interest in the expeditious disposal of the case.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Miss Robertson.

### **Decision and reasons on application to amend the charge**

The panel heard an application made by Mr Hugh Jones on behalf of the NMC, to amend the wording of charge 1 and Schedule 1.

The proposed amendment was to [PRIVATE]. It was submitted by Mr Hugh Jones that the proposed amendment would more accurately reflect the evidence.

A further application was made to amend [PRIVATE].

Mr Hugh-Jones referred the panel to the following email sent by Miss Robertson to the case officer at the NMC, dated 14 January 2022, in relation to the proposed amendment and whether she agreed the proposed amendment would be more accurate:

*"Yes I agree.*

*Thanks*

*Claire Robertson"*

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

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

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

At the outset of the hearing, Mr Hugh-Jones made a request that parts of this hearing be held in private on the basis that proper exploration of Miss Robertson's case involves reference to her health. The application was made pursuant to Rule 19 of the Rules.

As part of the signed and dated CPD agreement Miss Robertson supported the application to the extent that any reference to her health should be heard in private.

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 took into consideration the application made for parts of this hearing to be heard in private. However on review of the evidence available to it, the panel determined that proper exploration of Miss Robertson's case is inextricably linked to her health. The panel therefore, on its own volition determined to hear the whole hearing in private.

In coming to this decision, the panel acknowledged that by going into private for the entirety of the hearing does not reflect that part of the CPD agreement addressing the

Rule 19 application. However, the panel could find no injustice or prejudice to the parties in doing so.