

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

**Substantive Order Review Hearing  
Wednesday 29 June 2022 and Wednesday 27 July 2022**

Virtual Hearing

**Name of registrant:** Mrs Rosamma James

**NMC PIN:** 06A0091O

**Part(s) of the register:** Registered Adult Nurse - Sub Part 1  
January 2006

**Relevant Location:** Southend-on-Sea

**Type of case:** Misconduct and Lack of competence

**Panel members:** Rachel Forster (Chair, Lay member)  
Laura Scott (Registrant member)  
Vicki Harris (Lay member)

**Legal Assessor:** Dr Marian Gilmore QC

**Hearings Coordinator:** Monsur Ali (29 June 2022)  
Elena Nicolaou (27 July 2022)

**Nursing and Midwifery Council:** Represented by Laura Stockdale, Case Presenter  
(29 June 2022)  
Silas Lee (27 July 2022)

**Mrs James:** Not present and not represented at the hearing

**Order being reviewed:** Conditions of practice order (3 months)

**Fitness to practise:** Impaired

**Outcome:** **Conditions of practice order (30 months) to  
come into effect at the end of 7 August 2022 in  
accordance with Article 30 (1)**

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

The panel was informed at the start of this hearing that Mrs James was not in attendance and that the Notice of Hearing had been sent to Mrs James' registered email address by secure email on 27 May 2022.

Further, the panel noted that the Notice of Hearing was also sent to Mrs James' representative at the Royal College of Nursing (RCN) on 27 May 2022.

Ms Stockdale, 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 substantive order being reviewed, the time, date and venue of the hearing and, amongst other things, information about Mrs James' 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 James has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

## **Decision and reasons on proceeding in the absence of Mrs James**

The panel next considered whether it should proceed in the absence of Mrs James. The panel had regard to Rule 21 and heard the submissions of Ms Stockdale. She referred the panel to the letter sent by the RCN dated 28 June 2022 which states:

*'Our member will not be attending the hearing, nor will they be represented. No disrespect is intended by their non-attendance. [PRIVATE]. Our member has received the notice of hearing and is happy for the hearing to proceed in their absence. They are keen to continue to engage with the proceedings.'*

Ms Stockdale submitted that Mrs James had informed the NMC that she will not be attending the hearing today and is content for it to proceed in her absence. She submitted that Mrs James had voluntarily absented herself. Ms Stockdale invited the panel to continue in the absence of Mrs James.

The panel accepted the advice of the legal assessor.

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

The panel has decided to proceed in the absence of Mrs James. In reaching this decision, the panel has considered the submissions made by Ms Stockdale and the advice of the legal assessor. It 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 had been made by Mrs James;
- Mrs James informed the NMC through the RCN that she was aware of today's hearing and was content for it to proceed in her absence;
- There is no reason to suppose that adjourning today would secure Mrs James' attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.

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

Ms Stockdale made an application that part of this case be held in private on the basis that she would be making reference to Mrs James' health. The application was made pursuant to 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.

Having heard that there would be several references to Mrs James' health, the panel decided to hold the entirety of the hearing in private in order to preserve her privacy.

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### **Decision and reasons on sanction**

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It decided to impose the following conditions which it considered are appropriate and proportionate in this case:

For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.

1. You must notify the NMC within fourteen days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.
2. You must not provide nursing services (whether paid or unpaid) within an acute hospital setting.
3. You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within seven days of you receiving notice of them.
4. You must immediately inform the following parties that you are subject to a conditions of practice order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (3) above to them:

- a) any organisation or person employing, contracting with, or using you to undertake nursing or midwifery work,
- b) any agency you are registered with or apply to be registered with (at the time of application),
- c) any prospective employer (at the time of application),
- d) any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 7 August 2022 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

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This decision will be confirmed to Mrs James in writing.

That concludes this determination.