

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

**Substantive Meeting
Tuesday 17 May 2022**

Virtual Hearing

Name of registrant: **Maurice Slaven**

NMC PIN: 94A0121S

Part(s) of the register: Recordable Qualifications
TCH: Teacher (2 February 2011)

RNC: Registered Nurse – Children (14 January 1997)

Relevant Location: Cambridgeshire

Type of case: Misconduct

Panel members: Fiona Abbott (Chair, lay member)
Janine Ellul (Registrant member)
Bill Matthews (Lay member)

Legal Assessor: Graeme Sampson

Hearings Coordinator: Jennifer Morrison

Facts proved: All (by way of admission)

Facts not proved: None

Fitness to practise: Impaired

Sanction: **Striking-off order**

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

Decision and reasons on service of Notice of Meeting

The panel noted that the Notice of Meeting had been sent to Mr Slaven's registered address by recorded delivery and by first class post on 11 April 2022.

It took into account that the Notice of Meeting provided details of the allegations and the date on or after which the case would be considered.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Slaven has been served with notice of this meeting 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').

Details of charge

'That you, a registered nurse:

1. Racially harassed and/or bullied Colleague 1 between October 2016 and December 2018 in that:

a) On 26 October 2016 remarked that Indians came to the UK in a 'banana boat', or words to that effect.

b) On 14 June 2017, while questioning Colleague 1 about Sikhism:

i. Made a comment that 'You seem to take all the religious holidays off....and even Christmas and that's not your holiday' or words to that effect.

ii. Used a tone and/or language which Colleague 1 perceived as you referring to 'you lot' when referencing Sikhs.

c) On 16 October 2018 said 'Where's your bandage' and/or 'Why aren't you wearing your bandage', or words to that effect, in reference to a

Turban.

d) On 29 October 2018, following publication of an article about Colleague 1's community work in a nursing magazine:

i. Stated you knew all about Sikhism.

ii. Stated that Guru Nanak was your best mate.

iii. Asked Colleague 1 where his 'hat' was.

e) On 13 November 2018 you said 'you lot, Sikhs, have all these religious holidays', or words to that effect, while pointing at Colleague 1.

f) At a team lunch on 19 December 2018:

i. When Colleague 1 was discussing with a fellow colleague about a Sikh toy appeal they had organised, asked 'What Sikh Toys? Do you mean daggers, knives and swords?' or words to that effect.

ii. Commented that as a Sikh Colleague 1 took all the religious holidays off to celebrate.

iii. Asked Colleague 1 'Where's your hat?' or words to that effect.

iv. After Colleague 1 pointed out that it was not a 'hat' but a 'Turban' responded with: 'No, it's a hat' or words to that effect.

v. Stated: 'Me and Guru Nanak are best buddies, I know him really well and he said he'll be dressing up as Father Christmas this year'.

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

Background

On 14 March 2019, the Nursing and Midwifery Council (NMC) received a referral about Mr Slaven's fitness to practise. At the time of the referral, Mr Slaven was employed as a Senior Lecturer in nursing at Anglia Ruskin University ('the University'). The referrer,

Colleague 1, was a fellow Senior Lecturer in nursing.

Colleague 1 alleged that he had been racially harassed on a number of occasions by Mr Slaven since the start of his employment in October 2016 to December 2018.

Decision and reasons on facts

At the outset of the meeting, the panel noted that on 1 November 2019, Mr Slaven's representative at the Royal College of Nursing (RCN) returned a partially completed Case Management Form (CMF) to the NMC. In the section titled 'Your response to the charges', Mr Slaven had ticked 'Yes' next to all charges except for one, which indicated his admission to those charges. The charge that Mr Slaven ticked 'No' against read:

'That you, a registered nurse, asserted that there were no real Sikh nurses.'

The panel noted that in the Notice of Meeting dated 11 April 2022, where Mr Slaven was informed of the final charges against him, this charge was not listed. The panel concluded that this charge had fallen away.

The panel accepted the advice of the legal assessor. It noted that an updated CMF had been included in the Notice of Meeting, which stated *'This form is your final reply to the charges against you'*. Mr Slaven did not return the completed form. Nonetheless, the panel considered the completed CMF of 1 November 2019 to be an admission of the final charges.

The panel therefore finds all charges proved by way of Mr Slaven's admissions.

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 Mr Slaven's 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 suitability to remain on the register unrestricted.

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, Mr Slaven's fitness to practise is currently impaired as a result of that misconduct.

Representations on misconduct and impairment

In coming to its decision, the panel had regard to the case of *Roylance v GMC (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.*'

The NMC invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of *The Code: Professional standards of practice and behaviour for nurses and midwives (2015)* ('the Code') in making its decision.

The NMC identified specific, relevant standards where Mr Slaven's actions amounted to misconduct. It considered the misconduct to be serious because Mr Slaven was in a position of trust teaching future nursing professionals. He was required to be a role model for students and staff, and his behaviour towards Colleague 1 represented a significant departure from the standards expected of a nurse. Mr Slaven's misconduct persisted over a period of time, and [PRIVATE]. The NMC invited the panel to find that Mr Slaven's behaviour caused harm to Colleague 1.

The NMC requires the panel to bear in mind its overarching objective to protect 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. The panel has referred to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

The NMC invited the panel to find Mr Slaven's fitness to practise impaired on the grounds of public protection and in the wider public interest. Whilst Mr Slaven does not appear to be working in a clinical role, he is currently not restricted from doing so. As Mr Slaven's misconduct can be regarded as indicative of concerns relating to his attitude, the NMC invited the panel to find that Mr Slaven's behaviour, if repeated, could expose patients to a risk of harm if he were to work in a clinical setting.

The NMC invited the panel to consider that in November 2019, Mr Slaven stated in a reflection that if he had been made aware that his comments to Colleague 1 were considered to be disrespectful, he would have apologised and not repeated this behaviour. However, it should have been obvious to Mr Slaven that his comments were inappropriate. Although Mr Slaven apologised to Colleague 1 and stated that he recognised his behaviour could cause concern in patients he may care for, the NMC invited the panel to consider that Mr Slaven went on to repeat his offensive conduct, even after completing equality and diversity training. This was indicative of underlying and deep-seated attitudinal concerns.

The NMC also invited the panel to consider that Mr Slaven has not engaged with the NMC since November 2019, and in the absence of any further information about his insight or how he may have strengthened his practice, Mr Slaven's fitness to practice remained impaired.

The panel accepted the advice of the legal assessor.

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 Mr Slaven's actions did fall significantly short of the standards expected of a registered nurse, and that his 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*
- 1.3 *avoid making assumptions and recognise diversity and individual choice*
- 1.5 *respect and uphold people's human rights'*

'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*
- 20.7 *make sure you do not express your personal beliefs (including political, religious or moral beliefs) to people in an inappropriate way*
- 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. However, it did not accept Mr Slaven's explanation to the University's HR department that his comments were meant as *'banter between friends'*, and that at the time, he did not realise that Colleague 1 was offended by them. The panel considered that any reasonable person would find Mr Slaven's comments to be offensive, and noted that Colleague 1 had made it clear to Mr Slaven he found that his behaviour to be discriminatory and deeply distressing. [PRIVATE] Other colleagues who witnessed Mr Slaven's conduct were also offended.

The panel considered the NMC's published guidance on determining seriousness ('How we determine seriousness', reference FTP-3, last updated 29 November 2021). It noted, in particular, the NMC's position on behaviours that amount to harassment, discrimination and victimisation:

'We've made clear that racism, for example should not be tolerated within healthcare. These types of behaviours can negatively impact public protection and the trust and confidence the public places in nurses, midwives, and nursing associates. They can also suggest a deep-seated problem with the nurse, midwife or nursing associate's attitude, even when there's only one reported complaint.'

'When a professional on the register engages in these types of behaviours, the possible consequences are far-reaching. Members of the public may experience less favourable treatment, or they may feel reluctant to access health and care services in the first place. We know that experiences of discrimination can have a profound effect on those who experience it and that fair treatment of staff is linked to better patient care.'

'Where a professional on our register displays discriminatory views and behaviours, including harassment or victimisation, this usually amounts to a serious departure from the NMC's professional standards.'

The panel determined that Mr Slaven's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

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

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

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

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

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

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

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

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

The panel found that limbs (a) through (c) of *Grant* were engaged. Although Mr Slaven's misconduct did not occur in a clinical setting, it could have far-reaching consequences if repeated in a clinical role. Members of the public who experience discrimination by a health care provider may be treated less favourably or be reluctant to access future care. Furthermore, as a lecturer in nursing, Mr Slaven held a position of influence over future nurses. Colleague 1 expressed fear for '*ethnic minority students who could be un-favoured by him in terms of teaching*'.

The panel determined that Mr Slaven's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It noted that a colleague who witnessed the events of 19 December 2018 found Mr Slaven's behaviour to be '*miles away*' from the values of the NMC and the University.

The panel had no evidence of any developments in Mr Slaven's insight or of any steps he may have taken to strengthen his practice since November 2019. After some initial acknowledgement that his behaviour was inappropriate, the panel has had no testimonials, evidence of further training or updated reflections from Mr Slaven to indicate that his behaviour has not and will not be repeated. The panel was concerned to note that in 2017, Mr Slaven received bespoke equality and diversity training in response to a complaint from a student. Between May to September 2018, Mr Slaven also completed a mandatory online equality and diversity course. Yet, despite this training and assurances from Mr Slaven that he would not repeat the behaviour which led to the implementation of this training, Mr Slaven went on to act in a similar manner towards Colleague 1 in October and November 2018.

Therefore, the panel concluded that there is a high risk of repetition. For the reasons previously identified in its decision on misconduct, the panel determined that a finding of impairment is necessary on the grounds of public protection.

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

The panel considered that the public would be appalled by Mr Slaven's conduct, and would expect the NMC to take action to promote public confidence in the nursing profession and in the NMC as its regulator. Furthermore, as a lecturer in nursing, Mr Slaven's refusal to engage with his regulator provides a poor example of professional conduct to his students. Therefore, the panel determined that a finding of impairment on public interest grounds is also required.

Having regard to all of the above, the panel was satisfied that Mr Slaven's fitness to practise is currently impaired.

Sanction

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

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

Representations on sanction

The panel noted that in the Notice of Meeting, dated 11 April 2022, the NMC had advised Mr Slaven that it would seek the imposition of a striking-off order if it found his fitness to practise currently impaired.

There has been no response or submissions from Mr Slaven with regard to sanction.

Decision and reasons on sanction

Having found Mr Slaven'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:

- Mr Slaven was in a position of trust and influence over future nursing professionals. He was required to be a role model to students and staff alike.
- Mr Slaven's behaviour persisted over a protracted period of time, despite the protestations of Colleague 1 and Mr Slaven's completion of equality and diversity training. This suggests a deep-seated attitudinal concern.
- [PRIVATE]
- Mr Slaven has shown minimal insight into his behaviour and the impact it had on Colleague 1, other colleagues and the reputation of the profession.

The panel also took into account the following mitigating features:

- Mr Slaven has had a 22-year career without coming to the notice of the NMC.
- Mr Slaven made early admissions to the charges.
- Mr Slaven expressed some remorse and apologised to Colleague 1.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the charges found proved and the risk of repetition of the misconduct. 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 charges found proved and the risk of repetition of the misconduct, an order that does not restrict Mr Slaven'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 Mr Slaven's 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 Mr Slaven's registration would be a sufficient and appropriate response. The panel was not persuaded that the misconduct identified in this case could be addressed through retraining, noting that Mr Slaven had been required to undertake equality and diversity training on more than one occasion, but went on to repeat his offensive behaviour. No practical or workable conditions could be formulated that would adequately address Mr Slaven's deep-seated attitudinal problem. Furthermore, given Mr Slaven's lack of engagement with the NMC, the panel was not persuaded that he would comply with any conditions of practice imposed.

The panel determined that the placing of conditions on Mr Slaven's registration would not adequately address the seriousness of this case, and would neither protect the public nor be in the public interest.

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 panel did not find that any of these factors were apparent in this case. It was not persuaded that a period of suspension would serve any useful purpose.

Mr Slaven's misconduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel concluded that the serious breach of the fundamental tenets of the profession evidenced by Mr Slaven's actions is fundamentally incompatible with Mr Slaven 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?*

And:

'We may need to take restrictive regulatory action against nurses, midwives or nursing associates who've been found to display discriminatory views and behaviours and haven't demonstrated comprehensive insight, remorse and strengthened practice, which addresses the concerns from an early stage.

If a nurse, midwife or nursing associate denies the problem or fails to engage with the FtP process, it's more likely that a significant sanction, such as removal from the register, will be necessary to maintain public trust and confidence.'

Mr Slaven's actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with him remaining on the register. The panel concluded that the findings in this particular case reflect the seriousness of Mr Slaven's misconduct, and to allow him to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors, and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the matters it identified, in particular, the effect of Mr Slaven's actions in bringing the profession into disrepute by adversely affecting the

public's view of how a registered nurse should conduct himself, the panel has concluded that nothing short of a striking-off order would be sufficient in this case.

The panel had regard to the personal and professional impact a striking-off order may have on Mr Slaven. However, it considered that this was outweighed by the importance of maintaining public confidence in the profession, and sending to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

This will be confirmed to Mr Slaven in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, should one be lodged, 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 Mr Slaven's own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Representations on interim order

The panel took account of the representations made by the NMC that an interim order was necessary in order to protect the public and uphold the public interest.

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 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.

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

That concludes this determination.