

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

Substantive Hearing

Wednesday 25 October 2023 – Friday 27 October 2023

Virtual Hearing

Name of Registrant:	Richard James Murray
NMC PIN	83Y0190S
Part(s) of the register:	RN3, Registered Nurse – Mental Health (27 April 1987)
Relevant Location:	Stilton
Type of case:	Caution
Panel members:	Denford Chifamba (Chair, Registrant member) Catherine Cooper (Registrant member) Sue Davie (Lay member)
Legal Assessor:	Charles Parsley
Hearings Coordinator:	Yewande Oluwalana
Nursing and Midwifery Council:	Represented by Unyime Davies, Case Presenter
Mr Murray:	Present and represented by Wafa Shah, instructed by the Royal College of Nursing (RCN)
Facts proved:	Charge 1
Facts not proved:	N/A
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 in private

At the outset of the hearing, Ms Shah on your behalf made an application that parts of this hearing be held in private on the basis that proper exploration of your case involves reference to your [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms Davies on behalf of the Nursing and Midwifery Council (NMC) indicated that she supported the application to the extent that any reference to [PRIVATE] 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 determined to rule on whether or not to go into private session in connection with your [PRIVATE] and when such issues arise.

Details of charge

That you, a registered nurse:

- 1) On 11 February 2022 at Thorpe Wood Police Station, received a Conditional Caution for the following offence:
 - a) On 10 February 2022 at Stilton in the County of Cambridgeshire, with intent to cause (Victim A) harassment, alarm or distress used threatening, abusive or insulting words or behaviour or disorderly behaviour thereby causing that or another person harassment, alarm or distress and the offence was racially aggravated within the terms of section 28 of the Crime and Disorder Act 1998.

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

Background

On 12 July 2022 the NMC received a self-referral from you, a registered mental health nurse. You informed the NMC that you had accepted a conditional caution for a racially aggravated public order offence. Further information received from the police detailed that, on 10 February 2022, [PRIVATE], you had been swearing at passengers on a bus you were travelling on. Witnesses informed the police that you had been racially abusive and had told people to “*go back to their own country*” and “*Fuck Indians*”. You were arrested and taken into custody and subsequently admitted the offence and accepted a conditional caution.

As part of the conditions, you were required to write a meaningful letter of apology to the victim, engage with [PRIVATE] and an educational programme with regard to racism.

When interviewed by the police on 11 February 2022, with an on-duty solicitor present, you accepted that you had been [PRIVATE] at the time of the offence and that you may have said something you should not have. You said this was out of character and that it was unacceptable. You indicated that you felt upset that you “had made people feel a certain way.” Police records supplied to the NMC show that in July 2022, you made a complaint to the police about the caution you had received. You stated that you had signed the caution whilst you were [PRIVATE]. You said that you did not think that you had been racist. You told the police that you were finding it difficult to obtain employment because of the caution appearing on your Disclosure and Barring Service (DBS).

In September 2022 you began working as a forensic psychiatric nurse for a period of six months.

Decision and reasons on facts

At the outset of the hearing, the panel heard from Ms Shah who informed the panel that you made full admissions to charge 1.

The panel therefore finds charge 1 proved in its entirety, by way of your admission.

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, your fitness to practise is currently impaired by reason of your caution. 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 heard oral evidence from you under oath regarding impairment.

Submissions on impairment

Ms Davies addressed the panel on the issue of impairment and reminded the panel 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) Grant* [2011] EWHC 927 (Admin) and *Cohen v GMC* [2007] EWHC 581 (Admin).

Ms Davies submitted that you have breached 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' (the Code), specifically sections 1.1, 20, 20.1, 20.2, 20.3, 20.4, 20.5 and 23.2 and that your conduct fell below the standards expected of a registered nurse.

Ms Davies referred the panel to paragraph 76 of Mrs Justice Cox in the case of *CHRE v NMC and Grant*, where she 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) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

Ms Davies submitted that limbs a) and d) are not engaged as the conduct displayed by you was not in a clinical setting and also that there are no elements of dishonesty in this case. She submitted that limbs b) and c) are engaged, in that you in the past have brought the medical profession into disrepute by your actions and also that you breached the professionalism and trust, as stated in section 20 of the Code, which is expected of a registered nurse.

Ms Davies said that registered nurses hold a position of trust and must therefore act with integrity. You accepted the offence by way of a conditional caution. You admitted to the police you caused alarm, harassment and distress to the victim and that other members of the public were also concerned. You displayed a discriminatory attitude and aggressive behaviour. She said in the police case summary that members of the public were impacted by your behaviour and that there were also children on the bus who were scared and wished to get off. Ms

Davies therefore submitted that your actions brought the nursing profession into disrepute and breached the fundamental tenets of the profession.

Ms Davies said that impairment is a forward-looking exercise. She referred the panel to *Cohen v GMC*, where three matters were highlighted when looking at whether a registrant is currently impaired:

- 1) Whether conduct is easily remediable?
- 2) Whether it has been remedied?
- 3) Whether it is highly unlikely to be repeated?

Ms Davies submitted that the NMC do not believe that your conduct is remediable and that it has also not been remedied, it is also the position of the NMC that your conduct is likely to be repeated. Ms Davies referred the panel to the NMC's guidance on '*Can the concern be addressed? (Reference: FTP-13a, Last Updated 01/07/2022)*' and '*Has the concern been addressed? (Reference: FTP-13b, Last Updated)*'. Ms Davies said there are examples of conduct which may not be possible to address and where steps such as training courses or supervision at work are unlikely to address the concerns. She submitted that incidents of discrimination that have taken place either inside or outside the workplace are hard to address. A racially aggravated offence is an example of discrimination and conduct that cannot be addressed through training but is evidence of an attitudinal problem.

Ms Davies informed the panel that you have completed the requirements of the Adult Conditional Caution to engage with Red Snapper and Aspire and to write a letter of apology to the victim. She submitted that although you have engaged with these services it cannot be said that it was meaningful engagement. During the course of your evidence, you were unclear on what you had learnt from your engagement with the services of Red Snapper and Aspire. She also said that you have not taken steps to address the issues mentioned apart from just completing the conditions of the caution in order to comply with it. Ms Davies submitted that you had not learned or gained anything following the incident.

Ms Davies further stated that it is not clear whether you have addressed [PRIVATE]. You told the panel that you have taken steps [PRIVATE].

In respect of the NMC's guidance FTP 13b, Ms Davies submitted that you have not sufficiently accepted the substance of the concerns raised. In your answers during your evidence, you have limited your involvement, you did not accept the racial element of the charge and you repeatedly mentioned that it was the "*police's perception*" of what happened. Ms Davies submitted that your conduct raises attitudinal concerns and is a departure from the standards expected of a registered nurse. She said such a discriminatory and racially aggravated offence is very serious.

[PRIVATE] Ms Davies submitted that if these are the only steps that you are taking to stop such behaviour, then these steps may be difficult to maintain, and the panel may consider there is a risk of repetition.

Ms Davies submitted that a finding of impairment on public protection grounds is not necessary, as the conduct was not directly related to your work or practice as a registered nurse.

Ms Davies further submitted that impairment should be found on public interest grounds alone. Members of the public would be shocked if you were able to return to practice unrestricted, given the nature and the facts of the charge found against you and the limited insight. Public confidence would be undermined if a finding of impairment was not made.

Ms Shah submitted that there are no grounds for finding impairment on public protection as the conduct was not in a clinical setting as a nurse.

Ms Shah submitted that there has been no repetition since the incident happened in February 2022 and that you had worked as nurse for six months from September 2022 to February 2023.

Ms Shah said that the police dealt with the matter and deemed it suitable for a conditional caution and the panel should look at the severity of the penalty imposed when considering this matter.

Ms Shah said that during your evidence you were unable to remember your conversations with Red Snapper and Aspire, but the panel can be satisfied that you complied with the conditions.

Ms Shah further stated that you have shown insight into the concerns raised and that you maintain the position that you are not a racist person nor do you think that the conduct that you were charged with was not motivated by racist intent. However, you accept that the conduct could be perceived that way.

Ms Shah said that you fully accept your conduct was inexcusable and not justifiable, and you have said that racist language "*is dehumanising*" which demonstrates that you have full insight. She further said that on a number of occasions during the hearing, you have stated that this incident should not happen again and you are aware that your conduct has impacted the nursing profession. Although the incident did not take place in a clinical setting, you were aware that your actions had brought the profession into disrepute. She said you have engaged with the NMC process from the beginning and have admitted that you were in the wrong. You have mentioned the steps that you have taken to try and remediate.

Ms Shah highlighted that you have a supportive network, the traits that led to the behaviour on the bus you have recognised, [PRIVATE].

Ms Shah submitted that [PRIVATE], you have found what has worked for you. Since the incident there has been no repetition of the conduct, you have demonstrated insight and there have been no previous regulatory findings against you.

Ms Shah submitted that an informed member of the public who is aware of the particular facts would not be concerned that you are working unrestricted. She further submitted that the police took the decision not to prosecute you and that a

conditional caution was a sufficient penalty. Ms Shah stated that you have accepted that your conduct was wrong throughout this process.

Ms Shah invited the panel not to find you currently impaired on public interest grounds.

The panel accepted the advice of the legal assessor which included reference to relevant judgments including *CHRE v NMC and Grant* and relevant NMC Guidance.

Decision and reasons on impairment

The panel next went on to decide if as a result of the caution your 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 and to maintain professional boundaries. To justify that trust, nurses must act with integrity. 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".

The panel found that limb a) was not engaged. It recognised that there was no patient involvement and that this was not connected to your clinical practice. The

panel therefore accepted that there were no concerns that you had put patients at unwarranted risk of harm and did not find impairment on public protection grounds.

The panel also found that limb d) was not engaged in your case as no element of dishonesty has been mentioned in the charge against you.

However, the panel found that limbs b) and c) were engaged as you caused harassment, alarm and distress to other members of the public [PRIVATE] and made racist comments which were discriminatory and as a result of your conduct, you had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel noted that you were in breach of the following sections of the Code:

'Promote professionalism and trust

You uphold the reputation of your profession at all times. You should display a personal commitment to the standards of practice and behaviour set out in the Code. You should be a model of integrity and leadership for others to aspire to. This should lead to trust and confidence in the profession from patients, people receiving care, other health and care professionals and the public.

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*

20.4 *keep to the laws of the country in which you are practising*

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*

23.2 *tell both us and any employers as soon as you can about any caution or charge against you, or if you have received a conditional discharge in relation to, or have been found guilty of, a criminal offence (other than a protected caution or conviction).*

The Panel considered whether your conduct that resulted in the conditional caution was easily remediable. The panel had regard to the NMC guidance on seriousness, impairment and insight.

The panel determined that it was not easily remediable recognising that it involved discrimination and [PRIVATE]. However, it might be possible to remediate given this was a single incident. The panel went on to consider whether you had taken sufficient steps to remediate.

Regarding insight, the panel considered that from the outset you had admitted the offence and accepted the conditional caution and during your evidence you stated that you accept your behaviour was wrong and that you should [PRIVATE] travelled on public transport. However, the panel noted that you did not agree that your offence was racially aggravated. You also repeatedly said during your evidence that you signed the conditional caution order under “*distress and duress*”. During questioning from Ms Davies, Ms Shah and the panel, you have on occasion tried to minimise your behaviour in relation to the racial element of the charge saying that it may have been down to communication or was merely the “*police’s perception*”. You told the panel that you did not know that you were admitting to a racially aggravated charge at the time, but the panel noted your signature on the Adult Conditional Caution which was very clear regarding the racial aspect of the charge. The panel considered that this raises concerns of an attitudinal nature.

You stated in evidence that since February 2022 you have taken steps to address [PRIVATE], having supportive friends like ex- NHS colleagues, talking to your family and turning to your church for support. [PRIVATE].

The panel noted in your *'Reflective Account Form'* to the NMC you stated:

'[PRIVATE].'

The panel was also aware of the police interview which included the following:

'[PRIVATE].'

[PRIVATE].

[PRIVATE].

The panel determined that you have limited insight [PRIVATE]. This lack of insight has in turn impeded your ability to develop sufficient insight into your behaviour in February 2022. The panel also noted that you were unable to provide it with an answer regarding your engagement with Red Snapper and Aspire and what you learnt from this engagement. The panel therefore determined that you have limited insight into the incident, in that you understand your behaviour was not what was expected of a nurse, however you disagree that your conduct was racially motivated, and this is others perception of your conduct.

The panel noted that you completed the requisite steps of the conditional caution by writing the apology letter to the victim and engaging with Red Snapper and Aspire. However, the panel could not say with sufficient certainty what you understood from the engagement and how you addressed these concerns. It noted the screenshot provided of the mandatory training that you undertook in September 2022, but the panel considered this training was only conducted as part of the training needed in your new employment and was not training that you voluntary undertook to strengthen your knowledge and develop your insight.

The panel determined that you have not demonstrated sufficient insight and that there are concerns of an attitudinal nature. [PRIVATE] due to the attitudinal concerns, this could result in you acting in a similar manner in the future. The panel therefore determined that there remains a risk of repetition.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health, safety and well-being of the public and patients, and to uphold/protect the wider public interest, which 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, in this case, a finding of impairment on public interest grounds was required. The panel noted that members of the public must be able to trust their caregiver.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired on public interest grounds only.

Sanction

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

Submissions on sanction

Ms Davies informed the panel that in the Notice of Hearing, dated 18 September 2023, the NMC had advised you that it would seek the imposition of a striking-off order if the panel found your fitness to practise currently impaired.

Ms Davies submitted that the following aggravating features applied to this case:

- [PRIVATE]
- There were multiple members of the public including children that witnessed and from the police statements were clearly offended by your actions.
- You displayed a discriminatory attitude in that you used racist language
- Lack of sufficient insight

Ms Davies further submitted the following mitigating features:

- Your admission of the charge
- The written apology offered to the victim

Ms Davies referred the panel to the following NMC guidance on '*Considering sanctions for serious cases (Reference: SAN-2, last updated 02/10/2023)*' and '*How we determine seriousness (Reference: FTP-3, last updated 01/08/2023)*'. She said that the guidance looks at how the panel should determine seriousness of the concerns raised and that your case engaged two categories. Your case involves a criminal caution and is also related to discrimination. She said that the panel needs to be satisfied that conduct of this nature has been addressed, and would expect to see comprehensive insight, remorse and strengthened practice from an early stage, which addresses the specific concerns that have been raised. Ms Davies submitted that the panel in its finding of impairment, found that you had limited insight.

Ms Davies submitted that the NMC guidance is clear in that racism will not be tolerated in healthcare, and although the incident occurred outside the workplace it is indicative of a deep-seated problem that needs to be addressed even though there is only one reported complaint. Your behaviour falls firmly within this category. Ms Davies said that you are still in denial of the racially aggravated discriminatory element of your behaviour. It is therefore more than likely that a significant sanction, such as removal from the register will be necessary to maintain public trust and confidence.

Ms Davies took the panel through the relevant sanctions available in this case. Ms Davies submitted that taking no action or imposing a caution order would not be appropriate in this case, due to the seriousness of the case. By your actions you have demonstrated conduct that is likely to undermine the public's trust in the profession.

Ms Davies next considered a conditions of practice order. She submitted that bearing in mind the nature of the concerns that have been raised and that they are of

an attitudinal nature, a conditions of practice order is not appropriate. There are no appropriate or relevant conditions that can be formulated to address the concerns.

Ms Davies further submitted that a suspension order is not suitable in this case due to the seriousness of the concerns. She referred the panel to the Sanctions Guidance (SG) on suspension. She submitted that the panel found your behaviour to be of an attitudinal nature, as displaying discriminatory views of this type was harmful. There is evidence within the police report of the reaction and impact your behaviour had on members of the public present on the bus and that they were caused harm. The panel determined that you have limited insight and that there is a risk of repetition of this behaviour. For these reasons, Ms Davies submitted that a suspension order is not appropriate or proportionate bearing in mind the panel's findings.

Ms Davies submitted that a strike-off order would be the most appropriate and proportionate order in this case. She said that your offence was serious enough to warrant a strike-off as it involved discrimination and a criminal caution. Combined with your lack of a fully developed insight, Ms Davies submitted that you are not suitable to remain on the register.

The panel also paid careful regard to Ms Shah's submissions. Ms Shah said that the panel should bear in mind that sanctions are not intended to be punitive, but to be proportionate in protecting the public and the public interest and balancing your own interests against the interest of the profession.

Ms Shah submitted that a conditions of practice order would be appropriate and proportionate in this case. It was said in the panel's findings of impairment your conduct may be in principle remediable. She submitted that it would be in the public's interest to give you time to address the concerns of limited insight and the attitudinal concerns raised.

Ms Shah invited the panel to consider that this was a one-off incident, that did not occur in a clinical setting and there has been no regulatory findings against you in a

clinical setting. You have demonstrated that you are a good and reliable nurse and this needs to be considered by the panel when looking at sanctions. [PRIVATE]

Ms Shah submitted that conditions of practice order would be appropriate here as the panel has identified that there is a risk of repetition, issues relating to your insight [PRIVATE]. Ms Shah suggested some conditions that could be considered workable to address these concerns raised [PRIVATE].

Ms Shah submitted that sanctions are not meant to be punitive and should be forward-looking. She said this would satisfy the public interest as you would be subject to stringent regulatory scrutiny by your regulator and that you should be allowed to work with restrictions in place. A well-informed member of the public would deem this a more proportionate response for a nurse, with no previous regulatory findings and a long and committed career.

Ms Shah submitted that a strike-off should be a last resort where the conduct is fundamentally incompatible with being a nurse. She said that if the panel are not inclined to agree with a conditions of practice order, the panel can consider a suspension order.

Ms Shah said this would satisfy the public interest, where there are no clinical concerns and give you time to address any shortcomings and concerns, then return to a panel showing that you have developed your insight.

Ms Shah submitted that if a more punitive sanction was imposed on your practice, this would have a dire impact on your finances. She informed the panel that you have been offered a job and are expected to start on Monday 30 October 2023, if a conditions of practice order is imposed you can provide it to your employer and begin addressing the concerns about your behaviour.

Decision and reasons on sanction

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

Having found your 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 decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- [PRIVATE]
- There were multiple members of the public that witnessed and were clearly offended by your actions
- You displayed a discriminatory attitude
- Lack of sufficient insight into the racial elements of the charge and [PRIVATE]

The panel considered that there was only one mitigating feature that applied which was your acceptance of the conditional caution and your admission to the regulatory charge.

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 concerns, an order that does not restrict your 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

your conduct 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 your registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charge in this case. The panel was of the view that there was evidence of attitudinal problems regarding your non acceptance of the racially aggravated element of the charge [PRIVATE]. The discriminatory behaviour identified in this case was not something that can be easily addressed through retraining. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not adequately recognise 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;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel acknowledged that this was a single incident and there is no evidence of repetition since the incident. However, the panel identified in its findings on impairment that you had attitudinal problems, your insight is insufficient and there is a risk of repetition.

You repeatedly distanced yourself from the racial elements of the charge and, [PRIVATE].

The panel was of the view that since the incident in February 2022, you have had sufficient opportunity to address the concerns identified but there is no evidence that you have done so and therefore a risk of repetition remains.

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?*

Your actions represent a significant departure from the standards expected of a registered nurse and raise a fundamental question about your professionalism. The panel was of the view that the findings in this particular case demonstrate that your actions were serious and that to allow you 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 effect of your actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves, the panel has 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.

This will be confirmed to you in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, Ms Davies made an application on behalf of the NMC for the imposition of an interim order.

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 also in the wider public interest or in your own interests until the striking-off sanction takes effect.

Submissions on interim order

The panel took account of the submissions made by Ms Davies. She submitted that the NMC is seeking the imposition of an interim suspension order for a period of 18 months to cover any appeal period until the substantive strike-off order takes effect.

Ms Davies submitted that given the seriousness of the charge found proved, an interim suspension order is necessary on the grounds of the wider public interest.

The panel also took into account the submissions of Ms Shah. She submitted that an interim order was not necessary. She said that since the incident in February 2022, there has been no restriction on your practice, you have been able to work unrestricted and there has been no repetition of the conduct.

Ms Shah submitted that it would be difficult to impose an interim order on the grounds of public protection. The panel need to deem it necessary and not merely

desirable to impose an interim order. There has been no repetition of the conduct, there is no interim order in place and no previous regulatory findings against you. Ms Shah submitted that an order is therefore not necessary to protect the public.

Ms Shah submitted that it is a very high bar to impose an interim order on public interest alone. She said that the imposition of a striking-off order does not automatically mean an interim order needs to be imposed. She submitted that a member of the public would be concerned to know that a registrant who has not previously been subject to an interim order in relation to this case, would be restricted from working during the 28 days allowed for filing an appeal and when the strike-off order does not come into effect until the expiration of that period.

The panel heard and accepted the advice of the legal assessor and had regard to the NMC's guidance on interim orders. In reaching its decision the panel has been mindful to weigh in the balance your interests including the effect of an interim order upon you financially and otherwise with the wider public interest.

Decision and reasons on interim order

The panel considered its findings for the substantive order and determined that an interim order is not necessary for the protection of the public.

The panel had regard to Ms Shah's submission that you have not been subject to any restriction on your practice, since the incident occurred in February 2022 and that you have been working unrestricted with no repetition of the conduct found proved. However, it is only at this stage that a panel has made findings of fact on the evidence and circumstances of your case. The panel has concluded that the public interest requires your removal from the register.

The panel was satisfied that the threshold of necessity for an interim order otherwise in the wider public interest is met on the circumstances of your case.

The panel determined 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 in order to address the wider public interest concerns. This is to cover the 28-day appeal period and the duration of any appeal should you decide to appeal against the panel's decision. If no appeal is made, then the interim suspension order will be replaced by the striking-off order 28 days after you are sent the decision of this hearing in writing.

That concludes this determination.