Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Meeting
Friday, 15 August – Monday, 18 August 2025

Virtual Meeting

Name of Registrant:	**Helen Mary Jose**
NMC PIN:	79Y0090W
Part(s) of the register:	Nurses part of the register Sub part 1 RN1, Registered Nurse - Adult (Level 1) (7 December 1982) Nurses part of the register Sub part 2 RN2: Registered Nurse Adult nurse, level 2 (March 1979)
Relevant Location:	Cardiff
Type of case:	Misconduct
Panel members:	Susan Thomas (Chair, Lay member) Christine Wint (Registrant member) Tracy Jones (Lay member)
Legal Assessor:	Jayne Salt
Hearings Coordinator:	Petra Bernard
Facts proved:	Charges 1, 2a, 2b(i), 2b(ii), 2c, 2d, 3a(i), 3a(ii), 3b, 4a, 4b, 4c(i), 4c(ii), 5a, 5b, 5c, 6a, 6b(i), and 6b(ii)
Fitness to practise:	Impaired
Sanction:	Strike-off order
Interim order:	Interim suspension order (18 months)

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that the Notice of Meeting had been sent to Miss Jose's registered email address by secure email on 15 July 2025.

The panel accepted the advice of the legal assessor.

The panel noted that Miss Jose had been afforded ample opportunity to submit any documentation she wished the panel to consider in advance of the meeting. The panel took into account that the Notice of Meeting provided details of the allegations and date this meeting was to be held.

In light of all the information available, the panel was satisfied that Miss Jose 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. On 22 June 2023, repeatedly asked Colleague A to tell you what advice he had received regarding the care of Patient A in front of Patient A.

2. On or around 27 June 2023:
    a. Blocked Colleague B from being able to exit the staff room
    b. Said to Colleague B words to the effect of:
        i. [PRIVATE]
        ii. [PRIVATE]
    c. Made a facial expression suggestive of the comment at charge 2.b.ii.
    d. Laughed at Colleague B when she said the conversation was inappropriate

3. On or around 29 June 2023:
    a. said to a patient, words to the effect of:
        i. [PRIVATE]
        ii. [PRIVATE]
    b. Your conduct at 3.a. was carried out whilst looking at Colleague B

4. Some or all of your conduct at charges 2 and/or 3 was:
    a. [PRIVATE]
    b. Was unwanted conduct of a sexual nature
    c. Had the purpose or effect of:
        i. Violating Colleague B's dignity;
        ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague B.

5. On 4 and/or 12 July 2023:
    a. disclosed Patient C's confidential details in front of another patient and/or colleagues not involved in Patient C's care
    b. on one or more occasion(s) after Relative C informed you that Patient C used the pronouns 'they/them', continued to use [PRIVATE] pronouns when referring to Patient C
    c. Did not apologise for your conduct at charge 5.b. upon being reminded by Relative C that Patient C used the pronouns 'they/them'

6. Some or all of your conduct at Charge 5 was:
    a. [PRIVATE]
    b. Had the purpose or effect of
        i. Violating Patient C's dignity
        ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Patient C and/or Relative C.

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

Background

The charges arose whilst Miss Jose was employed by the Cardiff and Vale University Health Board (the Trust), working as a registered Band 5 Staff Nurse and Plaster Technician at Cardiff and Vale Orthopaedic Centre (the Centre).

Miss Jose was referred to the Nursing and Midwifery Council (NMC) on 13 February 2024 by the Director of Nursing for Surgery, Clinical Board, Cardiff and Vale University Health Board (the Trust). The referral resulted in an investigation by the NMC, which identified regulatory concerns related to incidents that allegedly took place at the Centre between June and July 2023, as charged. A regulatory concern is an issue that the NMC sees as being a possible risk to the public, to professional standards or to the public's confidence in nurses, midwives and nursing associates.

Decision and reasons on facts

The panel first considered the NMC guidance CMT-4 entitled 'Considering cases at meetings and hearings'. The panel had regard to Miss Jose's various communications with the NMC, including: the NMC notes of telephone conversations on 19 February 2024 and 25 January 2025 as well as her voice mail message of 24 January 2025. The panel took account of the passage of time since the allegations occurred and further, that Miss Jose has made it abundantly clear in her communications with the NMC that she does not wish to have anything further to do with either these proceedings or the nursing profession or the NMC as its regulator. The panel also noted the stress on the witnesses in this case, [PRIVATE].

The panel determined that it is therefore right and proper in the circumstances to proceed with this case as a meeting.

In reaching its decisions on the disputed facts, the panel took into account all the documentary evidence in this case together with the written representations made by the NMC.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel had regard to the written statements of the following witnesses on behalf of the NMC:

- Patient C: Patient at the Centre, at the material time
- Relative C Relative of Patient C
- Witness 1: Registered Nurse and local Trust investigating officer, at the material time
- Colleague A: Registered Nurse and Deputy manager at the Centre, at the material time
- Colleague B: [PRIVATE] at the Centre, at the material time
- Colleague C: Registered Nurse and Line Manager of Miss Jose at the Centre, at the material time

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the documentary evidence provided by the NMC.

The panel then considered each of the disputed charges and made the following findings.

Charge 1

On 22 June 2023, repeatedly asked Colleague A to tell you what advice he had received regarding the care of Patient A in front of Patient A.

This charge is found proved.

In reaching this decision, the panel took into account the respective Written Statements of Colleague A dated 16 July 2024 and dated 7 August 2024.

Colleague A's Witness Statement includes:

> *'...I left the plaster room to get the opinion of* [Person 1]*. When I returned to the plaster room, Miss Jose repeatedly asked me what* [Person 1] *had said in front of Patient A. My concern, again, was that patient a would lose confidence in our abilities.'*
>
> ...
>
> *'After the appointment with Patient A, I spoke with Miss Jose in private and I expressed my request for her not to discuss training and/or personal matters in front of patients and to remain professional at work in the work environment.'*

The panel also took account of the Trust local disciplinary notes of 11 January 2024. Colleague A recalls Miss Jose walking over to him wanting to know what Person 1 had said, saying to him *'tell me, tell me'.* Miss Jose in her local investigation interview did not deny her behaviour and admits that she raised her voice in front of Colleague A.

Colleague C's Witness Statement includes:

> *'On 22 June 2023, I received a verbal complaint from a patient ("Patient A") at the Centre...who expressed their concerns regarding the derogatory manner in which Miss Jose spoke to* [Colleague A]*...*
>
> *...*

> [Colleague A] *wanted a second opinion with another Plaster Technician who had experience in complex plaster applications like this particular one...When* [Colleague A] *returned, Miss Jose kept asking* [Colleague A] *what* [Person 1] *had said in front of Patient A. Again, this was not appropriate in front of the patient as it could have undermined their confidence in our abilities. Furthermore, I observed that Miss Jose got very close in* [Colleague A]*'s personal space when persistently asking the same question.'*

The panel determined that Colleague A has no reason to fabricate his evidence; his evidence is the most contemporaneous to the alleged incident and further, Colleague C's evidence corroborates his evidence.

The panel considered Miss Jose's response to the allegations from the local interview notes. It noted that that she does not deny that these events occurred, stating that she *'...was just wanting an update on what they had discussed'* and *'...we do have some joking banter.'*

The panel was satisfied that Colleague A, as a manager, was clear that Miss Jose invaded his space and brought it to her attention in the correct manner. The panel determined that Miss Jose lacks a sense of boundaries and professionalism as is evident from her being in Colleague A's personal space when she addressed him in front of Patient A. The panel therefore finds this charge proved.

Decision and reasons to admit Colleague B's local witness statement as hearsay evidence

Before moving on to consider charge 2, the panel considered Colleague B's written statement from the local investigation meeting dated 24 August 2023. The panel heard and accepted the advice of the legal assessor, this included reference to Rule 31(1) of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules) which empowers the panel to admit in evidence any material so long as it is fair and relevant. The panel had regard to the legal principles set out in *Thorneycroft v*

NMC [2014] EWHC 1565 (Admin)**:**

1. *'Whether the statement is the sole and decisive evidence in support of the charges;'*

   The local statement of Colleague B is the sole and decisive evidence in respect of Charge 2 and 3c only however it had been recorded on separate occasions by other witnesses during local investigation and NMC statements.

2. *'The nature and extent of the challenge to the contents of the statement;'*

   Responses to the statement were given by Miss Jose at local level and she has provided no challenge to the evidence.

3. *Whether there was any suggestion that the witness had reason to fabricate their allegation;*

   There is no reason to suppose that Colleague B would fabricate these events.

4. *'The seriousness of the charge, taking into account the impact which adverse findings might have on the registrant's career;'*

   The allegations are very serious involving discrimination and harassment and there is a high public interest in admitting the evidence.

5. *Whether there was a good reason for the non-attendance of the witness;*

   The panel noted the master bundle showing the number of attempts made by the NMC to contact Colleague B. The panel took account of emails from Colleague B to the NMC explaining that [PRIVATE]. Later on Colleague B stated that she did not wish to be involved any further. The panel noted that Colleague B has given good and justifiable reasons for non-attendance. The panel was of the view that her account is contemporaneous to the events and that it is fair to all parties to admit Colleague B's local statement into evidence.

6. 'Whether the regulator had taken reasonable steps to secure the witness's attendance; and'

The panel noted the number of attempts made by the NMC to contact and engage with Colleague B during the course of the preparation of the case. The panel determined that, given the circumstances in 5. above, reasonable attempts were made to secure Colleague B's attendance.

7. 'Whether the registrant did not have prior notice that the witness statement would be read'.

The panel determined that the local statement of Colleague B had been provided to Miss Jose explicitly stating that the NMC would rely on that evidence. No response has been received.

The panel therefore concluded that it is fair and relevant to admit the local statement of Colleague B as hearsay evidence.

Charge 2

On or around 27 June 2023:

a. Blocked Colleague B from being able to exit the staff room
b. Said to Colleague B words to the effect of:
   i. [PRIVATE]
   ii. [PRIVATE]
c. Made a facial expression suggestive of the comment at charge 2.b.ii.
d. Laughed at Colleague B when she said the conversation was inappropriate

This charge is found proved in its entirety.

In reaching this decision, the panel took into account the Witness Statements of Colleague C and the local Trust investigation notes of Colleague B's local interview on 24 August 2023.

Colleague C's local interview notes of Colleague B's local interview includes:

> *'...Helen Jose questioned her about* [PRIVATE], *when* [Colleague B] *tried to change the subject Helen repeated the question, and was blocking the doorway with herself and a trolley so that* [Colleague B] *could not get out. Helen also made rude gestures and questioned her on* [PRIVATE]...[Colleague B] *shared that* [PRIVATE] *and she felt like she was stuck,* [Colleague B] *says that this frightened her. To exit the room* [Colleague B] *had to pull hard on the door to move Helen and open the door.'*
>
> *...*
>
> *'...when I went into staff room Helen Jose was there, she walked over to put something in the bin...which meant she was in front of the staff room door. Helen said to me* '[Colleague B] [PRIVATE]*'*
> *...*
>
> *' "...I moved towards the door to leave...Helen then* [sic] *proceeded to say* '[PRIVATE]'. *I was shocked, I replied to Helen that this was an inappropriate conversation, she repeated the questions again".'*

The panel had regard to Colleague C's Witness Statement:

> *'I was verbally made aware from* [Colleague B], *that earlier that day, whilst* [Colleague B] *and Miss Jose were in the staff room at the Centre, Miss Jose was blocking the doorway with the trolley and then said to* [Colleague B] "[PRIVATE]" *When* [Colleague B] *tried to leave the staff room, Miss Jose then proceeded by asking* [Colleague B] "[PRIVATE]" *followed by a facial expression pretending to*

carry out an inappropriate act...[Colleague B] *explained that Miss Jose was laughing at her by this point.'*

Colleague C observed that Colleague B was crying and visibly upset. On 29 June 2023 Colleague C called a meeting with the parties involved in the alleged incident. Miss Jose apologised. The panel took account of the local investigation disciplinary notes. Miss Jose was asked if she blocked the door in the coffee room so that Colleague B could not get out; her response was *'I wouldn't have intended to'*. The panel noted that this response was not an outright denial however it was a partial admission that the incident did take place.

Further, when asked whether when Colleague B reached for the door to try leave the room and if she leaned back on the door to prevent her from leaving, Miss Jose denied this stating that she was focused on clearing up and ready for afternoon clinic.

The panel noted that Colleague B reported the incident immediately to Colleague C on the same day it is alleged to have occurred and gave a clear consistent account of what happened.

The panel was satisfied on the balance of probabilities that these incidents occurred as charged. The panel therefore finds this charge provide in its entirety.

Charge 3

On or around 29 June 2023:

a. said to a patient, words to the effect of:
   i. '[PRIVATE]'
   ii. '[PRIVATE]'
b. Your conduct at 3.a. was carried out whilst looking at Colleague B

This charge is found proved in its entirety.

In reaching this decision, the panel took into account the respective Witness Statements of Colleague A, Colleague C, and Colleague B's local statement.

Colleague A states that he overheard Miss Jose talking to a female patient and heard her say these words. He stated that Colleague B walked out of the plaster room and asked him whether he had heard what Miss Jose had said. He states that he was not in the plaster room when the incident took place however Colleague B looked upset. He advised Colleague B to report the incident to Colleague C.

Colleague C's Witness Statement corroborates Colleague A's version of events. She states that these comments were overheard by Colleague A whilst walking past the plaster room and he *'...nodded to confirm to Colleague B that he did hear this'.* She said the same in her Investigatory statement dated 14 September 2023. Further, in the Initial Assessment Form completed by Colleague C during the local investigation, she noted that Colleague B felt she was forced to [PRIVATE].

At her local investigation interview Miss Jose described what she had said as *'...just a bit of jolly banter'.* The panel preferred the evidence of Colleagues A, B and C. It determined that Miss Jose does not appreciate boundaries. Further, there is no absolute denial from Miss Jose, she merely dismisses her comments made as *'banter'*. The panel is satisfied that there is sufficient evidence before it to show that Miss Jose made the comments as charged to Colleague B. The panel therefore finds this charge proved in its entirety.

Charges 4a and 4b

Some or all of your conduct at charges 2 and/or 3 was:

a. [PRIVATE]

b. Was unwanted conduct of a sexual nature

This charge is found proved in its entirety.

In reaching this decision, the panel took account of Colleague C's Witness Statement, which includes:

> *'I understand that* [Colleague B] *told Miss Jose "this is very inappropriate" and asked Miss Jose to move out of the doorway so that she could leave.* [Colleague B] *explained that Miss Jose was laughing at her by this point.'*

The panel also considered its earlier findings in charges 2 and 3, where there has been explicit mention of [PRIVATE] to or directed toward Colleague B from Miss Jose: "[PRIVATE]'?"; "[PRIVATE]"; "[PRIVATE]" and "[PRIVATE]".

The panel determined the language used was discriminatory and were not one-off occurrences/utterances. The panel was of the view that Colleague B did not initiate these conversations with Miss Jose, she commented on how it made her feel and that it forced her to [PRIVATE]. The panel finds these charges proved.

Charge 4c

c. Had the purpose or effect of:
   i. Violating Colleague B's dignity;
   ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague B.

This charge is found proved in its entirety.

The panel took account of Colleague B's statement:

> *'I feel that* [PRIVATE] *has nothing to do with anybody in work* [PRIVATE].*'*

The panel took account of Colleague B's statement in relation to the blocking her from exiting the door in charge 2: *'...I felt like I was stuck,* [PRIVATE], *it frightened me...'*

The panel was of the view that Colleague B had made it clear about how Miss Jose and her comments made her feel and had expressed it in many ways, saying she was frightened and on other occasions upset.

The panel considered that [PRIVATE] and Miss Jose's conduct was unacceptable, unwanted and had the purpose or effect of violating Colleague B's dignity, creating an intimidating, hostile, degrading humiliating or offensive environment for Colleague B. The panel therefore finds charge 4 proved in its entirety.

Charge 5a

> On 4 and/or 12 July 2023:
>
> a. disclosed Patient C's confidential details in front of another patient and/or colleagues not involved in Patient C's care

This charge is found proved in its entirety.

In reaching this decision, the panel took into account the two independent written statements of Patient C and Relative C, who both testified that during Patient C's appointment at the Centre, Miss Jose had a telephone conversation with the doctor's secretary and loudly read out Patient C's personal and confidential information, including their full name, National Health Service (NHS) number, date of birth and details about their surgery.

Relative C in her Witness Statement dated 20 June 2024, includes:

> *'...Miss Jose...loudly read out confidential details of Patient C, including* [their] *date of birth whilst a patient in the bed across from Patient C and other members of staff were present. I was shocked that Miss Jose had loudly disclosed confidential information...Patient C was visibly anxious and shaken...Patient C said that* [they] *just wanted this appointment to be over and to leave as soon as possible.'*

Patient C in their Witness Statement dated 17 June 2025, includes:

> *'...the registrant spoke loudly and disclosed by* [sic] *personal and confidential information, including my full name, NHS number, date of birth, and details about my surgery. The registrant then went on to give a full explanation of my procedure, including what was done and when it occurred. This took place within earshot of at least one other patient and another member of staff.*'

Patient C made a formal written complaint to the Trust which was then further investigated at a local level.

At her local investigation interview on 19 September 2023, Miss Jose stated that she was not aware of this and that she trying to work out what the follow-up was and what their next stage of care would be. The panel noted that she did not deny that she had made the telephone call or disclosed personal information.

The panel was satisfied on the balance of probability that Miss Jose disclosed Patient C's confidential details in front of another patient and/or colleagues who were not involved in Patient C's care. The panel therefore finds this charge proved.

Charges 5b and 5c

b. on one or more occasion(s) after Relative C informed you that Patient C used the pronouns 'they/them', continued to use [PRIVATE] pronouns when referring to Patient C

c. Did not apologise for your conduct at charge 5.b. upon being reminded by Relative C that Patient C used the pronouns 'they/them'.

This charge is found proved in its entirety.

In reaching this decision, the panel took into account the two independent written statements of Patient C and Relative C.

The panel was of the view that Miss Jose was aware that Patient C used non-binary pronouns. The panel had regard to Relative C's complaint email to the Trust dated 12 July 2023 (the second of two written complaints about Miss Jose), which includes:

> *'When introducing Patient C as* [PRIVATE], *and I took the opportunity to clarify that Patient C uses the pronouns they/them. The nurse loudly correct [sic] me, stating that Patient C was* [PRIVATE]. *However, despite my correction, the repeatedly misgendered Patient C. I tried to correct the nurse, but she ignored me completely. She neither apologized nor altered her use of* [PRIVATE] *pronouns. We also saw her be rude to other staff members.'*

Patient C stated in their written statement dated 17 June 2025, includes:

> *'I* [PRIVATE]. *During the appointment, the registrant repeatedly misgendered me. Despite* [Relative C] *correcting her and using the correct pronouns, the registrant continued to refer to me using* [PRIVATE] *pronouns and described me as* [PRIVATE].*'*
>
> ...
>
> *'During that appointment...the surgeons assistant came to visit. Upon introducing me to the surgeon's assistant, the registrant misgendered me again and referred to me as* '[PRIVATE].'
>
> ...
>
> *'Throughout the call, the registrant continued to misgender me, referring to me exclusively with incorrect pronouns.'*

The panel considered that both Patient C and Relative C's respective accounts are

clear, consistent and corroborative of each other. The panel further noted that Relative C's complaint to the Trust was made immediately after the alleged incident at this appointment.

In her local investigation statement dated 19 September 2023/signed 6 October 2023, Miss Jose admitted that she was aware that Patient C used non-binary pronouns. However, went on to say:

> *'I remember her saying that* [Patient C] *is not* [PRIVATE], *but I was focussing on the dressing, I don't remember her saying, call* [Patient C] *they, to me they is plural. I obviously need to do a diversity course, now that this is becoming set in the professional world...'*

The panel was of the view that Miss Jose' s response is not a genuine or caring response to getting this aspect of nursing care wrong. The panel determined that despite being told on a number of occasions to use the correct terminology, Miss Jose continued to repeat the misgendering pronouns. Miss Jose did not apologise and she has not recognised the negative impact it had on Patient C. The panel concluded that Miss Jose's conduct was totally unprofessional. The panel therefore finds charge 5 proved in its entirety.

Charge 6

6. Some or all of your conduct at Charge 5 was:
    a. [PRIVATE]
    b. Had the purpose or effect of
    i. Violating Patient C's dignity
    ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Patient C and/or Relative C.

This charge is found proved in its entirety.

The panel considered its earlier findings in charge 5, where there had been a number of instances where Miss Jose's conduct related to Patient C's [PRIVATE]. [PRIVATE] Miss Jose showed no regard for them, nor the effect it was having on them by her continued misuse of gender terminology against both Patient C and Relative C's express requests.

The panel determined that this was not a one-off incident, Miss Jose persistently used incorrect pronouns and misgendered Patient C despite two official complaints against her by Patient C and Relative C about her conduct in this regard. The panel determined that Miss Jose's conduct had the purpose or effect of violating Patient C's dignity and created an intimidating or offensive environment for Patient C and/or Relative C. The panel therefore finds this charge proved in its entirety.

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 Miss Jose'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 ability to practise kindly, safely and professionally.

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, Miss Jose'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, midwives and nursing associates 2015' ("the Code") in making its decision.

In written submissions provided to the panel, the NMC identified the specific, relevant standards in the Code where the NMC say Miss Jose's actions amounted to misconduct: 1.1, 1.3, 1.5, 5.1, 5.2, 8.1, 8.2, 20.1, 20.2, 20.3, 20.5 and 20.8.

The NMC submitted that the concerns raised are serious and demonstrates conduct that has fallen significantly short of the standards expected of a registered nurse. The Code imposes a clear duty on nurses, midwives and nursing associates to practise safely. Registered professionals occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and families must be able to trust registered professionals with their lives and the lives of their loved ones.

Decision and reasons on misconduct

In reaching its decision, the panel considered all the documentary evidence together with the submissions of the NMC. It also accepted the advice of the legal assessor.

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel found that Miss Jose's actions did fall significantly short of the standards expected of a registered nurse, and that her actions amounted to a breach of the Code. The panel determined the following sections of the Code to be engaged:

'1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion.

1.2 make sure you deliver the fundamentals of care effectively

1.3 avoid making assumptions and recognise diversity and individual choice.

1.5 respect and uphold people's human rights

2 Listen to people and respond to their preferences and concerns To achieve this, you must:

2.1 work in partnership with people to make sure you deliver care effectively

2.6 recognise when people are anxious or in distress and respond compassionately and politely

5 Respect people's right to privacy and confidentiality

To achieve this, you must:

5.1 respect a person's right to privacy in all aspects of their care

5.2 make sure that people are informed about how and why information is used and shared by those who will be providing care

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

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

20.8 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, the panel determined that Miss Jose's actions amounted to serious misconduct. Her repeated failures to promote professionalism and trust represented a serious departure from the standards expected of a registered nurse.

The panel considered the serious nature of the facts found proved. It determined that Miss Jose did not treat Colleague B or Patient C with respect or dignity. Miss Jose did not consider the impact of her behaviour when she repeatedly misgendered Patient C, nor when she breached confidentiality in a public space by speaking in a loud voice regarding Patient C's personal information. Further, Miss Jose displayed harassing and discriminatory behaviour towards Colleague B. The panel determined that Miss Jose's behaviour would be deemed deplorable by fellow nursing professionals.

The panel determined that Miss Jose not only demonstrated harassing and discriminatory behaviour towards a colleague in the workplace, but she also demonstrated the same behaviour towards a patient on two separate occasions causing emotional and psychological harm to all concerned. Further, whilst treating Patient C, Miss Jose breached confidentiality, violating their privacy and eroded trust in her as a nurse and the profession.

The panel recognised that Patient C was a vulnerable patient who was exposed to Miss Jose's unprofessional conduct. The panel determined that there is evidence throughout the witness statements provided of Miss Jose's deep-seated attitudinal issues which takes her behaviour to the upper end of seriousness.

The panel determined that a fully informed member of the public aware of Miss Jose's behaviour would cause them to lose trust and confidence in the profession. The panel saw evidence from Relative C where she specifically asked for a different nurse for Patient C. The panel also saw evidence of Miss Jose undermining staff, whether on a lower or higher grade to her, saying in front of patients for example that they are not trained or that she trained them. The panel was of the view that this not only served to

undermine those professionals but it could potentially impact the Trust and the wider nursing profession as a whole. The panel concluded that these were not isolated incidents but a wider pattern of behaviour.

The panel determined that Miss Jose'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, Miss Jose's fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

> *'The question that will help decide whether a professional's fitness to practise is impaired is:*
> *"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"*
> *If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not 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, nurses must be honest and open and 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" 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/their fitness to practise is impaired in the sense that S/He/They:

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 limbs a) – c) are engaged in this case.

Patient C was a vulnerable patient undergoing [PRIVATE] surgery and Colleague B [PRIVATE]. The panel determined that they were put at risk of harm and emotional distress, and were caused actual psychological harm as a result of Miss Jose's

misconduct. Miss Jose's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel determined that there was no insight shown or reflective piece provided by Miss Jose. The panel was of the view that Miss Jose does not recognise her behaviour, both inside and outside of the workplace, noting the incident where she openly discussed a confidential work issue in her garden outside of the work environment

The panel considered Miss Jose's training record and noted that she stated she had completed Cognitive Behavioural Therapy (CBT), however the panel was not provided with any evidence of this. Further the panel noted that her training record was poor with significant gaps in some key areas. The panel determined that Miss Jose has not strengthened her practice and has neither expressed any genuine remorse or concern over her misconduct.

The panel was satisfied that there remains a current risk to patient safety. It determined that Miss Jose's pattern of behaviour and lack of comprehensive insight meant that there was a significant likelihood of repetition of the misconduct in this case. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel next considered if a finding of impairment on public interest grounds is also required.

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 concluded that members of the public would be horrified by Miss Jose's actions. The panel concluded that failing to mark such misconduct with a finding of impairment would undermine public confidence in the profession and the NMC as

its regulator. The panel, therefore, concluded that a finding of impairment was also in the wider public interest.

Having regard to all of the above, the panel was satisfied that Miss Jose'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 Miss Jose off the register. The effect of this order is that the NMC register will show that Miss Jose 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 was aware that in the Statement of Case, the NMC had advised Miss Jose that it would seek the imposition of a striking-off order if it found her fitness to practise currently impaired.

Decision and reasons on sanction

Having found Miss Jose'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:

- Lack of insight or evidence of remorse
- A pattern of misconduct over a period of time
- Conduct which put people receiving care at risk of suffering harm
- Conduct which caused emotional distress to both colleagues and patients

The panel could not identify any mitigating features.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of this 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 nature and seriousness of the case, and the public protection issues identified, an order that does not restrict Miss Jose'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 Miss Jose'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 Miss Jose's 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 Miss Jose's deep-seated attitudinal issues identified and the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Miss Jose's registration would not adequately address the seriousness of this case and would not protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that 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;*
- *In cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions; and*
- *In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

The panel determined that Miss Jose's conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Miss Jose's actions is fundamentally incompatible with her 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?*

The panel determined that Miss Jose's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Miss Jose's actions were serious and to allow her 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 Miss Jose's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themself, the panel has concluded that nothing short of this would be sufficient in this case.

The panel concluded 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 Miss Jose in writing.

Interim order

As the striking-off 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 Miss Jose'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 if a finding is made that Miss Jose's fitness to practise is impaired on a public protection basis and a restrictive sanction imposed, there should be an interim order imposed. This order should be in the same terms as the substantive order. Such an order is necessary for the protection of the public and is otherwise in the public interest

Decision and reasons on interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required. 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 Miss Jose's own interests until the striking-off sanction takes effect.

The panel had regard to the serious nature of the misconduct found proved and the reasons set out in its decision for the substantive 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 concluded that an interim conditions of practice order would not be appropriate or proportionate for the reasons already identified in its determination for imposing the substantive order. The panel therefore decided to impose an interim suspension order for a period of 18 months to allow the time required for any potential appeal process.

If no appeal is made, then the interim suspension order will be replaced by the substantive striking off order 28 days after Miss Jose is sent the decision of this meeting in writing.

That concludes this determination.