Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Monday, 10 November 2025 to Tuesday, 25 November 2025

Virtual Hearing

Name of Registrant:	**Michelle Rogers**
NMC PIN:	06E0286E
Part(s) of the register:	Registered Nurse - Sub Part 1 RNA, Registered Nurse – Adult (06 July 2007)
Relevant Location:	Warwickshire
Type of case:	Misconduct
Panel members:	Graham Thomas Gardner (Chair, Lay member) Deborah Ann Bennion (Registrant member) Matthew James Clarkson (Lay member)
Legal Assessor:	Oliver Wise – Monday, 10 November 2025 to Friday, 21 November 2025 Neil Fielding – Monday, 24 November 2025 to Tuesday, 25 November 2025
Hearings Coordinator:	Ifeoma Okere
Nursing and Midwifery Council:	Represented by Raj Joshi, Case Presenter
Mrs Rogers :	Not present and not represented
Facts proved:	Charges 1(a),1(b)(i), 2, 3, 6(a),6(b),7(a),7(b), 8(a),8(b),9(b),10(c),11,12,14 in respect of 7(a), 7(b), and 12

Facts not proved:	Charges 1(b)(ii), 4(a),4(b),5,9(a),10(a),10(b),13,14 in respect of 2,3,4,5,6,8,9,10, and 13
Fitness to practise:	Impaired
Sanction:	**Striking-off order**
Interim order:	**Interim suspension order (18 months)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Rogers was not in attendance and that the Notice of Hearing letter had been sent to Mrs Rogers' registered email address by secure email on 13 October 2025.

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

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Rogers' right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Mrs Rogers has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mrs Rogers

The panel next considered whether it should proceed in the absence of Mrs Rogers. It had regard to Rule 21 and heard the submissions of Mr Joshi who invited the panel to continue in the absence of Mrs Rogers.

Mr Joshi referred the panel to the documentation before it, including an email dated 19 September 2025 sent by Mrs Rogers to the NMC hearings coordinator , in which she stated, *"I think this has dragged on far too long, please just go ahead."* He also drew the panel's attention to the telephone attendance note confirming that Mrs Rogers had

informed the NMC she would not be attending this hearing, citing personal reasons and her wish for the matter to proceed.

Mr Joshi submitted that, taken together, this correspondence demonstrated that Mrs Rogers was aware of the hearing, had voluntarily chosen not to attend, and consented to the hearing continuing in her absence. He stated that witnesses had been warned to attend, and that it would not be in the interests of justice to delay proceedings.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a Mrs Rogers under the provisions of Rule 21 is not absolute and is one that should be exercised *'with the utmost care and caution'* as referred to in the case of *R v Jones (Anthony William) (No.2) [2002] UKHL* and affirmed in *Tait v Royal College of Veterinary Surgeons [2003] UKPC 34.*

The panel has decided to proceed in the absence of Mrs Rogers. In reaching this decision, the panel has considered the submissions of Mr Joshi, the representations made by Mrs Rogers in her correspondence, and the advice of the legal assessor. It has had particular regard to the overall interests of justice and fairness to all parties. The main considerations were:

- Mrs Rogers was served with the Notice of Hearing at her registered address on 13 October 2025, which is 28 days before the hearing, in accordance with the Rules;
- Mrs Rogers responded to the NMC confirming receipt of the Notice and confirmed that she is content for the hearing to proceed in her absence;
- Mrs Rogers did not apply for an adjournment and provided no indication that she would attend at any later date;
- The panel was satisfied that Mrs Rogers' non-attendance was voluntary and that she had waived her right to be present or represented;

- The hearing had been scheduled and witnesses were warned and ready to give evidence;
- Adjourning the hearing would serve no useful purpose, was unlikely to secure Mrs Rogers' future attendance, and would cause inconvenience to witnesses and the regulator;
- The alleged charges date back to 2020, and further delay would risk diminishing the quality of witness recollection; and
- There is a strong public interest in the expeditious disposal of the case.

The panel recognised that there is some disadvantage to Mrs Rogers in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered address, she will not be able to challenge that evidence or give evidence on her own behalf. However, in the panel's judgement, this disadvantage can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, this limited disadvantage is a direct consequence of Mrs Rogers' decision to absent herself from the hearing, to waive her right to attend and/or be represented, and not to provide oral evidence or make submissions on her own behalf.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mrs Rogers. The panel will draw no adverse inference from Mrs Rogers' absence when making its findings of fact.

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

At the outset of the hearing, Mr Joshi, on behalf of the NMC, made an application for parts of this hearing to be held in private. He submitted [PRIVATE] that it would therefore be appropriate for those parts of the proceedings to be conducted in private. The application was made pursuant to Rule 19 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended ("the Rules").

[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.

Having considered the submission and the advice, the panel determined that it was appropriate to hear the case in public, but to move into private session as and when reference is made to [PRIVATE], in order to protect their privacy and confidentiality.

Accordingly, the panel decided that the hearing would proceed in public, [PRIVATE] being heard in private, in accordance with Rule 19(3) of the Rules.

Details of charge

That you, a registered nurse:

1. Failed to cooperate fully as a witness in NMC Fitness to Practise proceedings in that:

(a) Between 9 November 2022 and 15 March 2023 failed to confirm your attendance at a NMC Fitness to Practise Committee substantive hearing.

(b) On 29 March 2023, during a NMC Fitness to Practise Committee substantive hearing:

(i) did not return for cross examination and/or;

(ii) failed to arrange with the NMC an alternative time to return for cross examination.

2. On one or more unknown dates between February and May 2020 rostered Colleague B to work seven consecutive night shifts.

3. On one or more unknown dates between February and May 2020 rostered Colleague B to work as a care assistant rather than a registered nurse without notice.

4. On one or more dates between February and May 2020 failed to ensure adequate infection control procedures during the COVID-19 pandemic in that you:

   (a) Provided a single face shield for use by multiple staff members.

   (b) Failed to ensure that inhalers used by a COVID-19 positive resident were kept separate from other medication.

5. On an unknown date between February and May 2020 threw a face shield at Colleague B.

6. On unknown dates between February and May 2020 when Colleague B requested medication training:

   (a) did not provide the requested training

   (b) stated words to the effect of “you are being sponsored by a company so you have to do whatever I tell you to do”

7. On one or more unknown dates between February and May 2020:

   (a) threatened to cancel Colleague B’s visa

(b) threatened to return Colleague B to India

8. On 27 May 2020 when Colleague B asked about resignation procedures:

   (a) laughed at Colleague B;

   (b) stated to Colleague B words to the effect of “this is England, not India”

9. On an unknown date between February and September 2020 denied Colleague A access to care plan training in that:

   (a) you unfairly excluded Colleague A from a training session which was attended by UK trained staff members; or

   (b) you failed to provide alternative care plan training for Colleague A which was of an equivalent length as that provided to UK trained staff members.

10. On one or more unknown dates between February and September 2020:

   (a) failed to implement a plan to address Resident A refusing to take medication administered by nurses they referred to as “brown nurses”.

   (b) failed to speak to Resident A regarding their discriminatory conduct towards staff members.

   (c) Stated to Colleague A that they “had to put up with” racial discrimination.

11. On one or more unknown dates between February and September 2020 rostered Colleague A to work eight consecutive night shifts.

12. On an unknown date between February and September 2020 threatened Colleague A by stating words to the effect of “remember you are being sponsored and I can cancel your visa and you can go back to India.”

13. On an unknown date between February and September 2020 failed to take appropriate action in relation to Resident B behaving in a sexually inappropriate way towards Colleague A.

14. Your actions and/or inactions in one or more of the charges 2 to 13 were motivated by racial discrimination.

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

NMC Opening of Case

Mr Joshi opened the case by outlining the background to the charges. He informed the panel that at the time of the alleged incidents, Mrs Rogers was employed as the Home Manager at [PRIVATE] (hereinafter referred to as ‘the Nursing Home’). The charges before the panel arose from her conduct and management of the home between February and September 2020.

Mr Joshi explained that the allegations concern a series of incidents involving internationally sponsored nurses, in particular Colleague A and Colleague B, and relate to the manner in which Mrs Rogers is said to have treated them. It is alleged that Mrs Rogers engaged in bullying, intimidating and discriminatory behaviour, including threatening to cancel the visas of sponsored staff and to send them back to their home country, and that some of her actions were motivated by racial discrimination.

In addition, Mr Joshi submitted that the charges also include allegations of poor management and leadership in relation to infection prevention and control practices during the early stages of the COVID-19 pandemic. These include failing to ensure adequate

personal protective equipment (PPE) for staff, failing to maintain proper segregation of medication for COVID-positive residents, and allegedly allowing the same face shield to be used by multiple staff members.

Mr Joshi further told the panel that the NMC's concerns also relate to Mrs Rogers' failure to cooperate with a previous NMC fitness to practise hearing. He said that during an earlier NMC proceeding concerning another registrant, Mrs Rogers had been called as a witness but failed to return for cross-examination after a break, despite being under a High Court witness summons.

The NMC contends that this conduct amounts to serious professional misconduct and that Mrs Rogers' actions fell significantly short of the standards expected of a registered nurse and manager.

Mr Joshi indicated that the NMC would call witnesses who worked under Mrs Rogers' management, to give evidence about the working environment at [PRIVATE], the training provided, staffing levels, and Mrs Rogers' behaviour towards colleagues.

Mr Joshi informed the panel that Mrs Rogers denies all of the allegations, as reflected in her written responses within the Mrs Rogers' bundle, and that the NMC would present its evidence through witness testimony and documentary exhibits contained in the agreed hearing bundle.

Decision and reasons on facts

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case, including testimonials and other documentary evidence supplied by Mrs Rogers. It heard oral submissions from Mr Joshi on behalf of the NMC.

The panel has drawn no adverse inference from the non-attendance of Mrs Rogers.

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 heard oral evidence from the following witnesses called on behalf of the NMC:

- Witness 1: Night Senior Care Assistant at the nursing home;
- Witness 2: Hearings Coordinator at the NMC;
- Witness 3 Case Coordinator at the NMC;
- Witness 4 Registered Nurse at the Nursing Home (Colleague A);
- Witness 5 Registered Nurse at the Nursing Home (Colleague B);
- Witness 6 Managing Director / Owner of the Nursing Home;
- Witness 7 Registered Nurse at the Nursing Home;
- Witness 8 Registered Nurse at the Nursing Home.

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

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

The panel found Witnesses 1, 4, 5, and 8 painted a clear picture of a poorly managed care home with a toxic culture of staff bullying and organisational chaos. The provision of essential training was poor, described by Witness 1 as ‘awful’, and particularly so for newcomers. One witness described the working environment as one of 'fear'.

Mrs Rogers was in operational charge during this period, and her management style was variously described by Witnesses 1, 4, 5 and 8 as ‘very rude’, unapproachable, dismissive and ‘harsh’. Witness 8 said staff were reluctant to raise issues with Mrs Rogers, ‘because of fear of repercussions’. Witness 7 who largely spoke in support of Mrs Rogers, acknowledged she could be ‘short with people’.

The panel found Mrs Rogers had clear favourites amongst the workforce and routinely treated staff differently, particularly when allocating duties. She was unapproachable, resistant to challenge and readily caustic in her responses. The panel found she provided little support or empathy to incoming staff operating in their new work environment. They found Mrs Rogers’ leadership skills to be generally inadequate and likely to have diminished further with the onset of the COVID 19 pandemic and the pressure of prevailing performance expectations.

Charge 1(a)

> “Failed to cooperate fully as a witness in NMC Fitness to Practise proceedings in that:
>
> (a) Between 9 November 2022 and 15 March 2023 failed to confirm your attendance at a NMC Fitness to Practise Committee substantive hearing.”

This charge is found proved.

In reaching this decision, the panel took into account the documentary evidence demonstrating that the NMC sent several communications to Mrs Rogers between 9 November 2022 and 15 March 2023 asking her to confirm her attendance at the substantive hearing. The panel noted that there was only one response from Mrs Rogers on 14 November 2022 in which she stated that she was no longer willing to attend the hearing. Earlier contact in October 2022 showed that she initially acknowledged the hearing dates, but following the email sent on 14 November 2022 in which she expressed frustration with the process, it was clear that she had disengaged and did not provide any further confirmation of her attendance.

The panel also considered the oral evidence of Witness 3, who explained that repeated attempts were made to contact Mrs Rogers during the relevant period, including email reminders. Witness 3 stated that, due to the continued lack of response, the NMC was required to pursue a High Court witness summons to secure her attendance.

The panel therefore concluded, on the balance of probabilities, that Mrs Rogers failed to cooperate fully by failing to confirm her attendance with the NMC.

Charge 1(b)(i)

> (b) "On 29 March 2023, during a NMC Fitness to Practise Committee substantive hearing:
>
> (i) did not return for cross examination and/or;"

This charge is found proved.

In reaching this decision, the panel took into account the evidence given by Witness 2, who was involved in the management of the substantive hearing. Witness 2 explained that Mrs Rogers attended the hearing and began giving her evidence, but after the completion

of her examination-in-chief, she left the hearing and did not return for cross-examination. Witness 2 stated that attempts were made by the NMC's witness support team to contact her, including multiple telephone calls, but these attempts were unsuccessful.

The panel also considered the documentary material within the hearing transcript. The transcript recorded that the panel and parties were expecting Mrs Rogers to return for cross-examination, and when she did not do so, the hearing was paused while attempts were made to reach her. The transcript further recorded that after those attempts failed, the panel proceeded in her absence.

The panel noted that there was no evidence that Mrs Rogers provided any reasonable explanation and supporting documentation at the time for her sudden departure or her failure to return. The panel accepted that she may have been unwell that day, but no medical evidence or contemporaneous communication was provided to the NMC to support this, and nothing was received from her during or immediately after the break within which she might reasonably have notified the NMC of her difficulty returning.

On the balance of probabilities, the panel determined that Mrs Rogers voluntarily left the hearing during the course of her evidence and failed to return for cross-examination.

Charge 1(b)(ii)

> (b) "On 29 March 2023, during a NMC Fitness to Practise Committee substantive hearing:
>
> (ii) failed to arrange with the NMC an alternative time to return for cross examination."

This charge is found NOT proved.

In reaching this decision, the panel considered the evidence of Witness 2, who stated that after Mrs Rogers left the hearing, the NMC attempted to contact her. Witness 2 explained that the witness care team made repeated efforts to reach her by telephone, but no

contact was established. The panel noted, however, that the hearing transcript recorded that once Mrs Rogers failed to return, the panel made the decision to continue with the hearing in her absence.

The panel considered that the responsibility for arranging an alternative time to return would ordinarily fall to the NMC once contact had been established. The panel noted that in this case, the NMC did not explore any alternative date or adjournment because the hearing continued without Mrs Rogers that same day. The panel observed that the transcript reflected a collective decision by the panel and parties to proceed, as there was no assurance that Mrs Rogers would return even if additional time were allowed.

The panel therefore concluded that Mrs Rogers was not given an opportunity by the NMC to arrange an alternative date once she had left the hearing. The panel was not provided with any evidence that she was asked to propose alternative arrangements, nor any evidence that such a possibility was discussed with her directly. Witness 2 could not recall and had not recorded the content of the telephone call she had with Mrs Rogers at the relevant time, nor has any other material been provided to assist the panel in this regard.

Accordingly, the panel was not satisfied, on the balance of probabilities, that Mrs Rogers failed to arrange an alternative time in circumstances where the NMC had taken the decision to continue the hearing without pursuing that option.

Charge 2

> "On one or more unknown dates between February and May 2020, rostered Colleague B to work seven consecutive night shifts."

This charge is found proved.

In reaching this decision, the panel took into account the evidence given by Witness 5, who was the individual referred to as Colleague B. Witness 5 stated that she had been placed on seven consecutive night shifts and that this pattern of working caused her significant fatigue and concern. The panel noted that Witness 5 was consistent in her

account that she had worked these consecutive nights and that she raised this issue with Mrs Rogers at the time.

The panel also considered the evidence of Witness 8, who worked alongside both Mrs Rogers and Colleague B during the relevant period. Witness 8 described that staffing shortages on the night shift were common, and that this often resulted in the same nurses being repeatedly allocated to extended period of night duties, often with late notice. Witness 8 stated that she herself had been moved from day shifts onto permanent nights and beyond her contracted hours, and that this was consistent with the wider staffing difficulties within the home.

In addition, the panel took into account the contextual evidence of Witness 6, who described the home as a newly established service that was operating under considerable pressure, including rota instability and difficulty securing sufficient night staff. Witness 6 confirmed that rota decisions were made by Mrs Rogers, and that she had authority to assign nurses to night shifts.

The panel also considered that no rota records were produced by the NMC to confirm or contradict the witnesses' accounts. However, the panel determined that the oral evidence it heard was consistent and mutually supportive. Both Witness 5 and Witness 8 described similar patterns of repeated night shifts, and Witness 6 confirmed that such allocations were within Mrs Rogers' managerial responsibility.

The panel was satisfied that Witness 5 did work seven consecutive night shifts and that this was the result of decisions made by Mrs Rogers when preparing the rota. On the balance of probabilities, the panel determined that this element of the charge is proved.

The panel considered whether this action was motivated by racial discrimination. Having taken into account the evidence as a whole, the panel concluded that there was insufficient evidence to establish a racial motive. Witness 8, herself, a white European trained in the UK, said that she had also suffered similar shift changes and had seen others in the same position, irrespective of their race. The panel accepted that staffing pressures and rota shortages were significant factors during this period and that these

operational issues likely influenced the decision-making. For this reason, the panel did not find a discriminatory motive.

Accordingly, Charge 2 is found proved, but not motivated by racial discrimination.

Charge 3

> "On one or more unknown dates between February and May 2020 rostered Colleague B to work as a care assistant rather than a registered nurse without notice"

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 5, who stated that on more than one occasion she arrived for her shift expecting to work as a registered nurse, but discovered upon arrival that she had been allocated to work as a care assistant. Witness 5 explained that this change was made without prior notification, and she described feeling undermined by being placed in a role that did not reflect her professional status. She stated that she became aware of the change only when examining the rota on arrival.

The panel also considered the evidence of Witness 8, who corroborated that rota changes of this nature occurred within the home and that nurses were, at times, moved into care assistant roles. Witness 8 explained that the home experienced significant staffing pressures, particularly during night shifts and during the COVID pandemic, and that these pressures contributed to the practice of reallocating nurses to care assistant duties in order to maintain basic staffing ratios. Witness 8 stated that this had happened to her on occasion as well.

Witness 6 provided wider contextual evidence regarding the operational difficulties within the home. She stated that the service was newly established and had ongoing problems with staffing levels. Witness 6 also confirmed that decisions regarding the allocation of roles on the rota were made by Mrs Rogers and that such decisions were within her

managerial authority. Witness 6 did not suggest that the reassignments were based on any protected characteristic but rather linked them to operational shortages.

The panel noted that no rota documents were produced to support or contradict these accounts but determined that the oral evidence was all consistent and credible. The panel considered that both Witness 5 and Witness 8 gave clear and aligned descriptions of the practice of reallocating registered nurses to care assistant roles, sometimes without warning. The panel accepted that this practice occurred and that Mrs Rogers was responsible for determining staff deployment.

On the balance of probabilities, the panel determined that Mrs Rogers did roster Colleague B to work as a care assistant rather than as a registered nurse and that this occurred without notice being provided to her beforehand. The panel was satisfied that this conduct is proved.

The panel also considered whether the action was motivated by racial discrimination. Having taken into account the evidence as a whole, the panel concluded that there was no reliable evidence to support such a conclusion. The panel accepted that the reassignment of roles appeared to be linked primarily to staffing pressures and organisational instability within the home, matters described by Witnesses 6 and 8. The panel therefore did not find a discriminatory motive in Mrs Rogers' actions in relation to Charge 3.

Accordingly, Charge 3 is found proved, but not motivated by racial discrimination.

Charge 4(a)

> "On one or more dates between February and May 2020 failed to ensure adequate infection control procedures during the COVID-19 pandemic in that you:
>
> (a) Provided a single face shield for use by multiple staff members"

This charge is found NOT proved.

In reaching this decision, the panel took into account the evidence relating to the COVID-19 context within the home. Witness 1 stated that staff were provided with surgical face masks, and that two face masks were made available to each member of staff. Witness 1 distinguished between surgical face masks and face shields, clarifying that while there may have been limited supplies of face shields, staff were issued with masks in line with emerging national requirements. The panel accepted this distinction, noting that face shields and face masks served different purposes.

Witness 8 explained that, at the time, PPE shortages were common across the health and social care sector due to the sudden onset of the pandemic. Witness 8 described that staff predominantly used masks, and that face shields were required only for aerosol-generating procedures. Witness 8 stated that the home had at least one face shield which was cleaned and reused in accordance with organisational guidance, and the panel accepted that this was consistent with wider practice at the time.

The panel also considered the evidence of Witness 6, who stated that the provider invested substantial sums in PPE at the start of the pandemic, and that the home had policies for cleaning and reusing face shields when necessary. Witness 6 gave clear evidence that there were no significant COVID-19 breaches identified within the home and that the home did not experience adverse infection outcomes attributable to the way PPE was managed.

The panel determined that while there may have been a limited number of face shields available in the early days of the pandemic, this did not demonstrate that Mrs Rogers failed to ensure adequate infection control procedures. The panel accepted that reusing a face shield was permissible at the start of the pandemic when national shortages were widespread and when cleaning procedures were in place. The panel further accepted that only one patient at the time required face-shield-level protection, and that the cleaning process described was consistent with the standards then in operation.

The panel therefore concluded that the evidence did not establish that Mrs Rogers provided a single face shield in circumstances amounting to a failure of infection control.

Charge 4(b)

> "On one or more dates between February and May 2020 failed to ensure adequate infection control procedures during the COVID-19 pandemic in that you:
>
> (b) Failed to ensure that inhalers used by a COVID-19 positive resident were kept separate from other medication."

This charge is found NOT proved.

In reaching this decision, the panel considered the limited evidence presented regarding the storage of inhalers belonging to a COVID-19 positive resident. Witness 1 stated that she had no recollection of inhalers being improperly stored, and that medication management systems were in place within the home.

Witness 6 provided further context regarding infection control practices within the home during the pandemic. He stated that the home had introduced cleaning protocols and equipment segregation measures, and that he was not aware of any deviation from medication storage requirements. Witness 6 also told the panel that no concerns were raised during external oversight in relation to COVID-19 infection control or medication handling.

The panel noted that no documentary or direct evidence was produced showing that inhalers belonging to a COVID-19 positive resident were stored with other medication, nor any evidence that such storage, if it occurred, breached expected standards. The panel was not provided with any contemporaneous notes, medication records, or inspection findings that demonstrated a failure by Mrs Rogers to implement adequate procedures.

The panel therefore concluded that there was insufficient evidence to establish that inhalers were improperly stored, or that any actions or omissions by Mrs Rogers amounted to a failure of infection control.

Charge 5

"On an unknown date between February and May 2020 threw a face shield at Colleague B."

This charge is found NOT proved.

In reaching this decision, the panel considered the evidence given by Witness 5, who in one of her written statements stated that she believed a face shield had been thrown towards her by Mrs Rogers. In Witness 5's oral evidence, she described the incident, stating Mrs Rogers took a face shield from a storage cupboard and threw it on a table in front of her saying "take this". The witness indicated that the actions of Mrs Rogers upset her at the time. The panel noted that Witness 5's oral evidence differed from her original statement, in which she described a face shield as having been thrown at her. The panel concluded that her recollection of events appeared uncertain.

The panel took into account the evidence of Witness 8, who worked closely with both Mrs Rogers and Colleague B during the relevant period. Witness 8 did not recall any incident in which Mrs Rogers threw a face shield at a member of staff and did not describe Mrs Rogers as someone who behaved physically aggressively in this way. Witness 8 stated that staff were under pressure, particularly during the pandemic, but did not observe Mrs Rogers acting in a physically threatening manner.

The panel further noted that Witness 6, who had oversight of the home, did not report receiving any concerns or complaints relating to an incident of this nature. There was no documentary evidence or contemporaneous record indicating that a face shield had been thrown or that any altercation of this kind had occurred. The absence of supporting material, combined with the uncertainty in Witness 5's account, led the panel to view this allegation with caution.

Having assessed all the evidence, the panel was not satisfied that Mrs Rogers threw a face shield at Colleague B.

Charge 6(a)

"On unknown dates between February and May 2020 when Colleague B requested medication training:

(a) did not provide the requested training"

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 5, who stated that she requested medication training from Mrs Rogers but did not receive it. Witness 5 explained that although she had completed basic medication competency training earlier in her employment, she sought further instruction regarding the procedures to follow when medication-related concerns arose, including escalation pathways.

The panel also considered the wider evidence provided by Witness 8, who described the training environment within the home as inconsistent and, at times, inadequate. Witness 8 stated that during the months she worked there, she did not receive the medication training she expected, despite having requested it. This mirrored the experience described by Witness 5. Witness 1 said the training was "awful", particularly for newly inducted staff

Witness 6 gave evidence that the service delivered certain training in-house but acknowledged that concerns had been raised by staff regarding the quality and adequacy of the medication-related training provided. Witness 6 also confirmed that Mrs Rogers was responsible for arranging or approving training and had discretion to allocate staff to appropriate instructional sessions.

The panel noted that no training records were provided by the NMC to demonstrate that Witness 5 received medication training during this period. However, the panel was satisfied that the aligned accounts of Witnesses 5 and 8 established a clear and consistent picture of inadequate training provision within the home. The panel accepted that Witness 5 specifically requested medication training from Mrs Rogers and that Mrs Rogers did not arrange or provide such training.

On the balance of probabilities, the panel found that Mrs Rogers failed to provide the requested medication training to Colleague B.

The panel did not consider the lack of training offered to the witness was motivated by racial discrimination. The evidence presented to the panel indicated that there were wide ranging training issues that affected all staff employed within the home.

Charge 6(b)

> "On unknown dates between February and May 2020 when Colleague B requested medication training:
>
> (b) stated words to the effect of "you are being sponsored by a company so you have to do whatever I tell you to do""

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 5, who stated that when she asked Mrs Rogers for medication training, she was met with a dismissive and authoritarian response. Witness 5 recalled being told that she was being sponsored by the company and was therefore required to comply with whatever she was instructed to do. She described this comment as intimidating.

The panel also considered the wider culture described by Witness 8, who stated that similar comments were made to her when she raised concerns about training and working conditions. Witness 8 gave evidence that she too was told, in substance, that if she did not like the way the home operated, she could leave. The panel considered this evidence to be consistent with the discouraging and authoritarian tone described by Witness 5.

Witness 6 provided evidence suggesting that the home's leadership culture was pressured and directive, particularly during the early months of the pandemic. Although Witness 6 did not give direct evidence about this specific comment, his testimony supported the panel's

conclusion that managers in the home, including Mrs Rogers, exercised their authority in a manner that discouraged challenge from staff.

The panel accepted Witness 5's account as credible and consistent with the wider pattern of behaviour described by other witnesses. On the balance of probabilities, the panel determined that Mrs Rogers did tell Colleague B that she was being sponsored and therefore had to follow instructions.

On the balance of probabilities, the panel found that Mrs Rogers failed to provide the requested medication training to Colleague B.

The panel did not consider that this comment was motivated by racial discrimination. Instead, it appeared to reflect an authoritarian management approach and a misuse of the sponsorship relationship to assert control over staff.

Charge 7(a)

> "On one or more unknown dates between February and May 2020:
>
> (a) threatened to cancel Colleague B's visa"

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 5, who stated that on more than one occasion Mrs Rogers threatened to cancel her visa. Witness 5 explained that these remarks were made when she raised concerns about training or working conditions. She told the panel that Mrs Rogers used the sponsorship relationship to assert authority over her, and that the threat of cancelling her visa created a climate of fear which discouraged her from making further complaints.

The panel also considered the evidence of Witness 8, who described hearing similar comments directed at staff who were sponsored by the company. Witness 8 explained that she was also told that if she disagreed with instructions or raised concerns, she could

leave, and that sponsored staff had little choice but to comply. The panel found this evidence consistent with the experience described by Witness 5 and supportive of the contention that threats were made.

Witness 6 provided contextual evidence regarding the management style within the home. He stated that Mrs Rogers was under considerable pressure during this period and that staff had described her as abrupt and difficult to approach. Witness 7 said that Mrs Rogers could be “short with people”. Witness 6 also accepted that tensions existed between management and staff, particularly those recruited from overseas who were reliant on the employer for visa sponsorship. While he did not provide direct evidence of the threats, his account supported the panel’s conclusion that such comments were likely to have been made and consistent with the wider environment.

The panel determined that the evidence of Witnesses 5 and 8 was clear, aligned, and reliable. The panel accepted that Mrs Rogers did threaten to cancel Colleague B’s visa. On the balance of probabilities, the panel found this charge proved.

The panel found that Charge 7(a) was motivated by racial discrimination. The panel found Mrs Rogers to be a poor manager and leader. She was inclined to use an authoritarian style. Mrs Rogers was at times verbally aggressive. All this resulted in an uncomfortable culture, such that some staff were frightened to raise any concerns with her. The panel found that the occasions referred to in the charges she used the immigration status of Witnesses 5 to threaten them and treat them differently from others.

Charge 7(b)

> “On one or more unknown dates between February and May 2020:
>
> (b) threatened to return Colleague B to India.”

This charge is found proved.

In reaching this decision, the panel considered the evidence of Witness 5, who stated that Mrs Rogers told her that she could be “sent back to India” if she did not comply with instructions. Witness 5 described this as a direct threat linked to her immigration status and employment sponsorship. The panel found her evidence clear and consistent with her broader account of how she was spoken to and treated at the time.

The panel also took into account the evidence of Witness 8, who stated that comments of this nature were made within the home and that staff perceived Mrs Rogers as capable of using immigration status as a means of asserting control. Witness 8’s evidence supported and corroborated the account provided by Witness 5.

Witness 6 described the working environment as pressured and stated that Mrs Rogers demonstrated a demanding and, at times, intolerant approach to staff management. While Witness 6 did not recall any specific reference to returning staff to India, the panel considered his evidence to be consistent with the broader picture of an environment in which such statements could be made.

The panel was satisfied that Witness 5’s account was credible and that it was supported by relevant contextual evidence. On the balance of probabilities, the panel determined that Mrs Rogers did tell Colleague B that she could be returned to India.

In considering motivation, for the comments made by Mrs Rogers, the panel concluded that they went beyond general inappropriate bullying comments as they referenced Witness 5 returning back to India. In invoking Witness 5’s home country, this exploited her racial identity to assert control. The panel concluded that the threat was made because of Witness 5’s country of origin and therefore demonstrated discriminatory intent. The panel found she was treated differently because of her country of origin.

Accordingly, Charge 7(b) is found proved and motivated by racial discrimination.

Charge 8(a)

> “On 27 May 2020, when Colleague B asked about resignation procedures:

(a) laughed at Colleague B."

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 5, who stated that when she approached Mrs Rogers to ask about the correct procedure for resigning, Mrs Rogers laughed at her. Witness 5 described feeling belittled and dismissed by this reaction, and she stated that the manner in which Mrs Rogers responded made her feel mocked at a time when she was seeking clarity and support.

The panel also considered the evidence of Witness 1, Witness 4, Witness 5 and Witness 8, who provided consistent accounts of the culture within the home, describing Mrs Rogers as abrupt, unsympathetic, and dismissive when staff members raised concerns. Witness 8 recalled that Mrs Rogers frequently reacted in a manner that discouraged questions or challenges. The panel determined that this broader pattern of behaviour supported Witness 5's account of being laughed at.

Witness 6 stated that Mrs Rogers was under significant pressure due to staffing issues and regulatory concerns, and that she could be short-tempered and difficult to approach. Although Witness 6 did not give direct evidence about the interaction on 27 May 2020, the panel considered his account of her management style as consistent with the behaviour described by Witness 5.

The panel found the evidence of Witness 5 credible and reliable. Her account was detailed, coherent, and consistent with the wider evidence about the tone and environment Mrs Rogers created within the home. The panel was satisfied, on the balance of probabilities, that Mrs Rogers did laugh at Colleague B when she asked about resignation procedures.

The panel examined if the actions of Mrs Rogers were motivated by racial discrimination. The panel heard evidence that Mrs Rogers was on occasions both dismissive and demeaning to staff when questioned or challenged. The panel found that the laugh towards Colleague B when she questioned the resignation process was typical of her

behaviour. The panel did not accept that the actions of Mrs Rogers were motivated by racial discrimination.

The panel found that the actions of Mrs Rogers were wholly inappropriate but not motivated by racial discrimination.

Accordingly, the charge was found proved but not motivated by racial discrimination.

Charge 8(b)

> "On 27 May 2020, when Colleague B asked about resignation procedures:
>
> (b) stated words to the effect of "this is England, not India.""

This charge is found proved.

In reaching this decision, the panel considered the evidence of Witness 5, who stated that during the same interaction on 27 May 2020, after laughing at her, Mrs Rogers told her, in substance, "this is England, not India." Witness 5 described this comment as humiliating and discriminatory, and said it was made in a tone suggesting that she should accept the working conditions because she was no longer in her home country.

The panel also considered the evidence of Witness 5 and Witness 8, who described the culture as one in which sponsored and overseas staff were made to feel inferior or powerless. Witness 8 gave evidence that comments highlighting staff members' nationality or immigration status occurred within the home and were used as part of a wider pattern of dismissive and intimidating communication. The panel found this consistent with the comment Witness 5 reported.

The panel further took into account the contextual evidence of Witness 6, who stated that Mrs Rogers was under substantial pressure and tended to deliver messages bluntly. While Witness 6 did not hear this specific comment, his evidence supported the panel's

conclusion that Mrs Rogers was capable of making abrupt and inappropriate statements to staff.

The panel determined that the comment reported by Witness 5 was credible, consistent with the tone described across the witness evidence, and aligned with the environment and management approach identified. On the balance of probabilities, the panel accepted that Mrs Rogers did tell Colleague B words to the effect of “this is England, not India.”

The panel examined if the comments made by Mrs Rogers was motivated racial discrimination. The panel concluded that although there was reference to India, the context in which it was said did not indicate it was based on any discrimination but was rather a comment intended to assert control over the witness who had limited knowledge of the resignation process.

The panel highlighted the comments made by Mrs Rogers were wholly inappropriate but not motivated by racial discrimination.

Accordingly, the charge was found proved but not motivated by racial discrimination.

Charge 9(a)

> “On an unknown date between February and September 2020 denied Colleague A access to care plan training in that:
>
> (a) you unfairly excluded Colleague A from a training session which was attended by UK trained staff members; or”

This charge is found NOT proved.

In reaching this decision, the panel took into account the evidence of Witness 4, who stated that she did not attend a care-planning training session which other staff had participated in. Witness 4 believed that she had been excluded from the session and described learning afterwards that the training had taken place. The panel noted, however,

that Witness 4 did not have direct evidence of who attended the session or the criteria used to allocate places.

The panel considered the evidence of Witness 6, who stated that a high proportion of nurses working within his organisation at the time between 80% and 90% had been recruited from overseas. Witness 6 explained that the training in question was delivered by an external provider and that not all staff could attend on the day due to staffing pressures. Witness 6 also stated that he had no evidence that the training was limited to UK-trained staff or that any selection was made on a discriminatory basis.

Witness 8 provided further context, stating that staffing shortages, particularly on night shifts, often determined who could be released for training. Witness 8 confirmed that Witness 4 was routinely rostered on nights, and it was therefore difficult to free her to attend daytime sessions delivered by external trainers. Witness 8 explained that rota constraints were a significant factor affecting training access for several staff.

The panel also noted the absence of any rota records, training registers, or documentary evidence confirming the composition of the training group or demonstrating that staff were selected on the basis of being UK-trained. The panel concluded that it could not reliably determine who attended the training or whether the group was limited to any particular category of staff.

The panel accepted that Witness 4 did not attend the training session, but the evidence before the panel did not establish that she was excluded unfairly, or that the exclusion was connected to her training background or any protected characteristic. On the balance of probabilities, the panel determined that there was insufficient evidence to find that Mrs Rogers unfairly excluded Colleague A from the training session.

Charge 9(b)

> “ On an unknown date between February and September 2020 denied Colleague A access to care plan training in that:

(b) you failed to provide alternative care plan training for Colleague A which was of an equivalent length as that provided to UK trained staff members."

This charge is found proved.

In reaching this decision, the panel considered the evidence of Witness 4, who stated that she requested care-plan training after being informed by Mrs Rogers that her care plans were inadequate. Witness 4 explained that she wished to attend the externally delivered care-planning session. She stated that although she asked for alternative training, she did not receive any equivalent instruction and was unaware of the training that had taken place until afterwards.

The panel also considered the evidence of Witness 8, who confirmed that Witness 4 had been told her care-planning documentation required improvement. Witness 8 stated that, despite this identified need, Witness 4 was not provided with structured training of the same duration or standard as that offered by the external provider. Witness 4 described that she was only offered informal guidance from another member of staff, which was not comparable to formal training.

Witness 6 explained that the care-planning training was delivered by an external provider and was scheduled in advance. He confirmed that rota pressures and the need to provide cover throughout the 24-hour day sometimes prevented all staff from attending. Witness 6 also acknowledged that he could not say what steps were taken to ensure that staff who missed external training received an appropriate alternative. The panel found this evidence significant in demonstrating that the home did not have an effective system to ensure equivalent provision for staff unable to attend.

The panel accepted that Witness 4 received some informal support from a colleague but determined that this did not constitute equivalent training. The external training was a full day long and delivered by an accredited provider, whereas the support offered to Witness 4 was brief, unstructured, and reliant on a member of staff recalling parts of her own training.

The panel also noted that Witness 4's identified need for training increased the importance of ensuring that any alternative provided was sufficient. The panel heard no evidence that Mrs Rogers arranged or facilitated training of equivalent length or content.

The panel did not however find that decision-making which culminated in Witness 4 receiving a lesser standard of training was motivated by racial discrimination. No documentary evidence, such as an attendee list, was provided which may have assisted in determining the training history/locations of those who did attend. The panel found management decisions around which staff should or should not attend was most likely driven by operational demands and the need to maintain staff cover during the nighttime.

On the balance of probabilities, the panel determined that Mrs Rogers failed to provide alternative care-plan training for Colleague A which was equivalent to that given to others. Charge 9(b) is therefore found proved but not motivated by racial discrimination.

Charge 10(a)

> " On one or more unknown dates between February and September 2020:
>
> (a) failed to implement a plan to address Resident A refusing to take medication administered by nurses they referred to as "brown nurses.""

This charge is found NOT proved.

In reaching this decision, the panel considered the evidence of Witness 4, who stated that Resident A made comments referring to "brown nurses" and was reluctant to accept medication from them. Witness 4 said she felt uncomfortable with these remarks but also explained that Resident A ultimately did take their medication after encouragement and explanation. The panel noted that Witness 4 did not specify that a formal care-plan intervention was required, nor did she state that the resident persistently refused medication.

The panel also took into account the evidence of Witness 5, who described working with Resident A and stated that although the resident was sometimes reluctant or made inappropriate comments, she was able to administer medication by engaging the resident in reassurance and conversation. She explained that she did not raise concerns about the resident's behaviour and did not feel additional measures were required beyond what she already did.

Witness 7 provided further context, stating that Resident A, who was [PRIVATE], could be difficult, and that staff often needed to encourage her to accept medication. Witness 7 explained that when concerns were raised, staff discussed practical solutions informally and adapted their approach, but she did not consider that a specific behaviour management plan was necessary. She said that the resident's behaviour was not threatening and responded positively to prompting.

The panel noted that no care plans were produced and therefore did not have sight of any documentation that might have addressed Resident A's medication acceptance. However, the panel also accepted evidence that Resident A did take her medication, albeit at times reluctantly, and that staff used persuasion and reassurance effectively.

The panel determined that the evidence did not establish that a formal plan was required, nor that there was a failure by Mrs Rogers to implement one. The panel was satisfied that the situation was managed through staff practice at the time and that there was no omission amounting to a failure of professional responsibility on Mrs Rogers' part.

Charge 10(b)

> "On one or more unknown dates between February and September 2020:"
>
> (b) failed to speak to Resident A regarding their discriminatory conduct towards staff members."

This charge is found NOT proved.

In reaching this decision, the panel took into account the evidence of Witness 4 and Witness 5, who both stated that they did not raise formal concerns with Mrs Rogers about Resident A's comments. Witness 4 explained that the remarks made by Resident A were upsetting, but she did not describe reporting these comments to Mrs Rogers in a way that required managerial follow-up. Witness 5 gave evidence that she simply ignored the discriminatory remarks.

The panel also considered the evidence of Witness 7, who stated that Resident A was a somewhat difficult, very elderly patient living with [PRIVATE]. She could be cared for properly through a practical nursing approach to medication administration. Witness 7 recalled no occasion where she or others raised a formal concern requiring intervention by Mrs Rogers.

Given this evidence, the panel concluded that there was no clear expectation that Mrs Rogers should have intervened directly with Resident A regarding her remarks, nor evidence that concerns were escalated to her in a way that required action. The panel also found that Resident A's [PRIVATE] made it unclear whether speaking to her about discriminatory behaviour would have been appropriate or effective.

The panel determined that the evidence did not establish that Mrs Rogers failed to take action she ought reasonably to have taken.

Charge 10(c)

> "On one or more unknown dates between February and September 2020:"
>
> (c) Stated to Colleague A that they "had to put up with" racial discrimination."

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 4, who stated that when she informally attempted to raise concerns about discriminatory comments made by Resident A, Mrs Rogers told her that she "had to put up with it."

Witness 4 explained that she felt unsupported and dismissed by this response and believed that Mrs Rogers was instructing her to tolerate racially discriminatory behaviour as part of her role.

The panel also considered the evidence of Witness 1, Witness 5, Witness 7 and Witness 8, who described the general managerial approach within the home as abrupt and unsympathetic. Witness 7 stated that staff often felt unable to approach Mrs Rogers for support and that concerns raised were sometimes minimised or disregarded.

Witness 6 provided further contextual evidence, stating that Mrs Rogers was under significant pressure and tended to communicate in a blunt and unfiltered manner. While Witness 6 did not give direct evidence about this statement, his testimony supported the panel's assessment that Mrs Rogers was capable of responding in the manner described.

The panel also found that Mrs Rogers was unapproachable and often too busy to deal with staff queries or complaints and was very likely to have used the term "older generations are like this" as described by Witness 4.

The panel found Witness 4's account credible and consistent with the broader evidence of Mrs Rogers' communication style. The panel was satisfied, on the balance of probabilities, that Mrs Rogers did tell Colleague A that she "had to put up with" discriminatory behaviour from Resident A. The panel concluded that this again was an example of Mrs Rogers poor, unsympathetic leadership style.

Much as the panel found the words as described were used by Mrs Rogers, it found they were likely employed as a highly inappropriate response from a manager under pressure. The panel did not conclude Mrs Rogers comments endorsed the views of Resident A, more that her management skills were simply inadequate to deal with the situation in the context of operational demand.

Charge 10(c) is therefore found proved but not motivated by racial discrimination.

Charge 11

> “On one or more unknown dates between February and September 2020 rostered Colleague A to work eight consecutive night shifts.”

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 4, who stated that she was placed on eight consecutive night shifts during the relevant period. Witness 4 described feeling overwhelmed, exhausted, and distressed by this pattern of working, and she said that she believed she had been singled out unfairly.

The panel also considered the evidence of Witness 8, who confirmed that she too had been moved from day working to a pre-agreed week of night duty which turned into 4 months of permanent nights This period included Witness 8 having to work 8/9 night shifts without a break. Witness 8 said it was commonplace for nurses, particularly on the night shift, to be rostered for long periods without time off. When she complained to Mrs Rogers, Witness 8 said she was told, “you want the money, the job, you can’t pick your own shifts”

The panel further noted the evidence of Witness 6, who explained that rota pressures did exist but accepted that decisions about shift patterns were made by Mrs Rogers. Witness 6 stated that he was not aware of any system that required Witness 4 specifically to work consecutive nights and that such decisions were at the discretion of the manager.

The panel determined that Witness 4’s account was credible and was corroborated by the observations of Witness 8. The panel accepted that Witness 4 did work eight consecutive night shifts and that this had a significant impact on her wellbeing. The panel was satisfied that Mrs Rogers was responsible for authorising or approving this rota pattern.

The panel did not however find this charge was motivated by racism. They found that all staff working night duties appear to have been poorly managed in this regard, irrespective of race. They found Mrs Rogers’ decisions around who should be deployed to night work was likely driven by favouritism and that the length of duties allocated to those staff,

dictated not by racial discrimination but by staff absences as a consequence of the pandemic.

Accordingly, Charge 11 is found proved but not motivated by racial discrimination.

Charge 12

> "On an unknown date between February and September 2020 threatened Colleague A by stating words to the effect of "remember you are being sponsored and I can cancel your visa and you can go back to India.""

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 4, who stated that Mrs Rogers told her, in substance, that she should "remember" she was being sponsored and that her visa could be cancelled, resulting in her being sent "back to India." Witness 4 described this as a highly distressing encounter in which she felt intimidated and targeted. She stated that the comment was made in direct response to her raising concerns about her working conditions and her experience within the home. Witness 4 explained that the statement left her feeling threatened because her ability to remain in the United Kingdom was dependent on her employment.

The panel also considered the evidence of Witness 8, who was present at the nurse's station in an open office when the comment was made. Witness 8 described seeing and hearing the encounter between Mrs Rogers and Witness 4 as described by Witness 4. She recalled hearing words to the effect of 'do it or go back home' and described her shock at what was said and how she comforted Witness 4 afterwards. She said other members of staff were also present.

Witness 6 provided further context regarding Mrs Rogers' management style, describing her as pressured, abrupt, and sometimes hostile in her communication with staff.

The panel found Witness 4's account credible, coherent, and consistent with the wider evidence of how Mrs Rogers interacted with both Colleague A and other overseas-trained staff. The panel also noted that similar threats had been found proved under Charge 7 in relation to Colleague B, which further supported the reliability of Witness 4's account.

In considering motivation, the panel determined that the specific comment surrounding sponsorship status went far beyond acceptable management language. The reference to "remember you are being sponsored and I can cancel your visa and you can go back to India" directly invoked Witness 4's nationality and was used in a manner that demeaned her and exploited her racial identity to assert control. The panel found Mrs Rogers to be a poor manager and leader who led using an authoritarian style and was at times verbally aggressive and which led into an uncomfortable culture and some staff were frightened to raise any concerns with her. It found on these occasions she used the immigration status of nurses to threaten them and treat them differently to others. The panel concluded that the threat was made because of her race and national origin, and that the wording demonstrated clear discriminatory intent.

Accordingly, Charge 12 is found proved and motivated by racial discrimination.

Charge 13

> "On an unknown date between February and September 2020 failed to take appropriate action in relation to Resident B behaving in a sexually inappropriate way towards Colleague A"

This charge is found NOT proved.

In reaching this decision, the panel took into account the evidence of Witness 4, who stated that Resident B would sometimes be undressed or partially undressed when she entered his room, which made her uncomfortable on certain occasions. Witness 4 said she interpreted the resident's behaviour as inappropriate but acknowledged that she did not report any serious safeguarding concerns, nor did she describe the resident behaving

in a deliberately sexual manner. The panel noted that Witness 4's concerns were expressed cautiously and did not reflect that she felt any significant personal risk.

The panel also considered the evidence of Witness 7, who had extensive interaction with Resident B. Witness 7 stated that Resident B was possibly suffering from dementia, had significant health complications, and often forgot to dress himself properly. Witness 7 explained that when asked to cover himself, the resident complied and showed no signs of sexual intent. Witness 7 also confirmed that staff, including herself and colleagues, discussed the matter informally and agreed that Resident B's behaviour was a product of his medical condition, not deliberate sexual misconduct. She recalled that staff arranged for healthcare assistants to accompany Witness 4 into the room to reduce her discomfort, and she regarded this as a proportionate and appropriate adjustment.

The panel further considered the evidence of Witness 6, who stated that during his oversight of the home, no safeguarding concerns were raised regarding Resident B's behaviour and no indication was given that Mrs Rogers had failed to act on any such concern. Witness 6 described the home's culture as one in which informal measures were often taken to support staff where possible.

The panel noted the absence of any documentary evidence indicating that Resident B behaved in a sexually inappropriate way in the sense described in the charge. The panel accepted the evidence of Witnesses 7 and 6 that Resident B's behaviour appeared to be the result of cognitive decline rather than sexual intention. The panel also noted that Witness 4 herself did not clearly articulate that the behaviour was sexual in nature, only that she felt uncomfortable.

The panel concluded that since Resident B's behaviour was not established as sexual, there was no requirement for Mrs Rogers to implement safeguarding measures beyond those already informally adopted by the staff team. The panel accepted that staff had already agreed an approach, entering the room with another staff member before any issue reached Mrs Rogers. Furthermore, the panel found no evidence that Mrs Rogers was informed of any behaviour that would have triggered a need for formal action.

On the balance of probabilities, the panel was not satisfied that Resident B's behaviour amounted to sexually inappropriate conduct, nor that Mrs Rogers failed to take appropriate action.

Charge 14

> "Your actions and/or inactions in one or more of the charges 2 to 13 were motivated by racial discrimination."

This charge is found proved.

In reaching its decision, the panel considered each proved charge within Charges 2 -13, including the relevant sub-charges, and assessed whether Mrs Rogers' actions or omissions were motivated, in whole or in significant part, by racial discrimination.

The panel noted at the outset that a consistent theme across the evidence was that Mrs Rogers managed staff in a forceful, abrupt and, at times, hostile manner. The panel determined that this behaviour was generally directed towards staff regardless of ethnicity or background, and that such an approach, while inappropriate and unsupportive, did not of itself demonstrate racial motivation. The panel was careful not to equate poor management with discriminatory intent.

The panel reminded itself that racial motivation requires evidence that the purpose, or a significant part of the purpose, behind the conduct was referable to race, or that the conduct was carried out in a manner demonstrating hostility or a discriminatory attitude towards a relevant racial group as seen in the case of *Lambert Simpson v HCPC [2023] EWHC 481 (Admin).*

Having analysed the evidence in that context, the panel determined that racial motivation was established in relation to Charge 7a and 7b and Charge 12**.** In these instances, the panel found that Mrs Rogers' comments explicitly referenced the colleagues' nationality and sponsorship status in a targeted and belittling way which, in the panel's judgment, would not have been directed towards colleagues who were not from that racial or ethnic

background. In these instances, the panel found Witness 4 and Witness 5 had been treated differently because of their race. The language used demonstrated hostility and a discriminatory attitude that met the threshold for racial motivation.

In respect of Charges 2, 3, 6a, 6b, 8a, 8b, 9b, 10c, and 11, the panel did not identify any evidence that Mrs Rogers' conduct was motivated by racial discrimination. The panel considered that her behaviour in those charges was consistent with her general management style, which witnesses described as abrupt, unsupportive and, at times, dismissive. While the panel recognised shortcomings in communication and leadership, it was not satisfied on the balance of probabilities that race played any role in motivating her actions in those matters.

Having considered the totality of the evidence, the panel concluded that racial motivation was established in relation to Charge 7a, 7b and Charge 12. Accordingly, Charge 14 is found proved, but only insofar as it relates to those identified sub-charges.

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 Mrs Rogers' 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, Mrs Rogers' fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

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

Mr Joshi invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of '*The NMC Code: Professional standards of practice and behaviour for nurses and midwives (2015' (the Code)* in making its decision. He submitted that the misconduct considerations are dealt with under the NMC guidance FTP 2A, and that the starting point is the requirement for Mrs Rogers to act in accordance with the Code.

Mr Joshi reminded the panel that the allegations which have been found proved are serious, far-reaching, and had a considerable effect on several witnesses whom he described as victims of Mrs Rogers' conduct.

Mr Joshi directed the panel to the following provisions of the 2015 Code which he said were engaged:

1 – Treat people as individuals and uphold their dignity

Mr Joshi submitted that this provision is not limited to patients. He highlighted the evidence of newly recruited nurses who were "picked up from the airport" and then subjected to the environment created in the home. He submitted that Mrs Rogers' conduct breached this fundamental requirement.

2 – Listen to people and respond to their preferences and concerns

Mr Joshi submitted that Mrs Rogers did not work in partnership with colleagues and described her approach as “Mrs Rogers’ way… or the highway”. He said there was no recognition or encouragement of colleagues’ contributions or concerns.

7 – Communicate clearly

Mr Joshi submitted that Mrs Rogers’ communications, as found by the panel, amounted to bullying and harassment, and therefore fell short of this standard.

8 – Work cooperatively

Mr Joshi submitted that Mrs Rogers failed to respect the skills, experience and role of the qualified nurses, instead directing them to undertake tasks such as care assistant duties or kitchen duties. He submitted that this was inconsistent with the requirement to work cooperatively.

9 – Share your skills, knowledge and experience for the benefit of service users and colleagues

Mr Joshi submitted that at no stage did Mrs Rogers share skills or knowledge with new staff or offer support.

20 – Uphold the reputation of your profession at all times

Mr Joshi drew the panel’s attention to:

- 20.2 – act with honesty and integrity at all times and treat people fairly and without discrimination, bullying or harassment, and
- 20.3 – be aware at all times of how your behaviour can affect and influence other people.

He submitted that Mrs Rogers’ behaviour clearly breached these requirements.

23 – Cooperate with all investigations and audits

Mr Joshi reminded the panel that Mrs Rogers attended the original earlier hearing but then left “of her own volition” without valid reason and only cooperated with the current proceedings after a witness summons had been issued. He submitted that this was a breach of Code 23.

Mr Joshi submitted that the misconduct was further aggravated by discriminatory features, citing NMC guidance which states that no form of discrimination, including racism, should be tolerated within healthcare, and that such behaviour impacts public protection and public confidence in the profession. He stated that the breaches identified across multiple parts of the Code, occurring repeatedly and over a significant period of time, collectively amounted to serious misconduct.

Submissions on impairment

Mr Joshi moved on to impairment and directed the panel to the NMC guidance at DMA1, reminding the panel that the question is whether the nurse can practise kindly, safely and professionally.

Mr Joshi submitted that the concerns found proved are serious, both in the nature of the conduct and in its effect on colleagues. He emphasised the context of the conduct occurring at a time when nurses required particular support due to the COVID environment, stating that the environment described as one of fear and intimidation was “the last thing they needed”.

Mr Joshi submitted that there is very little, if any, evidence of insight from Mrs Rogers. He stated that:

- the panel has “very little information or insight about what Mrs Rogers feels she has done or not done”;
- there is “no appreciation of how her conduct affected anyone”;
- there is no evidence of training, reflection, or any steps taken to understand or mitigate the concerns.

Mr Joshi submitted that even if the allegations were denied, Mrs Rogers could still have demonstrated some appreciation of the effects of bullying or harassment, but there was no such evidence.

Mr Joshi further submitted that the Mrs Rogers' communication with the NMC, including the instruction to "just get on with it", was indicative of her current attitude and she is therefore impaired.

Mr Joshi submitted that impairment arises both on the basis of public protection**,** given the lack of insight and risk of repetition and on public interest grounds**,** given the seriousness of the conduct and the discriminatory features.

The panel accepted the advice of the legal assessor. This advice included reference to several relevant authorities, namely: *Cheetle v General Medical Council* (2009), *Roylance v General Medical Council (No. 2)* [2000] 1 AC 311, *Calhaem v General Medical Council*, and *Nandi v General Medical Council* [2004] EWHC 2317 (Admin). The legal assessor also directed the panel to *Council for Healthcare Regulatory Excellence v Nursing and* Midwifery Council and Grant *[2011] EWHC 927 (Admin), Cohen v General Medical Council* [2008], and the comments of Dame Janet Smith in the Fifth Shipman Report.

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 Mrs Rogers' actions did fall significantly short of the standards expected of a registered nurse, and that Mrs Rogers' 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*

7 Communicate clearly

To achieve this, you must:

7.1 use terms that people in your care, colleagues and the public can understand

8 Work cooperatively

To achieve this, you must:

8.1 respect the skills, expertise and contributions of your colleagues…

8.2 maintain effective communication with colleagues

8.7 be supportive of colleagues who are encountering health or performance problems'

9 Share your skills, knowledge and experience for the benefit of people receiving care and your colleagues

To achieve this, you must:

9.4 support students' and colleagues' learning to help them develop their professional confidence and competence'

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 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'

23 Cooperate with all investigations and audits

To achieve this, you must:

23.1 cooperate with investigations and audits, whether internal or external

25 Provide leadership to make sure people's wellbeing is protected and to improve their experiences of the healthcare system

To achieve this, you must:

25.2 support any staff you may be responsible for to follow the Code; they must have the knowledge, skills and competence for safe practice'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that the facts found proved represented a significant departure from the standards expected of a registered nurse. In reaching this decision, the panel carefully examined each proved charge and identified the relevant parts of the Code that were breached.

The panel first considered Charges 1(a) and 1(b)(i), relating to Mrs Rogers' failure to cooperate with the NMC's regulatory processes. It noted that Mrs Rogers only reluctantly engaged with NMC proceedings once a witness summons had been served and yet still left a hearing part-way through without valid reason. The panel found this conduct to be a clear breach of Code 20.1 and Code 23, noting that cooperation with professional investigations is essential for maintaining public confidence in the regulatory process and ensuring that professional standards are upheld. The panel determined that this conduct fell seriously short of what is expected of a registered nurse and amounted to serious misconduct.

The panel next considered Charges 2 and 3, concerning staffing patterns and shift allocation. Although the charges were found proved, the panel determined that, in the

context of the COVID-19 pandemic, operational pressures, and the not unusual practice of consecutive night shifts, Mrs Rogers' conduct did not amount to misconduct in isolation.

Turning to Charge 6(a), the panel heard evidence that Mrs Rogers failed to provide essential medication administration training to a newly arrived international nurse who specifically requested support in how to escalate concerns and how to contact a senior member of staff out of hours should it be required. The panel determined that this conduct breached Codes 8.7, 9.4, and 25.2 finding that Mrs Rogers failed in her leadership responsibilities in that the nurse requested specific training but was not provided with this. The inaction of Mrs Rogers placed residents at potential risk. This constituted serious misconduct.

Regarding Charge 6(b), where Mrs Rogers told a colleague "you have to do whatever I tell you," the panel considered this conduct to be oppressive and intimidatory in language and tone. It identified breaches of Codes 1.1, 20.2, 20.3, 20.5, and 20.8. The panel found this behaviour wholly unacceptable and amounting to serious misconduct.

In relation to Charges 7(a) and 7(b), involving discriminatory and racist comments regarding the threat to return a colleague to India and threatening her visa status, the panel regarded racism as extremely serious in accordance with NMC guidance. It found breaches of Codes 1.1, 20.2, 20.3, 20.5 and 20.8. The panel determined that these actions were profoundly incompatible with professional standards and amounted to serious misconduct.

In relation to Charge 8, where Mrs Rogers laughed at a colleague who enquired about resignation procedures, the panel found this behaviour to be demeaning and undermining. It breached Codes 1.1, 20.3, 20.5 and 20.8, and the panel determined that this too constituted misconduct.

Regarding Charge 9b, the panel found that Mrs Rogers failed to provide care planning training to a newly arrived nurse who specifically requested support and who Mrs Rogers

herself had identified as requiring further guidance and training on care plans. The panel determined that her conduct breached Codes 8.7, 9.4, and 25.2, finding Mrs Rogers failed in her leadership responsibilities and placed residents at potential risk. The panel determined that this conduct amounted to serious misconduct.

In relation to Charge 10c, the panel noted that although the comment referred to racial discrimination, it had already determined that Mrs Rogers' motivation was not racist. However, the panel found that her manner was dismissive, overbearing and intimidatory, reflecting her oppressive leadership style. The panel considered that such behaviour breached the professional requirement to act as a role model and to be aware of the impact of one's behaviour on others. This conduct breached Codes 20, 20.3 and 20.8. The panel determined that Charge 10(c) amounted to misconduct and that the misconduct was serious.

In considering Charge 11, the panel applied the same reasoning as it did for Charge 2. While the charge was found proved, the panel determined that the actions occurred within the context of COVID-19 staffing pressures and did not amount to a departure from the standards expected of a registered nurse. It found no breach of the Code was identified. Accordingly, the panel found that Charge 11 did not amount to misconduct.

Regarding Charge 12, the panel had already determined that this behaviour was motivated by racism. It found that Mrs Rogers' conduct was oppressive, humiliating and wholly inconsistent with the standards expected of a registered nurse, particularly towards a newly arrived and vulnerable international nurse and that her actions breached Codes 1, 1.1, 20, 20.2, 20.3, 20.5,and 20.8. The panel regarded racism as extremely serious in accordance with NMC guidance. The panel found that Charge 12 amounted to misconduct and, given the racist motivation and its profound emotional impact on the nurse concerned, amounted to serious misconduct.

In relation to Charge 14, the panel determined that the same Codes were breached as in Charges 7 and 12, namely Codes 1.1, 20.2, 20.3, 20.5 and 20.8. The panel found Mrs Rogers' overall management style as poor, protracted and could not be considered to be a

temporary lapse. The panel found that it would have impacted multiple people beyond those providing evidence to this hearing. The panel regarded racism as extremely serious in accordance with NMC guidance. Taking her behaviour cumulatively, the panel found that Charge 14 amounted to serious misconduct.

Having considered the charges individually where some misconduct and serious misconduct was identified the panel then went on to look at the conduct of Mrs Rogers as a whole.

The panel have previously been critical of the management style of Mrs Rogers which led to a divisive working environment where some staff were fearful of approaching her or raising concerns.

The panel heard evidence surrounding Mrs Rogers communications style, how she was unapproachable, led through intimidation and fear and how this affected those whom worked for her. The evidence provided to the panel indicated poor management which on too many occasions crossed into discrimination and racism towards vulnerable overseas colleagues.

In all, the panel were of the view that Mrs Rogers conduct as a whole was unacceptable and demonstrated unacceptable professional standards and as such this amounted to serious misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mrs Rogers' 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. 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 [2011] EWHC 927 (Admin)* 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 first considered whether Mrs Rogers had in the past, or was liable in the future, to put patients at unwarranted risk of harm. The panel acknowledged at the outset that much of the evidence concerned Mrs Rogers' treatment of colleagues rather than direct patient care. However, after reviewing the evidence before it, the panel concluded that her behaviour did create unwarranted patient safety risks. It found that Mrs Rogers had created and fostered a climate of fear within the home which prevented staff from raising concerns or reporting incidents. Witness 8 stated that staff were "fearful of repercussions" and so did not dare to raise concerns or issues with Mrs Rogers. The panel regarded this as a clear example of the risk to patients arising from the environment Mrs Rogers had created.

The panel also recalled the evidence that essential medication administration training had not been provided to a newly arrived international nurse despite her request for help, and was concerned that this failure created obvious risks to residents. The panel heard witness testimony that described Mrs Rogers as 'harsh' and 'dismissive' of staff, particularly newcomers, who made legitimate training requests. One witness described the training regime as 'awful' and another that she received no training during her 6 months employed under Mrs Rogers management. In light of all these matters, the panel found

that Mrs Rogers had put patients at unwarranted risk of harm, and was liable to do so in the future.

The panel then considered whether Mrs Rogers had brought the profession into disrepute. It was satisfied that her behaviour, including racism, intimidation, oppressive leadership and the creation of an environment of fear, had clearly brought the nursing profession into disrepute. The panel took into account the seriousness of the concerns and agreed that her professional standards had fallen far below those expected of a competent nurse.

The panel next considered whether Mrs Rogers had breached fundamental tenets of the profession. It found that her behaviour was fundamentally inconsistent with the expectations placed upon registered nurses, particularly those in leadership roles. She had not supported inexperienced and newly recruited staff, had created a working environment in which concerns could not be raised, and had treated colleagues in a way that was wholly contrary to the dignity, respect and professionalism expected by the Code. The panel also noted that her poor leadership style appeared deep-seated and that there was nothing before it to suggest this had changed.

The panel then turned to consider Mrs Rogers' level of insight. It agreed that she had demonstrated extremely limited insight into her misconduct. It considered her written statement and noted that it consisted of continued denials and a brief expression that she was sorry if she "came across that way". The panel did not consider this to be reflective; it did not demonstrate any understanding of the impact of her behaviour, any acknowledgement of the vulnerability of international nurses, or any recognition of how a fearful working environment could harm residents. The panel also noted that Mrs Rogers had not explained what she might do differently in the future, nor had she expressed any insight into the significance of the misconduct.

The panel found insufficient evidence that Mrs Rogers had taken any steps to address her behaviour. There was insufficient evidence of relevant training, reflective work, and insufficient indication of strengthened practice. The panel also observed that no testimonials had been provided since the allegations came to light, specifically from

managers or senior colleagues to demonstrate any improvement or change. In the lack of such evidence, and given the sustained and serious nature of the misconduct, the panel concluded that there remained a real risk of repetition. The panel determined that a finding of impairment was necessary on the grounds of public protection.

The panel determined that a finding of impairment on public interest grounds is required because there is a need to uphold proper professional standards and to maintain public confidence in the nursing profession. It regarded the racist elements of the misconduct as particularly serious in accordance with the NMC's guidance. It also considered that oppressive and intimidating management of the sort exhibited by Mrs Rogers was fundamentally incompatible with public expectations of nursing leadership. The panel concluded that allowing a nurse who had demonstrated such behaviour to remain in unrestricted practice would undermine confidence in the profession. It therefore also finds Mrs Rogers' fitness to practise impaired on the grounds of public interest.

Having regard to all of the above , the panel concluded that Mrs Rogers' fitness to practise is currently impaired on both public protection and public interest grounds.

Sanction

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

Submissions on sanction

Mr Joshi informed the panel that, in the Notice of Hearing dated 13 October 2025, the NMC had indicated that it would seek the imposition of a striking-off order if it found Mrs

Rogers' fitness to practise impaired. He confirmed that, in light of the panel's findings on misconduct and impairment, the NMC maintains that a striking-off order is the appropriate and proportionate sanction.

Mr Joshi submitted that the panel, as an experienced panel, is already familiar with the relevant guidance at SAN-1, which sets out the factors to be considered before determining sanction. He emphasised that the core question for the panel is what action is required to protect the public and to address the reasons why Mrs Rogers' fitness to practise is currently impaired. In doing so, the panel is required to assess the aggravating and mitigating factors, proportionality, and the overarching objective of public protection.

Mr Joshi submitted that the aggravating features in this case are significant and numerous. He noted that, although Mrs Rogers has no previous regulatory or disciplinary findings, this case involves a sustained pattern of misconduct over a prolonged period. He submitted that "trouble… started as soon as the registrant was appointed to the managerial role of the home," and that she effectively created an environment where she populated the home only with those she favoured and targeted those she disliked, resulting in bullying, intimidation, and a climate of fear among staff.

Mr Joshi further submitted that staff concerns, including matters relating to safety, were ignored or suppressed, and that the misconduct therefore had the clear potential to place residents at risk of harm. The panel had also found discriminatory and racist behaviour, which, he submitted, is treated with particular seriousness under NMC guidance.

In addition, Mr Joshi identified a complete lack of insight by Mrs Rogers into her failings. This extended not only to her conduct within the home but also to her behaviour in another NMC committee hearing, where she abandoned her witness role part-way through proceedings, fully aware of the consequences.

Mr Joshi submitted that there were effectively no mitigating factors. There were:

- no early admissions;

- no apologies;
- no efforts to remediate;
- no steps taken to prevent recurrence; and
- no evidence of adherence to the principles of good practice.

Mr Joshi accepted that the panel may consider any personal mitigation with caution, but submitted that none of it outweighs the seriousness of the pattern of misconduct and the attitudinal concerns identified.

Mr Joshi directed the panel to SAN-2, which addresses discriminatory behaviour, racism, bullying, and concerns that threaten the public's trust in the profession. He emphasised the guidance stating that the NMC may need to take restrictive regulatory action where discriminatory views or behaviours are proved and where a registrant has not demonstrated early and comprehensive insight, remorse, or remediation. He stated that where a nurse denies the problem or fails to engage with the fitness to practise process, the guidance makes clear that a significant sanction such as removal from the register will be necessary to maintain public trust and confidence.

Mr Joshi accepted that the panel must consider sanctions in ascending order, starting with the least restrictive, but submitted that no lesser sanction could adequately protect the public, maintain confidence in the profession, or uphold standards. Accordingly, Mr Joshi invited the panel to impose a striking-off order.

Decision and reasons on sanction

Having found Mrs Rogers' 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 SG, and specifically SAN-1, 2, 3 and FTP-2A. It also had regard *Professional Standards Authority for Health and Social Care (PSAHSC) v Nursing and Midwifery*

Council (NMC) Jalloh [2023] EWHC 3331 (Admin). The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Abuse of a position of authority: Mrs Rogers was in a managerial role, and her behaviours impacted the most junior and vulnerable staff who were not in a position to challenge or resist her conduct.

- Deterioration of workplace culture directly attributable to her leadership: The panel heard evidence that the Home had previous positive culture which deteriorated sharply after Mrs Rogers appointment. The panel considered her behaviour and poor leadership directly responsible for this decline.

- Bullying, intimidation, and discriminatory behaviour: The panel found that her management style was underpinned by bullying and discriminatory actions, including racist conduct, which significantly worsened the impact of her poor management. This poor management style was consistent and prolonged, taking place across the entirety of the period subject of these charges which amounted to many months. The panel concluded this was Mrs Rogers' chosen approach to leadership, and heard no evidence of any improvement over time.

- Risk to patient safety: Mrs Rogers' behaviour created an environment where staff were too afraid to raise concerns, report incidents, or admit errors. This had the real potential to put residents at risk of harm.

- Impact on multiple individuals: Her conduct affected not only the complainants but the wider workforce and potentially residents, as her poor behaviour was often displayed openly in shared spaces such as the nurses' station.

- Creation of a climate of fear: The panel noted that colleagues who seemed to be disliked by Mrs Rogers were subjected to persistent negative treatment, while those she appeared to favour were protected. As a result, several staff felt unable to raise concerns or believed that their only option was to leave their employment.

- Failure to escalate or address safety concerns: Staff raised issues relating to resident safety that were ignored or suppressed. This placed residents at risk of harm, which the panel considered extremely serious.

- Discriminatory and racist behaviour**:** The panel had already determined that some of Mrs Rogers' behaviour was racially motivated, oppressive, humiliating and wholly inconsistent with the Code. Discriminatory conduct is treated with particular seriousness in the SG.

- The panel found Mrs Rogers' poor management style was characterised by:
    - persistent bullying and intimidation
    - discriminatory language
    - poor communication and inappropriate tone
    - being unapproachable and dismissive
    - having clear favourites and treating staff differently (as found in the facts stage)

- Lack of insight: Throughout the period of misconduct and during these proceedings, Mrs Rogers demonstrated little, if any insight into her failings, the impact of her conduct, or the distress caused to colleagues and potentially to residents.

- Disregard for regulatory and professional processes: The panel took account of Mrs Rogers' conduct in a previous NMC hearing where, having reported regulatory concerns to the NMC and being summoned to give evidence as a key witness, she abandoned proceedings halfway through, despite knowing that doing so would

significantly disrupt the process or having regard to the effects this may have to the ongoing hearing or the registrant concerned.

The panel also took into account the following mitigating features. It considered:

- Previous good character : There were no prior NMC concerns. However, the panel concluded that the previous good character carries minimal weight where deep-seated attitudinal issues are present.

- [PRIVATE] at the time of Charge 1: Mrs Rogers advised the panel on that occasion that she was [PRIVATE] prior to the start of the hearing and subsequently failed to return for cross-examination, part way through her evidence. [PRIVATE].

- Character testimonials : Whilst the panel accepts the accounts provided are sincere and reflected the personal experiences of those who provided them, the panel was unable to give them significant weight in the context of a substantial body of evidence to the contrary.

The panel found minimal evidence of insight, remorse, remediation, strengthening of practice, reflection, or any steps taken to prevent a recurrence of the misconduct. Overall, the panel concluded there was little, if any, mitigation.

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 protection issues identified, an order that does not restrict Mrs Rogers' 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 Mrs Rogers' misconduct was not at the lower end of the spectrum but was in fact of a serious nature 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 Mrs Rogers' 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 charges in this case. The misconduct identified in this case was not something that can be addressed through retraining, particularly with regard to the aspects surrounding discriminatory and racist behaviour. Furthermore, the panel concluded that the placing of conditions on Mrs Rogers' 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; and*
- *The Committee is satisfied that the nurse has insight and does not pose a significant risk of repeating behaviour.*

The 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 Mrs Rogers' actions is fundamentally incompatible with Mrs Rogers 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?*

Mrs Rogers' actions were very 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 Mrs Rogers' 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 effect of Mrs Rogers' actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, 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 Mrs Rogers 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 Mrs Rogers' own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Submissions on interim order

The panel took account of the submissions made by Mr Joshi. He submitted that an interim suspension order was necessary to cover the statutory appeal period, noting that although Mrs Rogers has remained suspended during the hearing, that suspension would now lapse. He reminded the panel that any appeal could take several months to be resolved and that the NMC routinely applies for interim orders of up to 18 months. He therefore invited the panel to impose an interim suspension order to ensure continued public protection during the appeal window.

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 seriousness of the facts found proved and 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 as it considered this necessary for public

protection. Mrs Rogers' persistent bullying, intimidation and discriminatory behaviour, combined with her unsafe management practices, created a continuing and significant risk to patients and colleagues. Her limited insight, reflection or remediation meant there was nothing before the panel to suggest that these behaviours would not immediately recur if she were permitted to practise during the appeal period.

The panel also determined that an interim suspension order was required in the public interest. Allowing Mrs Rogers to return to unrestricted practice following a striking-off decision, particularly given the seriousness of the findings, would risk undermining public confidence in the nursing profession and in the NMC as a regulator. A reasonable and informed member of the public would expect her practice to remain restricted while any appeal is ongoing.

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

That concludes this determination.