Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Monday, 13 October 2025 – Wednesday, 22 October 2025
Monday, 5 January 2026 – Friday, 9 January 2026
Tuesday, 3 February 2026 – Wednesday, 4 February 2026
Friday 6 January 2026

Virtual Hearing

Name of Registrant:	Alan Thomas Haugh
NMC PIN:	91C0731E
Part(s) of the register:	Sub Part 1 RN1 Adult Nurse, Level 1 – 10 November 1999 RN2 Adult Nurse, Level 2 – 22 September 1995
Relevant Location:	Leeds
Type of case:	Misconduct
Panel members:	Allison Brindley (Chair, Registrant member) Mary Golden (Lay member) Amanda Revill (Registrant member)
Legal Assessor:	Attracta Wilson (13 – 22 October 2025) Ashraf Khan (5 – 9 January 2026 and 3, 4 and 6 February 2026)
Hearings Coordinator:	Tyra Andrews Zahra Khan (6 February 2026 only)
Nursing and Midwifery Council:	Represented by Alex Radley, Case Presenter
Mr Haugh:	Present and represented by Christopher Bealey instructed by Royal College of Nursing (RCN)
No Case to Answer:	Charge 3a and charge 3b
Facts proved:	Charge 1 Schedules 1 ii, iii, vi, vii, viii, ix, x, xi, xii, xiii, xiv, xv, xvi, xvii, charge 2, charge 4 and charge 5

Facts not proved:	Charge 1 Schedules 1 i, iv and v
Fitness to practise:	Impaired
Sanction:	**Suspension order (12 months)**
Interim order:	**Interim suspension order (18 months)**

Details of charge

That you, a Registered Nurse:

1. Between approximately April 2020 and July 2020 said to or about colleagues one or more of the comments set out in Schedule 1.

2. On or around 24 November 2019 threw food at Colleague A.

3. On or around 9 April 2020 acted aggressively towards Patient A in that you:
   a. Held/grabbed Patient A's arm/arms.
   b. Stated words to the effect *"you need to calm down young man."*

4. On or around the 19 March 2020 did not complete notes for an unknown patient.

5. Your actions in one or more of charges 1i – 1xvii were racially abusive/motivated by an intention to be racially abusive.

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

Schedule 1

i. On or around 22 April 2020 and / or 3 June 2020 *"You black nurse"*
ii. On or around 22 April 2020 and / or 3 June 2020 *"You idiot"*
iii. In or around May 2020 *"was better than me, dirty African agency scum"*
iv. On or around 27 May 2020 *"Black cunt"*
v. On or around 30 May 2020 *"that black bastard"*
vi. On or around 3 June 2020 *"because they've gotten rid of the scummy black bastards and the fillipinos"*
vii. On or around 3 June 2020 *"go fuck yourself"*
viii. On or around 3 June 2020 *"it's okay you lazy bastard, I have got it"*
ix. *On or around 3 June 2020 "me as a white man am telling you the black woman to go and get on with the job"*

x. On or around 5 June 2020 *"I'll knock the black out of your husband"*

xi. On or around 7 July 2020 *"fucking slavery need to be brought back"*

xii. On or around 7 July *2020 "fuck women, they deserve to be beaten"*

xiii. On or around 8 June 2020 *"there will be white people in that area so we will be fine"*

xiv. In or around June 2020 *"is this where the dark corner or African corner is?"*

xv. On a date unknown *"we white people are better than you black people and we earn more than you black people"*

xvi. On a date unknown *"African scum", "African scum nurse", "dirty African agency scum" and "foreigner who has come to steal their jobs"*

xvii. On a date unknown *"he would rub the black off of her"*

Background

The NMC received a referral on 5 February 2021 from TFS Healthcare. The referral details concerns raised while you were working at Leeds Teaching Hospitals NHS Trust ('The Trust').

It is alleged that in March 2020 you failed to complete nursing documentation for your patients, despite these concerns having been raised with you previously.

It is alleged that on 11 April 2020, you were verbally and physically aggressive towards a patient.

On 15 June 2020, a complaint was received that included a number of alleged incidents that had been reported. Staff members allege that over this period you had made a number of inappropriate and racist comments to multiple colleagues.

It is further alleged in November 2019, you threw a plate and food at a colleague after she challenged you.

Decision and reasons on application to admit written statement and exhibit of Witness O

The panel heard an application made by Mr Radley, on behalf of the Nursing and Midwifery Council (NMC), under Rule 31 to allow the written statement and exhibit of Witness O into evidence. Witness O was not present at this hearing and, whilst the NMC had made sufficient efforts to ensure that this witness was present, she was unable to attend today as she has since died.

Mr Radley invited the panel to consider the case of *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin) and the seven-stage test used to determine whether to admit hearsay evidence. Mr Radley submitted that Witness O has provided a signed witness statement which contains a statement of truth. He further stated that the documents were produced in Witness O's place of work and in a professional capacity and it was her duty within her profession to be honest in relation to the allegations made.

Mr Radley drew the panels attention to the seriousness of the charges and submitted that Witness O's statement and exhibit show consistency and is not the sole and decisive evidence. He submitted that Witness O's evidence is supported by the written and oral evidence of other witnesses brought before the panel.

Mr Radley further submitted that there was good reason for the non-attendance of this witness as they have since died, and you had fair and prior notice that the NMC sought to adduce Witness O's statement and exhibit as hearsay evidence during proceedings. He submitted that it is reasonable for the evidence to be submitted in the circumstances of this case.

Mr Bealey, on your behalf, submitted that you had never had the opportunity to challenge the allegations and accounts made by Witness O. He submitted that there is nothing before the panel to sufficiently satisfy that the hearsay statements are reliable and capable of being tested.

Mr Bealey further submitted that Witness O's evidence is unclear as to specific dates of any allegations and there is no detail to advise whether her statement is in relation to one specific event or multiple events, and there is no way to challenge this. He stated that Witness O's evidence does not appear to have been challenged in any

way during the drafting of her statement and invited the panel to scrutinize the value of the statement as part of its consideration of whether it should be admitted.

In consideration of the material before the panel, Mr Bealey submitted that Witness O had only made the statement following prompting from Witnesses 2 and 4, he also drew the panels attention to the fact that this cannot be challenged. Mr Bealey acknowledged the seriousness of the charges and the potential consequences to your career should these allegations be found proved. He submitted that no formal notice of the application to admit this evidence as hearsay was provided and it would not be fair to accept Witness O's statement and exhibit as hearsay evidence.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 provides that, so far as it is 'fair and relevant', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings.

The panel gave the application in regard to Witness O serious consideration. It accepted that the evidence subject to the application is relevant to these proceedings.

In considering fairness, the panel noted that Witness O's statement had been prepared in anticipation of being used in these proceedings and contained the paragraph, '*This statement … is true to the best of my information, knowledge and belief*' and signed by her.

The panel considered whether you would be disadvantaged by the change in the NMC's position of moving from reliance upon the live testimony of Witness O to that of a written statement. The panel acknowledged there was good reason for the non-attendance of this witness and found that there is consistency between Witness O's evidence and her local statement. Further the panel took into account that Witness 2 has provided a witness statement and given live evidence which included evidence in relation to Witness O's reaction to comments allegedly made by you to her. The

panel therefore determined that Witness O's exhibit and statement is not the sole or decisive evidence to speak to the allegations raised in Charge 1.

Several witnesses have provided witness statements and provided live evidence in relation to Charge 5. Therefore, Witness O's evidence is not the sole evidence in relation to Charge 5.

The panel also acknowledged that Witness O as a registered nurse had a professional duty and code of conduct to follow at the time the statement was made, which is an indicator of reliability.

The panel considered fairness to you and determined that, in all the circumstances described, the admission of this hearsay evidence would not detrimentally affect your right to a fair hearing, when balanced against the public interest in a full investigation of these allegations.

In these circumstances, the panel came to the view that it would be fair and relevant to accept into evidence the written statement and exhibit of Witness O but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

Decision and reasons on application to admit the incident report and telephone log provided by Patient A

Mr Radley made another application under Rule 31 to allow the into evidence the incident report and telephone log provided by Patient A. Patient A was not present at this hearing and, whilst the NMC had made sufficient efforts to ensure that this witness was present, he was unable to attend today as he has since died, and there was good reason for the non-attendance of this witness.

Mr Radley submitted that the incident report provided by Witness 8 regarding the incident with Patient A was made in a professional capacity and not created with the intention to attribute blame. He stated that the document is separate from a usual

statement of what happened and it prompted an investigation and the appropriate measures were taken by the hospital to investigate the situation.

Mr Radley further submitted that there is consistency between the record of the telephone call with Patient A which occurred with the NMC in July 2024 and the incident report. He invited the panel to consider that the NMC were acting within a professional capacity and had a duty to prepare cases which would be under the scrutiny of the panel. He submitted that there would be no suggestion that the call handler would manipulate, change or create a document in any way that was dishonest.

In consideration of these factors and the seriousness of the case, Mr Radley submitted that it would be appropriate to admit Patient A's evidence.

Mr Bealey submitted that Patient A's evidence is the sole and decisive evidence in relation to allegation 3 and you have not had the opportunity to challenge it in any way. He stated that the NMC has not made any effort to call or obtain statements from any others present or investigating the incident.

Mr Bealey further submitted that there is nothing before the panel to sufficiently satisfy that the hearsay statements are reliable and capable of being tested. He stated that both accounts are provided in a noted form and are not verbatim therefore cannot be relied upon to provide a fully accurate record to which the panel can put any weight. He further noted that Patient A had not provided a signed witness statement, and the notes from the initial phone report are different from the report made in 2024 in several regards including the material allegations.
He drew the panels attention to the comments made by the hospital which stated:

> '*This allegation was raised by the ward, along with a statement from [you] and other staff members on the ward, in defence of [you] and supporting his general conduct on the ward and stating they did not believe the allegations. The patient had been verbally aggressive to other staff members and it was deemed that this was a mis-understanding between [you] and the patient.'*

Mr Bealey highlighted that there were no statements from any other staff members on the ward to provide balance or effectively challenge Patient A's evidence and therefore cannot be properly tested. He submitted in writing that there were a number of comments made during the phone call which appear to be demonstrably untrue and highlighted the significant lapse in time between the incident report and phone call conversation and changes in recollection cannot be challenged.

He stated that it was clear from the material before the panel that Patient A was a troublesome patient who caused issues during the period of his admission, he submitted that Patient A had developed an unwarranted dislike for you which would motivate fabrication of his statement.

Mr Bealey submitted that there was no formal notice provided of this hearsay application and in consideration of the evidence before it, he invited the panel to refuse the application of Patient A's evidence as hearsay on the basis that it would not be fair to admit it.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 provides that, so far as it is 'fair and relevant', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings. She also referred to the cases of *El Karout V NMC* [2019] EWHC 28 (admin) and *Mansaray v Nursing and Midwifery Council* [2023] EWHC 730 (Admin).

As a first step the panel determined that the evidence, the subject of this application, is relevant to these proceedings.

The panel noted that the incident form was completed by Witness 8 who has not provided a witness statement for the purposes of these proceedings. The panel, despite raising the question, has not been given any information of the efforts, if any, made by the NMC to contact her or to secure her attendance.

Patient A is deceased. The record of the telephone call was made by an NMC employee who is not in attendance, and there is no information before the panel of any attempts to secure their attendance. The record is a summary of the telephone conversation rather than a transcript.

The alleged incident took place on the ward but there is no evidence of any efforts to identify any other witness to the alleged incident. Therefore, the panel considered the evidence, the subject of this application, to be sole and decisive in relation to Charge 3.

The panel considered the seriousness of Charge 3. You will not have an opportunity to challenge the evidence, relied upon by the NMC, in support of this charge, and the panel noted the potential detrimental impact on your career, should Charge 3 be proved in reliance on hearsay evidence.

Having carefully considered this application, the panel determined that your right to a fair hearing outweighed the NMC's interest in this case. The panel noted that there is a public interest in a full investigation of this charge. However, there is also a public interest in a fair hearing.

The panel has no information to suggest that the NMC made any effort to corroborate Patient A's evidence. There is no information that the NMC attempted to identify further witnesses. Further, the panel noted the inconsistencies between the summary of the telephone conversation with Patient A, and the incident form provided, cannot be challenged in this hearing. The panel also acknowledged there was no evidence before it, to better understand Patient A's health condition and if their health condition could influence their perception of the alleged incident.

In consideration of the seriousness of the case and the potential consequences, this could have on your career, the panel found it would not be fair to admit Patient A's evidence as hearsay.

In these circumstances the panel refused the application.

Decision and reasons to adjourn the hearing

Following the panel's decision and reasons regarding the hearsay applications, on day 6 of the hearing, Mr Radley made an application for additional time to call Witness 8. The panel granted the application for additional time on the basis that Witness 8 has now been contacted, is available to give evidence, and is in the process of completing her statement, which would be signed and provided, prior to calling her to give oral evidence at this hearing.

On the final day of the hearing, a signed witness statement had not been provided.

The panel heard and accepted the advice of the legal assessor and proposed an adjournment to this hearing. It decided that an adjournment would allow time for the statement to be properly served in addition to allowing Witness 8 to provide her best evidence. Furthermore, the panel considered that an adjournment would allow you time to properly consider and respond to the witness evidence.

The panel noted the public interest in the proper exploration of this case, and the need for all available evidence to be considered, in order to make an informed decision which would protect the public.

The panel noted that at this stage in the hearing, it had not yet seen the witness statement and was unable to make a judgement on the admissibility of the evidence contained within it. However, based on the fact that the witness is referred to several times throughout the evidence bundle and in live evidence, the panel considered this witness, and their evidence could potentially be very helpful to the panel in making its determination on facts.

Mr Bealey and Mr Radley did not object to the adjournment.

Interim order

The panel 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 your own interests until a formal decision can be made with regards to your fitness to practise.

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 Radley, who submitted that the charges raised are serious and concern racial language and difficulties in behaviour with patients. He referred to NMC guidance INT-2 and submitted that an interim order should be imposed to protect the public. He further submitted that an order should be made in consideration of the public interest.

Mr Radley submitted that a conditions of practice order be imposed where you would be restricted to a single employer, and notify the NMC, if you have changed employer. He invited the panel to consider imposing this order for 12 months to satisfy the public interest, protect the public and allow time for the hearing to conclude.

The panel also took into account the submissions of Mr Bealey on your behalf. He submitted that there is no basis for the imposition of an interim order and reminded the panel that you have been working unrestricted since 2022 when a previous interim order was revoked.

Mr Bealey submitted that there has not since been any repetition of the behaviour, alleged in 2020, and through testimonials and references, you have proven yourself to be a confident and able worker who works well within a diverse workforce.

Decision and reasons on interim order

The panel was satisfied that in the circumstances of this case an interim order is not necessary for the protection of the public and is otherwise not in the public interest.

The panel carefully reviewed the evidence before it and bore in mind that this is a risk assessment and not fact finding.

The panel carefully considered the evidence before it including the testimonials provided by you in your registrant's bundle. The panel noted that it must assess risk and consider whether an interim order is necessary in terms of risk identified. The panel noted that you are currently working for an agency but had been with the same agency for a number of years without any concerns arising. It noted that your current line manager has provided a very positive reference and has indicated within that reference that she is aware of the regulatory concerns. This is supported by a range of testimonials provided by your colleagues who have worked with you over a sustained period of time.

The panel noted that there are no reports of any repetition of your alleged behaviour which dates back to 2020. In all the circumstances, the panel assessed the risk to the public as low, and therefore determined that an interim order on the grounds of public protection is not necessary at this stage. The panel noted there is a very high threshold for an interim order on public interest grounds alone, and is satisfied that this threshold is not met.

Decision and reasons on application to admit written statement and exhibits of Witness 8

The panel heard an application made by Mr Radley under Rule 31 to admit hearsay evidence contained within the witness statement and exhibits of Witness 8. He submitted that the evidence is relevant and should be admitted. He stated that Witness 8 is available to give evidence at this hearing which will provide yourself and the panel the opportunity to question and test the evidence provided within her statement and exhibits.

Mr Radley further submitted that Witness 8 had management control of the ward at the time of the charges and would therefore be able to discuss details surrounding health conditions and management of the ward. He stated that the evidence provided can be legitimately relied upon and Witness 8 can be questioned on this

evidence when called to give evidence at this hearing, and therefore the written statement and exhibits should be admitted into evidence on this basis.

Mr Bealey submitted that it would be unfair to admit the written statements and exhibits from Witness 8 into evidence specifically in relation to Charge 3. He submitted that Witness 8's evidence is the sole and decisive evidence in relation to the incident and the NMC have not provided any supporting witnesses or evidence in relation to Charge 3. Mr Bealey further stated that in Witness 8's evidence she clearly stated that she was not present during the incident and her account is one received from Patient A on 11 April 2020, two days after the incident.

Mr Bealey further stated that it has been over five years since the incident took place and there has been no evidence of any efforts from the NMC to identify any other witnesses to the alleged incident or obtain any account from anyone who was present that day. He highlighted the seriousness of the charges brought against you and noted the strained relationship you had with Patient A. He submitted that the evidence is unreliable and therefore should not be admitted.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 provides that, so far as it is 'fair and relevant', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings.

Mr Khan further stated that fairness is a gateway issue which goes to admissibility itself and cannot be cured simply by attaching limited or no weight to evidence at a later stage. The panel had regard to the relevant case law, including *Ogbonna v NMC [2010] EWCA Civ 1216*, of *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin), *White v Nursing and Midwifery Council [2014] EWHC 520 (Admin)*, *El Karout V NMC [2019] EWHC 28 (admin)* and *Bonhoeffer v GMC [2011] EWHC 1585 (Admin)*, and reminded itself that the admission of hearsay evidence is not automatic and requires an charge-specific balancing exercise.

When making its decision the panel had regard to the charges brought against you.

The panel gave the application in regard to Witness 8 serious consideration. The panel noted that Witness 8's statement had been prepared in anticipation of being used in these proceedings and contained the paragraph, 'This statement … is true to the best of my information, knowledge and belief' and signed by her.

The panel considered whether you would be disadvantaged by the admittance of this evidence and had particular regard to Mr Bealey's submissions in relation to Charge 3.

In relation to Charge 3, the panel concluded that the hearsay evidence relied upon by the NMC constituted the sole and decisive evidence in support of serious disputed charges.

The panel noted that Witness 8 did not witness the alleged incident and the account was reported some time after the event. It further noted that the individual whose account underpinned the charge was not available to give evidence and you have denied the charge. The panel also considered that there was no effective means by which the reliability of the account provided could be tested, including through cross-examination.

The panel further noted the seriousness of the charges and the potentially grave consequences for you if it were found proved. Applying Rule 31 and the principles in *Ogbonna*, *Thorneycroft*, *White*, *El Karout* and *Bonhoeffer*, the panel concluded that admitting the hearsay evidence in relation to Charge 3 would be unfair, and that the unfairness could not be cured by attaching limited weight.

Accordingly, the panel refused to admit the hearsay evidence insofar as it related to Charge 3, including those parts of the statement and exhibits which addressed that charge. This includes paragraphs 7 – 12 of Witness 8's statement.

In relation to the remaining charges, the panel was satisfied that the position was materially different.

The panel noted that Mr Bealey had raised his objection to the admittance of this evidence specifically in relation to charge 3 and Witness 8's statement was not relied upon as primary evidence of the alleged conduct in relation to the remaining charges. In respect of Charge 1, the statement was relevant only to management context, including how concerns were raised, recorded and addressed and not as proof that any disputed comments were made. The panel also noted that the statement was not relevant to Charge 2 which had been admitted. The panel further found that any relevance Witness 8's statement had, is dependent on the findings made under Charge 1.

The panel was therefore satisfied that, in respect of these remaining charges, the hearsay evidence did not constitute the sole or decisive basis for proof, but sat alongside other admissible evidence capable of being tested. The panel was further satisfied that you had, or would have, a meaningful opportunity to challenge the substance of the case on those charges.

Having carried out the balancing exercise required by Rule 31 and *Thorneycroft*, the panel concluded that admitting the hearsay evidence in relation to the remaining charges would not give rise to unfairness, and that the fairness balance differed materially from that in relation to Charge 3.

The panel therefore determined that it was fair to admit the hearsay evidence in relation to the remaining charges, with the weight to be attached to that evidence to be assessed at the appropriate stage.

Decision and reasons on application of no case to answer

The panel considered an application from Mr Bealey that there is no case to answer in respect of Charge 3a) and 3b). This application was made under Rule 24(7).

In relation to this application, Mr Bealey submitted that there is no evidence to support Charges 3a) and b). He acknowledged the NMC hearsay evidence from Witness 8 and Patient A previously put forward to the panel. He further noted that

the evidence was refused by the panel and was the only evidence provided in relation to Charge 3.

Mr Bealey submitted that there is therefore no evidence to make any finding in relation to Charges 3a) and b) being that, on or around 9 April 2020, you acted aggressively towards Patient A, in that you held or grabbed Patient A's arm, and stated words to the effect of 'you need to calm down young man'. In these circumstances, it was submitted that this charge should not be allowed to remain before the panel.

Mr Radley submitted that this is a matter for the panel to make a decision and will not make any positive representations with regards to this application.

The panel took account of the submissions made and heard and accepted the advice of the legal assessor.

In reaching its decision, the panel has made an initial assessment of all the evidence that had been presented to it at this stage and reminded itself of its powers under Rule 24(7) of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004. The panel was solely considering whether sufficient evidence had been presented, such that it could find the facts proved and whether you had a case to answer.

The panel applied the principles derived from *R v Galbraith [1981] 1 WLR 1039*, namely whether there is any admissible evidence upon which a properly directed panel could find the charge proved on the balance of probabilities.

Having regard to the evidence as it stood at the close of the NMC's case, the panel noted that no witnesses have given first-hand evidence of the conduct alleged in Charges 3a) or b). It noted that Witness 8 did not witness the alleged incident and gave oral evidence in a management capacity within this hearing. The panel acknowledged that you have denied the allegation and Charge 3 had arisen from the account of Patient A who is now deceased. The panel found that the only material that might otherwise have supported Charge 3 has been excluded following its previous hearsay ruling and could not be relied upon for any purpose.

The panel concluded that, once the inadmissible hearsay evidence was set aside, there was no remaining admissible evidence capable of supporting either limb of Charge 3.

The panel was of the view that, taking account of all the evidence before it, there was not a realistic prospect that it would find the facts of Charges 3a) and b) proved.

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

Prior to giving evidence, Mr Bealey made an application that parts of the hearing be held in private on the basis that proper exploration of your case would involve reference to matters relating to your health and private life. The application was made pursuant to Rule 19 the Rules.

Mr Radley supported the application to the extent that any reference to your health and private life should be heard in private.

The legal assessor reminded the panel that, pursuant to Rule 19(1), hearings are to be conducted in public as a starting point, reflecting the principle of open justice. However, Rule 19(3) provides that the panel may hold hearings partly or wholly in private if it is satisfied that doing so is justified by the interests of any party or by the public interest.

The panel considered the application carefully, balancing the principle of open justice against your right to respect for private life. The panel was satisfied that discussion of your health and private life engaged significant privacy considerations, and that it was necessary and proportionate to depart from the default position of a public hearing to that limited extent.

Accordingly, the panel determined that those parts of the hearing which involved reference to your health and private life would be heard in private session, with the remainder of the hearing continuing in public.

Decision and reasons to amend the charge

The panel exercised its discretion to amend the wording of Schedule 1 particulars xi and xii.

The panel noted that the proposed amendment corrected an error in the date pleaded and aligned the wording of the charge with the evidence already before it. The panel was satisfied that the amendment was clerical and clarificatory in nature and did not alter the substance or seriousness of the allegations faced by you.

The panel was of the view that the amendment was in the interests of justice. It was satisfied that no prejudice would be caused to you and that no injustice would be caused to either party. In particular, the panel noted that you had been aware throughout the proceedings of the factual basis of the allegations and had been able to respond fully to them.

The panel received no objections from Mr Radley on behalf of the NMC, or from Mr Bealey on your behalf.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of the Rules which confers a discretion to amend charges at any stage, provided that no injustice is caused.

Charge as amended:

> "That you, a registered nurse:
>
> xi. On or around 7 ~~July~~ **June** 2020 *"fucking slavery need to be brought back"*
> xii. On or around 7 ~~July~~ **June** *2020 "fuck women, they deserve to be beaten"*
>
> …
>
> And in light of the above, your fitness to practise is impaired by reason of your misconduct."

Decision and reasons on facts

At the outset of the hearing, the panel heard from Mr Bealey, who informed the panel that you had made admissions in respect of Charge 1, Schedule 1 particulars viii), x) and xvii), and Charge 2.

The panel therefore finds Charge 1, Schedule 1 particulars viii), x) and xvii), and Charge 2, proved in their entirety by way of your admissions.

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case, together with the submissions made by Mr Radley and Mr Bealey.

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

The panel heard live evidence from the following witnesses called on behalf of the NMC, whose occupations at the relevant time were as follows:

- Witness 1: Student nurse at Sheffield Hallam University.
- Witness 2: Band 7 Ward Manager.
- Witness 3: Ward Clerk at St James Hospital.
- Witness 4: Registered Nurse for the agency Florence.
- Witness 5: Staff Nurse at The Leeds Teaching Hospital NHS Trust.

- Witness 6: Registered Nurse at St James Hospital.
- Witness 7: Junior Sister at Leeds Teaching Hospital NHS Trust.
- Witness 8: Band 6 Junior Sister at St James' University Hospital.

The panel also heard evidence from you under affirmation.

The panel also heard oral evidence from your witness at this hearing:

- Witness 9: Registered home manager.

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

The panel then considered each of the disputed charges against you. You suggested that the racist allegations all occurred within a short period of time. You asserted that the allegations may be linked to the fact you were being kept on the ward while other staff were being moved to other units. Additionally, you explained that the events occurred during Covid, which was a difficult period for you personally, as you were living away from home and felt lonely and isolated. The panel acknowledged the contextual factors.

The panel further noted the complaints arose from a number of colleagues, and were initially reported due to a student nurse who made a formal complaint about you making racist comments. Following this, your employer started an investigation as to whether there were grounds for concerns around your behaviour. This investigation then identified more complaints about racist comments from a number of your colleagues.

The panel heard oral evidence from a number of witnesses who had provided local statements to their employers in June 2020, which were confirmed in their formal NMC statement at a later date.

The panel found all the witnesses credible and compelling in their testimonies. Indeed, it was clear, when some became distressed, that your behaviour had a significant impact on them, and this was evident now some years later.

Not all witnesses were subject to the changes made by the agency/trust with regards to ward allocations. The panel heard from agency and substantive members of staff, including a manager, ward clerk and an unregistered member of staff who were unaffected by any staff moves.

In consideration of the above, the panel made the following findings.

Charge 1

1. Between approximately April 2020 and July 2020 said to or about colleagues one or more of the comments set out in Schedule 1.

Schedule 1 i.

xviii. On or around 22 April 2020 and / or 3 June 2020 *"You black nurse"*

This schedule is found NOT proved.

In reaching this decision, the panel took into account the written statement of Witness O, and your oral evidence.

The panel admitted the written statement of Witness O as hearsay, noting that she was not available to give evidence. The panel carefully considered the contents of that statement, in which Witness O stated:

'…I honestly can't remember this day fully. When [you] called me "black nurse" I think I asked him to not call me this… I can't remember who else was there other than the junior sister [Witness 4]…'

The panel noted the limitations expressly acknowledged within Witness O's own account, including her uncertainty as to the events and her inability to recall the surrounding circumstances.

The panel recognised that Witness O's statement constituted the sole evidence relied upon by the NMC in support of this particular. The panel further noted that this evidence could not be tested through cross-examination.

In addition, the panel considered your oral evidence, in which you stated that you did not recall making the alleged comment.

Having weighed all of the evidence carefully, and bearing in mind that the burden of proof rests on the NMC throughout, the panel was not satisfied that it was more likely than not that the alleged comment was made.

Accordingly, the panel finds that the NMC has not discharged its burden of proof in respect of this particular, and it is therefore not proved.

Schedule 1 ii.

ii. On or around 22 April 2020 and / or 3 June 2020 *"You idiot"*

This schedule is found proved.

In reaching this decision, the panel took into account your oral evidence, the written statement of Witness O, the oral evidence of Witness 4 and your reflective account.

The panel noted that, during your oral evidence, you accepted under cross-examination that you had used the words “you idiot”, albeit you were unable to recall the precise date or circumstances in which the comment was made.

The panel also had regard to the account contained within Witness O’s written statement and Witness 4’s oral evidence, which was consistent with your admission as to the use of the phrase.

The panel was satisfied that your admission constituted sufficient and reliable evidence that the words were spoken. The panel therefore found that the NMC had discharged its burden of proof in respect of this schedule.

Accordingly, the panel finds this schedule proved on the balance of probabilities.

Schedule 1 iii.

iii. In or around May 2020 *“was better than me, dirty African agency scum”*

This schedule is found proved.

In reaching this decision, the panel took into account the oral and written evidence of Witness 6, the social media evidence relied upon by the defence, and your oral evidence at this hearing. The panel noted that in your oral evidence you denied using the phrase set out in this schedule.

The panel further considered the social media evidence showing that you and Witness 6 remained friends on Facebook after the period in question. The panel carefully assessed this evidence and concluded that it did not carry significant weight. The panel noted that social media friendships do not necessarily reflect the nature or closeness of a personal or professional relationship, and that the evidence relied upon consisted of one interaction of a group message posted by Witness 6 to all her Facebook friends thanking them for her birthday wishes, rather than direct communication between them.

The panel then turned to the evidence of Witness 6. The panel considered both her written statement and her oral evidence. The panel was satisfied that Witness 6's account of the incident had remained consistent over time and was clear in its substance. The panel accepted her evidence as reliable. In reaching that conclusion, the panel did not rely on demeanour alone, but had regard to the consistency of her account and the manner in which she responded to challenge during cross-examination.

Having weighed all of the evidence carefully, and bearing in mind that the burden of proof rests on the NMC throughout, the panel was satisfied that it was more likely than not that you made the statement alleged.

Accordingly, the panel finds this particular proved on the balance of probabilities.

Schedule 1 iv.

iv. On or around 27 May 2020 *"Black cunt"*

This schedule is found NOT proved.

In reaching this decision, the panel took into account the oral and written evidence of Witness 1, the oral evidence of Witness 6, the written evidence of Witness 8 and your oral evidence at this hearing.

The panel carefully considered the evidence of Witness 1, who gave an account of the alleged incident in both her written statement and oral evidence. The panel noted that her account remained consistent over time. The panel also noted that Witness 1 stated that Witness 6 was present at the time of the alleged incident.

However, when giving her oral evidence, Witness 6 stated that she did not recall the incident or hearing the phrase "black cunt" being used. The panel regarded this as a significant factor, given that Witness 6 was said to have been present at the time.
In her written statement Witness 8 stated:

'…I do not recall being present when [you] called staff nurse [Witness 6] "black cunt", I also do not recall it being reported to me because of the time that has passed…'

In those circumstances, the panel concluded that Witness 1's account was not corroborated by any other witness evidence. The panel therefore considered that the evidence relied upon by the NMC in relation to this schedule consisted of a single uncorroborated account.

The panel also took into account your oral evidence, in which you denied using the phrase alleged. The panel noted his explanation as to why the allegation may have arisen, but did not place weight on that explanation.

Having weighed all the evidence carefully, and bearing in mind that the burden of proof rests on the NMC throughout, the panel was not satisfied that it was more likely than not that you had used the phrase alleged.

Accordingly, the panel finds that the NMC has not discharged its burden of proof in respect of this schedule, and it is therefore not proved.

Schedule 1 v

v. On or around 30 May 2020 *"that black bastard"*

This schedule is found NOT proved.

In reaching this decision, the panel took into account all the evidence put before it and could not find any evidence relating to this isolated phrase.

The panel carefully reviewed the evidence relied upon by the NMC in support of this schedule. The panel noted that Witness 1 did not give clear evidence of you using the specific phrase alleged as a discrete or identifiable incident. The panel further noted that no other witness provided evidence of hearing the phrase "that black

bastard” being used on the date alleged, or at any other time as a standalone comment.

The panel also took into account your oral evidence, in which you denied using the phrase.

In the absence of clear, specific, and corroborative evidence that the phrase alleged was spoken, the panel was not satisfied that it was more likely than not that you had used the words set out in this schedule.

Accordingly, the panel finds that the NMC has not discharged its burden of proof in respect of this schedule, and it is therefore not proved.

Schedule 1 vi.

vi. On or around 3 June 2020 *“because they’ve gotten rid of the scummy black bastards and the fillipinos”*

This schedule is found proved.

In reaching this decision, the panel took into account the written and oral evidence of Witness 1, the oral and written evidence of Witness 8 and was referred to in the notes from the fact-finding meeting conducted with Witness 2 on 10 June 2020, and your oral evidence at this hearing.

The panel noted your oral evidence in which you denied using the phrase alleged and stated that you did not swear in front of patients.

The panel then considered the evidence of Witness 1, who gave a clear account of you using the phrase set out in this schedule. The panel noted that Witness 1’s account had remained consistent over time, both in her written statement and in her oral evidence.

The panel also considered the evidence of Witness 8. The panel noted that Witness 8 did not have an independent recollection of hearing the words being spoken. However, the panel took into account her evidence that the incident was reported to her at the relevant time, and that this was recorded in her contemporaneous local statement. The panel treated this aspect of Witness 8's evidence as corroborative of the fact that a complaint had been made at the time, rather than as primary evidence of the words themselves.

The panel further noted that there was no evidence before it suggesting that Witness 1 had any motive to fabricate the allegation.

Having weighed all of the evidence carefully, and bearing in mind that the burden of proof rests on the NMC throughout, the panel was satisfied that it was more likely than not that you had used the words alleged in this schedule.

Accordingly, the panel finds this schedule proved on the balance of probabilities.

Schedule 1 vii

vii. On or around 3 June 2020 *"go fuck yourself"*

This schedule is found proved.

In reaching this decision, the panel took into account the oral and written evidence of Witness 1 and your oral evidence at this hearing.

The panel noted that in your oral evidence you denied using the phrase set out in this schedule. The panel further noted that you had accepted that you used informal and, at times, coarse language in the workplace, but maintained that you would not swear in front of a patient.

The panel then considered the evidence of Witness 1. The panel was satisfied that Witness 1 gave a clear and consistent account of you using the words alleged, both

in her written statement and in her oral evidence. The panel accepted her evidence as reliable.

The panel also noted it is stated in the local statement of Witness 1 that the incident was reported to Witness 8 at the time. The panel treated this evidence as supporting the fact that a concern was raised contemporaneously, rather than as primary evidence of the words spoken.

Having weighed all the evidence carefully, and bearing in mind that the burden of proof rests on the NMC throughout, the panel was satisfied that it was more likely than not that you had used the words alleged.

Accordingly, the panel finds this schedule proved on the balance of probabilities.

Schedule 1 ix.

ix. On or around 3 June 2020 *"me as a white man am telling you the black woman to go and get on with the job"*

This schedule is found proved.

In reaching this decision, the panel took into account the written and oral evidence of Witness 4 and your oral evidence at this hearing.

The panel noted that in your oral evidence you stated that you did not recall using the phrase set out in this schedule.

The panel then considered the evidence of Witness 4. The panel was satisfied that Witness 4 gave a clear account of you using the words alleged. The panel noted that her account remained consistent over time, both in her written statement and in her oral evidence. The panel accepted her evidence as reliable.

The panel further noted that there was no evidence before it suggesting that Witness 4 had any motive to fabricate the allegation.

The panel also took into account the oral evidence of Witness 8. While Witness 8 did not give direct evidence of hearing the words herself, the panel treated her evidence as contextual, rather than as primary evidence of the words spoken.

Having weighed all of the evidence carefully, and bearing in mind that the burden of proof rests on the NMC throughout, the panel was satisfied that it was more likely than not that you had used the words alleged.

Accordingly, the panel finds this schedule proved on the balance of probabilities.

Schedule 1 xi.

xi. On or around 7 June 2020 *"fucking slavery need to be brought back"*

This schedule is found proved.

In reaching this decision, the panel took into account the written and oral evidence of Witness 1, the oral evidence of Witness 8, and your oral evidence at this hearing.

The panel noted that in your oral evidence you denied using the phrase set out in this schedule.

The panel then considered the evidence of Witness 1. The panel was satisfied that Witness 1 gave a clear account of your use of the words alleged. The panel noted that her account remained consistent over time, both in her written statement and in her oral evidence. The panel accepted her evidence as reliable.

The panel also considered the oral evidence of Witness 8. The panel noted that Witness 8 stated that she was not present at the time of the alleged incident and did not hear the words being spoken. However, the panel have since noted and made a correction to the date of the schedule which may have affected Witness 8's recollection of the events. Regardless of the change in date, the panel still regarded

this evidence as neither corroborative nor contradictory of Witness 1's account, but as reflecting the fact that Witness 8 did not witness the incident herself.

The panel further noted that there was no evidence before it suggesting that Witness 1 had any motive to fabricate the allegation.

Having weighed all of the evidence carefully, and bearing in mind that the burden of proof rests on the NMC throughout, the panel was satisfied that it was more likely than not that you had used the words alleged.

Accordingly, the panel finds this schedule proved on the balance of probabilities.

Schedule 1 xii.

xii. On or around 7 June *2020 "fuck women, they deserve to be beaten"*

This schedule is found proved.

In reaching this decision, the panel took into account the written and oral evidence of Witness 1, together with your oral evidence at this hearing.

The panel noted that in your oral evidence you denied using the phrase alleged in this schedule.

The panel then considered the evidence of Witness 1. The panel was satisfied that Witness 1 gave a clear and direct account of you using the words alleged. The panel noted that her account remained consistent in both her written statement and her oral evidence, notwithstanding the passage of time.

The panel applied the same approach to assessing Witness 1's reliability as it did in relation to Schedule 1(xi). For the same reasons, the panel accepted Witness 1's evidence as reliable and preferred it to your denial.

Having carefully weighed all of the evidence and bearing in mind that the burden of proof rests on the NMC throughout, the panel was satisfied that it was more likely than not that you had used the words alleged.

Accordingly, the panel finds this schedule proved on the balance of probabilities.

Schedule 1 xiii.

xiii. On or around 8 June 2020 *"there will be white people in that area so we will be fine"*

This schedule is found proved.

In reaching this decision, the panel took into account the written and oral evidence of Witness 4, together with your oral evidence at this hearing.

The panel understood that this schedule relates to a conversation between yourself and Witness 4 concerning travel plans. Witness 4 stated in both her written statement and oral evidence that, during a discussion about travel to America, you made the comment alleged.

The panel noted your oral evidence in which you denied planning to travel to America and denied using the phrase alleged.

The panel considered the competing accounts carefully. It found Witness 4 to be a credible and reliable witness. The panel noted that her account of the conversation was consistent across her written and oral evidence, notwithstanding the passage of time. The panel also noted that her evidence included specific contextual detail as to the subject matter of the conversation, which it considered supported the reliability of her recollection.

The panel considered your denial but was not persuaded that it undermined the reliability of Witness 4's account. Having weighed all of the evidence, the panel preferred the evidence of Witness 4.

Applying the balance of probabilities, the panel was satisfied that it was more likely than not that you had used the words alleged.

Accordingly, the panel finds this schedule proved.

Schedule 1 xiv.

xiv. In or around June 2020 *“is this where the dark corner or African corner is?”*

This schedule is found proved.

In reaching this decision, the panel took into account the oral and documentary evidence of Witness 5 and your oral evidence at this hearing.

The panel noted that in your oral evidence you denied using the phrase alleged and stated that, had such words been spoken, others would have heard them.

The panel carefully considered the evidence of Witness 5. It found her to be a credible and reliable witness. The panel noted that her account of the incident was consistent in both her written statement and oral evidence, and that she remained firm in her recollection of the words used.

The panel also had regard to the contemporaneous documentary material relied upon by Witness 5, which it considered supported her account that the comment was made and that it was perceived as inappropriate at the time.

The panel considered your denial and the absence of evidence from other witnesses who may have been present. However, the panel was satisfied that the lack of additional witnesses did not, of itself, undermine the reliability of Witness 5’s evidence.

Having weighed all of the evidence carefully, the panel preferred the evidence of Witness 5.

Applying the balance of probabilities, the panel was satisfied that it was more likely than not that you had used the words alleged.

Accordingly, the panel finds this schedule proved.

Schedule 1 xv

xv. On a date unknown *"we white people are better than you black people and we earn more than you black people"*

This schedule is found proved.

In reaching this decision, the panel took into account the oral and documentary evidence of Witness 3, together with your oral evidence at this hearing.

The panel noted that you denied using the phrase alleged. You suggested that tensions on the ward at the relevant time, including concerns about staffing and the allocation of shifts, may have contributed to misunderstandings or to allegations being raised against you.

The panel carefully considered the evidence of Witness 3. It found her to be a credible and reliable witness. The panel noted that her account was consistent in her written statement and oral evidence, and that she gave her evidence in a clear and measured manner.

The panel attached weight to the fact that Witness 3 was working as a ward clerk at the time. It considered that her role was distinct from nursing staff and agency workers, and that she was not directly affected by staffing decisions or shift allocations. The panel therefore found that she was unlikely to have had any motive connected to workplace tensions of the type you had described.

The panel found no evidence to support the suggestion that Witness 3 would have fabricated such a serious allegation. The panel also considered that the nature and

specificity of the language reported was not consistent with a misunderstanding or misinterpretation of a benign comment.

Having weighed your denial against the evidence of Witness 3, the panel preferred the evidence of Witness 3.

Applying the balance of probabilities, the panel was satisfied that it was more likely than not that you had used the words alleged.

Accordingly, the panel finds this schedule proved.

Schedule 1 xvi

xvi. On a date unknown *"African scum", "African scum nurse", "dirty African agency scum" and "foreigner who has come to steal their jobs"*

This schedule is found proved.

In reaching this decision, the panel took into account the written and oral evidence of Witness 6, together with your oral evidence at this hearing.

The panel noted that you had denied using any of the phrases alleged in this schedule.

The panel carefully considered the evidence of Witness 6. It found her to be a credible and reliable witness. The panel noted that her account was consistent between her written statement and oral evidence, and that she remained firm in her recollection of the language used despite detailed cross-examination.

The panel attached weight to the nature of the evidence given by Witness 6. The phrases alleged were specific, repeated, and clearly directed at her as an agency nurse of African background. The panel considered that the multiplicity and consistency of the terms reported reduced the likelihood of mistake or misremembering.

The panel further considered whether there was any evidence of motive for Witness 6 to fabricate or exaggerate her account. It found none. The panel was satisfied that the allegation was not raised casually or opportunistically, and that the language described was not consistent with a misunderstanding or benign workplace interaction.

Having weighed your denial against the evidence of Witness 6, the panel preferred the evidence of Witness 6.

Applying the balance of probabilities, the panel was satisfied that it was more likely than not that you had used the words alleged.

Accordingly, the panel finds this schedule proved.

Charge 4

4. On or around the 19 March 2020 did not complete notes for an unknown patient.

This charge is found proved.

In reaching this decision, the panel took into account the written statement and oral evidence of Witness 7, the DATIX report, your oral evidence, and the relevant hospital policy documents.

The panel first considered the wording of the charge. The allegation requires the panel to determine whether you had completed patient notes on or around 19 March 2020.

The panel had regard to the hospital policy in force at the relevant time. The policy makes clear that patient documentation requires completion in accordance with local procedures, which in this ward included contemporaneous written documentation, in addition to any electronic record.

In your oral evidence, you accepted that you did not complete the written paper notes at the time. You stated that you had made a digital record and that written notes were completed only after the issue had been raised with you.

The panel considered this evidence carefully. It noted that your account amounted to an acceptance that, at the relevant time, documentation was incomplete and was not completed in accordance with the hospital's required process.

The panel considered the evidence of Witness 7, whom it found to be a credible and reliable witness. Witness 7 explained that both written and electronic documentation were required. She stated that she did not see any written notes completed by you at the time and could not confirm the existence of any contemporaneous electronic entry.

The panel accepted that Witness 7 could not positively confirm whether an electronic entry existed. However, the panel did not rely on absence of confirmation alone. It placed weight on your own admission that written notes were not completed at the time, together with the policy requirement for proper completion of documentation.

The panel acknowledged that you were working as an agency nurse. However, it found that this did not absolve you of responsibility for complying with local documentation requirements, particularly where you had worked on the ward on multiple occasions and had previously been spoken to about documentation standards.

Taking the evidence as a whole, and applying the balance of probabilities, the panel was satisfied that it was more likely than not that you did not complete patient notes on or around 19 March 2020 as required.

Accordingly, the panel finds Charge 4 proved.

Charge 5

5. Your actions in one or more of charges 1i – 1xvii were racially abusive/motivated by an intention to be racially abusive.

This charge is found proved.

In reaching its decision on Charge 5, the panel first reminded itself that this charge is dependent upon findings made under Charge 1. The panel therefore considered Charge 5 only in relation to those Schedule 1 particulars it had found proved.

The panel noted that Schedule 1 xii was derogatory in its nature and referred to a protected characteristic however, it was not racially motivated and is not considered in support of Charge 5.

The panel determined that Charge 5 applied to the following proved particulars:

- Schedule 1 iii.
- Schedule 1 vi.
- Schedule 1 ix.
- Schedule 1 x.
- Schedule 1 xi.
- Schedule 1 xiii.
- Schedule 1 xiv.
- Schedule 1 xv.
- Schedule 1 xvi.
- Schedule 1 xvii.

The panel approached the question of whether the proved comments were racially abusive by applying an objective assessment, having regard to their wording, context and effect.

The panel was satisfied that:

- the comments were unwanted;

- they were related to race, nationality or ethnic origin, which are protected characteristics; and
- viewed objectively, the comments had the effect of violating dignity and/or creating an intimidating, hostile, degrading, humiliating or offensive environment.

In reaching this conclusion, the panel took into account the written and oral evidence of the witnesses, including their descriptions of the impact of the comments upon them.

The panel placed particular weight on the oral evidence of Witness 6, who described feeling dehumanised, isolated, and made to feel that she did not belong in the workplace as a result of your comments. The panel accepted this evidence and found it to be compelling.

The panel was satisfied that the proved remarks, assessed objectively and individually and cumulatively, were racially abusive in nature.

The panel then considered whether your actions were motivated by an intention to be racially abusive.

The panel acknowledged your oral evidence in which you stated that you did not intend to be racist and did not have a motivation to be racially abusive at the time of the incidents. Although you acknowledged some of your comments to be indiscreet, the panel did not accept this.

The panel reminded itself that intention is rarely established by direct evidence and may be inferred from surrounding circumstances, including:

- the language used;
- the context in which it was spoken;
- the frequency and similarity of remarks; and
- any pattern of behaviour found proved.

The panel considered that the repeated use of racially explicit language across multiple occasions, involving different colleagues, and employing derogatory references to race and ethnicity, amounted to a pattern of conduct rather than isolated or inadvertent remarks.

The panel was satisfied that, taken cumulatively, the nature, content and repetition of the remarks supported an inference that the conduct was not merely accidental or ignorant, but was motivated, at least in part, by hostility linked to race.

Accordingly, the panel found that your actions in respect of the proved schedules were motivated by an intention to be racially abusive.

Conclusion on Charge 5

For these reasons, the panel finds that Charge 5 is proved on the balance of probabilities in respect of the identified Schedule 1 particulars.

Interim order

The panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in your own interests until a formal decision can be made with regards to your fitness to practise.

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 Radley. He submitted that an interim order is necessary on the ground of public interest and public protection.

Mr Radley submitted that the facts found proved are of an extremely serious nature and associated risks. He submitted that this involves risks relating to working with

other colleagues in the profession, and the potential for behaviour of a similar nature to be repeated towards members of the public.

Mr Radley referred to NMC guidance DMA-1 and highlighted Charge 5 which relates to the racially abusive actions found in Charge 1 which the panel had previously found proved. He submitted that the language found proven had significant impact on other members of staff which was highlighted in the panel's decision and reasons. He further submitted that an interim order is necessary to uphold the proper professional standards of conduct and also maintain public confidence in the profession.

In consideration of the charges previously found proved Mr Radley submitted that an interim suspension order should be imposed. He noted that the case is due to resume in February and submitted that the order should be imposed for a period of 6 months to ensure public protection and satisfy the public interest.

The panel also took into account the submissions of Mr Bealey. He submitted that no interim order is necessary at this stage, however, in the alternative an interim conditions of practice order can be imposed to meet the concerns raised.

Mr Bealey reminded the panel of the NMC guidance and that the panel should justify any imposition of an interim order on the basis that it is necessary for the protection of the public and is otherwise in the public interest, or in the interest of the person concerned.

He submitted that you nursing is your main profession and your source of income for over 30 years, and any suspension would lead to sudden prevention of your ability to work and fulfil your financial obligations. Mr Bealey further submitted that there have been no clinical concerns raised regarding the treatment you have provided to your patients.

Mr Bealey then reminded the panel of the personal impact the allegations being made on your [PRIVATE] health at the time and submitted that an interim suspension order would remove one of the stabilising factors you have had in your

life for the past 30 years. He further submitted that an interim suspension order would not be in your interest.

Mr Bealey submitted that you have been engaging with the hearings process throughout and invited the panel to take this into consideration when making its decision. He further submitted that the allegations arose in 2020 and you have continued to practise without restriction without further concerns being raised since, which has been confirmed by his employer throughout these proceedings. He stated that it would be disproportionate to impose an interim suspension order on these grounds and proposed the following conditions should the panel decide an order is necessary:

- Be subject to continue employment with only one care home
- Be subject to the supervision of Witness 9
- Never be the only nurse on duty at one particular point in time
- Inform the NMC of any disciplinary proceedings that are taken in between now and the next hearing

Mr Bealey noted that you have not had the opportunity to demonstrate all your insight and reflection, nor have you had the chance to address any of the panels concerns raised in the facts proven.

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, which related to racial abuse, failure to document patient notes correctly, and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel noted that you have demonstrated some evidence of insight and remorse and acknowledged the positive testimony heard from your current employer. It further acknowledged that the allegations arose in 2020 and you have since been

working with unrestricted practice without further reported concerns. The panel also bore in mind it has not had the opportunity to assess your impairment within these proceedings. It therefore found that an interim suspension order would not be proportionate in these circumstances.

The panel understood the underlying attitudinal concerns in the facts found proved and determined that, in consideration of the seriousness of the charges, an interim conditions of practice order is necessary to ensure public protection and satisfy the public interest.

The panel concluded that the only suitable interim order would be that of a conditions of practice order, as to do otherwise would be incompatible with its earlier findings. The panel determined that an interim conditions of practice order should be imposed for a period of six months. This period would allow for any unforeseeable delays in concluding the hearing.

The panel determined that the following conditions are appropriate and proportionate in this case:

> ‘For the purposes of these conditions, ‘employment’ and ‘work’ mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, ‘course of study’ and ‘course’ mean any course of educational study connected to nursing, midwifery or nursing associates.
>
> 1. You must limit your nursing practice to a single substantive employer namely [PRIVATE] Nursing Home in Leeds, your current employer.
>
> 2. You must not undertake any work via nurse bank or a nurse agency.
>
> 3. You must not be the sole registered nurse on any shift.

4. You must provide evidence of meeting with your line manager, before the panel resumes with regard to:
    a) Adherence to care home policies.
    b) Feedback on your clinical documentation skills on a monthly basis.

5. You must keep the NMC informed about anywhere you are working by:
    a) Telling your case officer within seven days of accepting or leaving any employment.
    b) Giving your case officer your employer's contact details.

6. You must keep the NMC informed about anywhere you are studying by:
    a) Telling your case officer within seven days of accepting any course of study.
    b) Giving your case officer the name and contact details of the organisation offering that course of study.

7. You must immediately give a copy of these conditions to:
    a) Any organisation or person you work for.
    b) Any employers you apply to for work (at the time of application).
    c) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.

8. You must tell your case officer, within seven days of your becoming aware of:
    a) Any clinical incident you are involved in.
    b) Any investigation started against you.
    c) Any disciplinary proceedings taken against you.

9. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:
    a) Any current or future employer.
    b) Any educational establishment.
    c) Any other person(s) involved in your retraining and/or supervision required by these conditions.

This case resumed on Tuesday 3 February 2026.

At the outset of this hearing Mr Bealey read a written statement agreed with Mr Radley regarding a previous NMC case:

> *"At a hearing in 2012, Alan Haugh admitted all charges, including misconduct and impairment, in relation to handling calls relating to 4 patients during his time working as Clinical Telephone Advisor for Yorkshire Ambulance Service. The allegations dated from November 2005 to May 2007. He received a 5-year caution."*

The panel was aware of this previous matter but did not rely upon it when determining misconduct or impairment in the present case.

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 your 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. Second, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, your 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 Radley invited the panel to take the view that the facts found proved amount to misconduct. He referred the panel to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code) in making its decision.

Mr Radley submitted that your actions and behaviour fell short of the standards set out in the Code, and amounted to serious professional misconduct.
Mr Radley submitted that the charges found proved directly relate to colleagues in the workplace and record keeping. He identified the specific, relevant standards where your actions amounted to misconduct. He submitted that your actions and comments in the workplace setting lack professional understanding and boundaries. He outlined that charge 1 relates to inappropriate language at the workplace, charge 2 demonstrates aggressive behaviour at work and charge 5 relates to racist and abusive language.

Mr Radley further submitted that the concerns found proved can be described as serious professional misconduct because they relate to your role as a senior nurse and a registered professional, and the impact your actions have had in your area of

practice such as affecting the nursing team relations. He noted the contextual factors raised in your oral evidence highlighting your [PRIVATE] state during the Covid period. He submitted that other staff (BAME staff) were suffering greater stress factors such as being more vulnerable during this period and noted that your health was treated after your referral to the NMC.

Mr Radley submitted that the following areas of the Code has been breached:

- 1 – Treat people as individuals and uphold their dignity
- 7 – Communicate clearly
- 8 – Work co-operatively
- 9 – Share your skills, knowledge and experience for the benefit of people receiving care and your colleagues
- 10.1 – complete records at the time or as soon as possible after an event, recording if the notes are written some time after the event
- 11.1 – Only delegate tasks and duties that are within the other person's scope of competence, making sure that they fully understand your instructions
- 20 – Uphold the reputation of your profession at all times

Mr Radley submitted that your actions could have a serious effect on patient trust and confidence in the nursing profession and invited the panel to identify your behaviour as serious misconduct.

Mr Bealey submitted that misconduct is a matter for the panel to decide. He invited the panel to consider that not every finding of fact will result in a finding of misconduct. He referred to charge 4 and submitted that you had made an honest error with the documentation required and acknowledged this as a learning point. He submitted that although regrettable, not every practising error can amount to misconduct and given the contextual factors, your actions cannot be regarded as deplorable or falling far below the standard reasonably expected from a registered nurse and is therefore not misconduct.

Mr Bealey invited the panel to find that charge 4 is not so serious as to amount to misconduct.

Submissions on impairment

Mr Radley moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) and *Yeong v GMC* [2009] EWHC 1923 (Admin).

Mr Radley outlined the limbs of the *Grant* judgement and submitted that limbs a – c of the test are engaged and your actions amount to impairment. He noted that dishonesty is not a factor and submitted that the breaches of the Code highlighted in previous submissions involves breaching a fundamental tenet of the profession. He invited the panel to consider a finding of impairment is required to mark the unacceptability of your behaviour, emphasise the importance of the fundamental tenet breached and to reaffirm proper standards of behaviour.

Mr Radley referred to the contextual factors raised in relation to your experience during the Covid period, suggested comedic/banter with other colleagues, your relationship with other staff and the impact your actions have had on them in addition to your professional working environment. He submitted that these factors substantially adversely affect your ability to practice professionally and as a consequence will not be able to demonstrate your ability to practice kindly, safely and professionally.

Mr Radley had regard to your evidence and submitted that your behaviour displayed in the charges found proved is ingrained and you will not change your ways and referred to your previous NMC referral where you received a caution order. Mr Radley submitted that you failed to uphold proper professional standards and public confidence in the profession and the nursing profession would be shattered if you

were permitted to continue to practice following racially motivated and abusive behaviour. He further submitted that the concerns are so serious that even if you have since addressed them, a finding of impairment is required to uphold proper standards and maintain public confidence in the profession. He highlighted that discriminatory behaviour must not be tolerated by professionals in the workplace and invited the panel to consider that a finding of impairment is necessary.

Mr Bealey invited the panel to find that you are not currently unfit to continue practicing. He referred to the insight and strengthened practice demonstrated in your further training and reflective piece. He highlighted that you have not acted in a way to put those receiving care at an unwarranted risk of harm and noted that multiple witnesses have testified to your good work on the ward. He further noted that you were chosen to remain in your position when other staff were being asked to leave and submitted that there is no suggestion that you have denied care to any patients on the basis of race or gender.

Mr Bealey referred to your efforts to address the concerns raised and reduce the risk of harm or repetition. He drew the panel's attention to your engagement at this hearing including the purchase of a laptop, providing oral evidence, researching articles, videos and books on the relevant topics, engaging with the conditions of practice previously imposed, completing internal training, engaging with respect and cultural appreciation days at work in addition to proactively seeking counselling and support to assist with personal stresses and pressures.

Mr Bealey submitted that your efforts have been effective as there has been no repetition of similar incidents. He further stated that you have been elected as staff liaison to a diverse workforce and promoted to a senior nurse in your current workplace. Mr Bealey reminded the panel of the positive references from your colleagues and line manager in addition to the insight demonstrated in your reflective piece.

Mr Bealey further referenced the underlying personal matters you had faced during the Covid-19 pandemic and submitted that [PRIVATE] you have a better understanding of your stressors and are far less likely to repeat or engage in the

behaviour found proved. He submitted that your work since has been to promote equality at work and ensure a collaborative atmosphere.

Mr Bealey stated that had you admitted to a number of charges and comments from the outset, you have not minimised your behaviour, you accept the panel's findings and have sought to reflect on your own behaviours. He submitted that this shows a progressive mindset where you are seeking to learn from mistakes as opposed to making excuses.

Mr Bealey submitted that any public interest in this case has been satisfied by the rigorous regulatory process resulting in the findings of fact that will remain on your record. He submitted that the public interest and maintenance of public confidence in the profession has been upheld by this lengthy and thorough process. He further submitted that you have gone above and beyond in reflecting and engaging with the panel to reduce risk or harm or repetition.

Mr Bealey further submitted that you are now a champion for ensuring that colleagues voices are heard within a diverse workplace and you are actively participating in creating a culture where professional standards are promoted. He stated that through engaging with the NMC process, you have learnt and reflected on your behaviours, the impact they can have on others and the potential consequences. He submitted that the lack of repeat incidents and positive references show that your approach is bearing fruit.

Mr Bealey submitted that the conduct is remediable and has been remediated through continued training and safe practise. He stated that the behaviour demonstrated in the charges found proved is highly unlikely to be repeated and invited the panel to consider that your fitness to practice is not currently impaired.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin).

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 your actions did fall significantly short of the standards expected of a registered nurse, and that your actions amounted to a breach of the Code. Specifically:

*'**1 Treat people as individuals and uphold their dignity***
To achieve this, you must:
1.1 treat people with kindness, respect and compassion.'

*'**1 Treat people as individuals and uphold their dignity***
To achieve this, you must:
1.3 avoid making assumptions and recognise diversity and individual choice.

*'**1 Treat people as individuals and uphold their dignity***
To achieve this, you must:
1.5 respect and uphold people's human rights.'

*'**8 Work co-operatively***
To achieve this, you must:
8.2 maintain effective communication with colleagues.'

*'**10 Keep clear and accurate records relevant to your practice***
To achieve this, you must:
10.1 complete records at the time or as soon as possible after an event, recording if the notes are written some time after the event.'

*'**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 **Uphold the reputation of your profession at all times** To achieve this, you must:*

20.2 act with honesty and integrity at all times treating people fairly and without discrimination bullying or harassment.'

*'**20 Uphold the reputation of your profession at all times** To achieve this, you must:*

20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people.'

*'**20 Uphold the reputation of your profession at all times** To achieve this, you must:*

20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress.'

*'**20 Uphold the reputation of your profession at all times** To achieve this, you must:*

20.7 make sure you do not express your personal beliefs (including political, religious or moral beliefs) to people in an inappropriate way.'

*'**20 Uphold the reputation of your profession at all times** To achieve this, you must:*

20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to.'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that the language used in charge 1 schedule 1, in particular schedules iii, iv, v, vi, ix, xi, xii, xiii, xiv, xv and xvi were racist, highly offensive and deplorable statements. The panel found these

statements to be extremely inappropriate to use in the workplace and met the threshold of serious misconduct.

With regard to charge 1 schedules ii and viii, the panel was of the view that these statements were inappropriate to use in the workplace however taken alone, it considered that the statements were not sufficiently serious to amount to serious misconduct.

In relation to charge 2, the panel considered your oral evidence where you had admitted to the charge and stated that your actions were childish and unprofessional. The panel was of the view that your actions were unprofessional and accepted your explanation of the event. It noted the impact this had on the witness who described feeling violated by the incident. The panel further noted that you had apologised to the witness after the event and in consideration of all the information before it, did not find your actions to amount to serious misconduct. The panel therefore concluded that charge 2 did not amount to misconduct.

The panel then considered charge 4 and noted the requirement was to complete both electronic and written patient notes. The panel acknowledged that you were an agency staff at the hospital and considered that you may not have sufficient time to read and familiarise yourself with hospital policy documents. It was of the view that making an error in the completion of patient notes in this circumstance does not amount to serious misconduct and found this to be an issue that can be easily addressed and remediated. The panel therefore concluded that charge 4 did not amount to misconduct.

The panel next considered charge 5. It found that your conduct in relation to this charge was deplorable and related to racial abuse. The panel was satisfied that the comments were racially abusive in nature and effect, were extremely inappropriate to use both in and out of the workplace, and amounted to serious misconduct.

The panel found that your actions in relation to charge 1 schedules iii, iv, v, vi, ix, xi, xii, xiii, xiv, xv and xvi, together with charge 5, did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, your 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 and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

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

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

> *‘Do our findings of fact in respect of the doctor’s misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/ 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...’*

The panel first considered the personal component of current impairment, namely whether there remained a risk of repetition and whether the misconduct had been sufficiently remedied. The panel noted that there has been no information before it to show that you have acted in a way to put those receiving care at an unwarranted risk of harm. It further acknowledged that it did not consider your actions in charge 4 to be serious misconduct. It therefore found that limb a has not been engaged.

The panel next considered whether your misconduct has brought the medical profession into disrepute and if you are liable to do so in the future. The panel finds that your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to racial abuse extremely serious.

The panel then considered whether you are liable in the future to breach on of the fundamental tenets of the medical profession. The panel had regard to the positive testimonials provided by your colleagues, your further training, reflective piece and oral evidence when making its decision. The panel noted your previous NMC referral however determined that it is not relate to this case and was not considered when making its decision.

The panel acknowledged that you had demonstrated partial insight into your actions. However, the panel determined that the concerns identified are deep-seated attitudinal concerns which require further work, remediation and targeted training to be adequately addressed.

In consideration of the information before it the panel was of the view that there is currently a low risk of repetition. The panel was satisfied that the misconduct in this case is in principle capable of being addressed and acknowledged the steps you have taken to strengthen your practice. However, it was not satisfied that the attitudinal concerns identified had yet been fully remedied. The panel had particular regard to your oral evidence where you stated *'I have said racist stuff but I am not racist'*. The panel was of the view that you have not demonstrated full insight and this was further evidenced in your reflection, particularly with regard to your written comment '*…I feel that I have been partially misrepresented in the findings..'.*

The panel further noted that you are now facing more serious consequences for your actions and considered this to be a factor reducing the likelihood that you would repeat the behaviour.

The panel then went on to consider the public component of impairment, namely whether a finding was required in order to maintain public confidence in the profession and to uphold proper professional standards.

The panel bore in mind that the overarching objectives of the NMC to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and

maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on public interest grounds is required because your misconduct has breached the fundamental tenets of the profession. The panel found that, although you have taken some steps to address your behaviour, you have not yet demonstrated sufficient insight into the discriminatory nature of the misconduct or sufficient evidence of sustained attitudinal change. In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.

Sanction

The panel considered this case very carefully and decided to make a suspension order for a period of 12 months. The effect of this order is that the NMC register will show that your registration has been suspended.

In reaching this decision, the panel 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 Radley informed the panel that in the Notice of Hearing, dated 9 September 2025, the NMC had advised you that it would seek the imposition of a striking-off order if it found your fitness to practise currently impaired.

Mr Radley submitted that this was not a single incident of misconduct, and this case involves racist behaviour to other staff and there is evidence of deep-seated attitudinal issues. He stated that a striking-off order would be the suitable option for disposal of the case due to your lack of insight and understanding that your actions were racist and the fearful environment created for your colleagues.

The panel also bore in mind Mr Bealey's submissions. He submitted that a conditions of practice order is appropriate and will sufficiently address your learning and the public's confidence in the profession.

Mr Bealey noted that you have complied with the conditions imposed at the previous hearing, and stated that a suspension or a strike off order would not be appropriate as the impairment found is not fundamentally incompatible with your continued practice as a registered professional.

Mr Bealey highlighted that you are capable of providing a high quality of clinical work and the misconduct found has not been repeated after the incidents in 2020. Mr Bealey further stated that there are no public protection concerns identified which requires temporary removal from the register.

Mr Bealey further submitted that your misconduct is capable of being addressed and invited the panel to consider the following conditions:

i) Provide a monthly reading list to the NMC of race/sex resources accessed.
ii) Provide monthly reflection documents on your reading and learnings, focusing on:
    a) Equality and promoting equality in the workplace,
    b) Race,
    c) Misogyny.
iii) Be subject to monthly supervision by your line manager.
iv) Remain in employment with [PRIVATE] Nursing Home in Leeds, your current employer.

v) Any agency work must be undertaken through agencies registered in advance with the NMC, additionally informing them of the compliance manager at the agency.

Decision and reasons on sanction

Having found your fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Breaching several of the fundamental tenets of the profession when as a registered nurse you occupy a position of privilege and trust and must maintain professional boundaries.
- Actions occurred over a period with numerous allegations.
- Impact on the profession and the reputation of nurses.
- The distress caused to colleagues and the impact on the working environment.
- Deep seated attitudinal concerns found towards staff and colleagues
- Incomplete insight into the seriousness of the misconduct, with unresolved attitudinal concerns.
- Public interest is engaged.

The panel also took into account the following mitigating features:

- Admission of some less serious charges.
- Evidence of remediation and developing insight through your reflective piece.
- Evidence of further training.
- Testimonials from colleagues.

- Apologies to the panel and one witness for your actions.
- The events occurred during Covid 19 pandemic which resulted in contextual stressors surrounding your health.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the extremely seriousness misconduct identified in this case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

The panel then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public interest issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where '*the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order, particularly given the discriminatory nature of the misconduct and the panel's findings of ongoing attitudinal concerns.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *No evidence of general incompetence;*
- *Potential and willingness to respond positively to retraining;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*

- *The conditions will protect patients during the period they are in force; and*
- *Conditions can be created that can be monitored and assessed.*

The panel is of the view that workable conditions can be formulated, however, the conditions would not be proportionate or sufficient to satisfy the public interest because the misconduct involved racially abusive conduct and deep-seated attitudinal failings, and because visible restriction from practice was required in order to maintain confidence in the profession. The panel noted the guidance also emphasises that conditions of practice are not often appropriate where concerns are fundamentally attitudinal, discrimination is involved, insight is limited or public confidence would not be adequately maintained.

The panel considered your misconduct to be extremely serious and was of the view that a member of the public would be seriously concerned to know a nurse would be able to continue practising despite being found impaired on misconduct relating to racial abuse.

The panel concluded that the placing of conditions on your registration would not adequately address the serious misconduct identified in this case and satisfy the public interest identified.

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:

- *No evidence of repetition of behaviour since the incident;*
- *Seriousness of breach;*
- *Public confidence;*
- *Insight developing but incomplete;*
- *Misconduct not fundamentally incompatible with registration*

The panel was satisfied that, in this case, the misconduct was not fundamentally incompatible with remaining on the register. It was of the view that the seriousness of

the misconduct identified a suspension order would be sufficient to satisfy the public interest and maintain the confidence in the nursing profession and its regulator.

The panel did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in your case to impose a striking-off order.

Balancing all of these factors the panel concluded that a suspension order would be the appropriate and proportionate sanction.

The panel took into account the hardship such an order will inevitably cause you. However, this is outweighed by the public interest in this case.

The panel considered that this order is 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.

In making this decision, the panel carefully considered the submissions of Mr Radley in relation to the sanction that the NMC was seeking in this case. However, the panel considered that a striking off order would be disproportionate as you have engaged with the regulatory process and made efforts to show developing insight and training. The panel was of the view that a striking off order would be disproportionate in light of the mitigation identified and the realistic prospect of further remediation and attitudinal development.

The panel determined that a suspension order for a period of 12 months was appropriate in this case to mark the seriousness of the misconduct.

At the end of the period of suspension, another panel will review the order so as to enable a future panel to assess whether the attitudinal concerns have been sufficiently addressed and whether the confidence in the profession can be restored.

At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- A more in-depth reflection which references the charges found proved and the impact your misconduct had on the victims, the wider public and the public's confidence in the profession.
- Evidence of participatory training/education on equality, diversity and unconscious bias, including a reflective analysis regarding what you have learnt and how this will impact your future practice.

This will be confirmed to you in writing.

Interim order

As the suspension order cannot take effect until the end of the 28-day appeal period, the panel 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 your own interests until the suspension 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 Radley. He submitted that an interim suspension order for a period of 18 months is necessary given the panel's findings in order to meet the wider public interest. Mr Radley submitted that this was required to cover the 28-day appeal period and, if you do appeal the decision, the period for which it may take for that appeal to be heard.

The panel also took into account the submissions of Mr Bealey. He submitted that an interim suspension order would not be in your best interests. He invited the panel to

consider the imposition of interim conditions of practice, which would allow you to remain working in a restricted capacity during the appeal period. He submitted that this would ensure public protection while enabling a managed and orderly transition away from nursing, should a suspension ultimately take effect.

Mr Bealey submitted that allowing you to remain in employment under conditions would avoid an immediate cessation of work, provide financial stability, and allow you time to secure appropriate references to support applications for alternative employment. He emphasised that an interim order should not be punitive in nature and submitted that ongoing conditions would allow you to continue addressing any risks and demonstrating progress, which would be relevant to any future review.

Mr Bealey therefore submitted that it would not be inconsistent with the panel's current finding on sanction to impose an interim conditions of practice order in the interim period.

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary 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 to cover the 28-day appeal period and any period which an appeal may be heard.

If no appeal is made, then the interim suspension order will be replaced by the substantive suspension order 28 days after you have been sent the decision of this hearing in writing.

That concludes this determination.