

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

**Substantive Hearing  
Wednesday, 7 January 2026 – Wednesday, 14 January 2026**

Virtual Hearing

<b>Name of Registrant:</b>	<b>Lyn Villarin Nelson</b>
<b>NMC PIN</b>	16G0978E
<b>Part(s) of the register:</b>	Registered Nurse – Adult Nursing RNA – (21 June 2017)
<b>Relevant Location:</b>	Sutton
<b>Type of case:</b>	Misconduct
<b>Panel members:</b>	Charlie Tye (Chair, Lay member) Richard Curtin (Registrant member) Kevin Connolly (Lay member)
<b>Legal Assessor:</b>	Megan Ashworth
<b>Hearings Coordinator:</b>	Nicola Nicolaou
<b>Nursing and Midwifery Council:</b>	Represented by Isabelle Knight, Case Presenter
<b>Mrs Nelson:</b>	Not present and not represented at the hearing
<b>Application to offer no evidence:</b>	Accepted in relation to charges 5, 6, 7a, 7b, 8, and 9. Findings of not proved recorded for these charges
<b>Facts proved:</b>	Charges 1, 2a, 2b, 3, 4, 10, 11, 12, and 13 (in relation to charges 1, 3, 10, and 11)
<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	<b>Striking-off order</b>
<b>Interim order:</b>	<b>Interim suspension order (18 months)</b>

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Mrs Nelson was not in attendance and that the Notice of Hearing letter had been sent to Mrs Nelson's registered email address by secure email on 5 December 2025.

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

The panel accepted the advice of the legal assessor.

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

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

## **Decision and reasons on proceeding in the absence of Mrs Nelson**

The panel next considered whether it should proceed in the absence of Mrs Nelson. It had regard to Rule 21 and heard the submissions of Ms Knight who invited the panel to continue in the absence of Mrs Nelson. She submitted that Mrs Nelson had voluntarily absented herself.

Ms Knight referred the panel to an email sent by Mrs Nelson to the NMC dated 25 November 2025 which stated:

*‘With regard to my case, which has been listed for a hearing from Wednesday, 7 January 2026 to Tuesday, 20 January 2026, I would like to inform the Panel that I will not be attending. [...] I have nothing further to add and am content for the case to proceed in my absence.’*

Ms Knight also referred the panel to an email sent by Mrs Nelson to the NMC Hearings Coordinator dated 6 January 2026 which stated:

*‘Thank you for informing me of the virtual hearing scheduled for tomorrow. My decision not to attend remains unchanged. [...]’*

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised *‘with the utmost care and caution’* as referred to in the case of *R v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel has decided to proceed in the absence of Mrs Nelson. In reaching this decision, the panel has considered the submissions of Ms Knight, the emails sent by Mrs Nelson on 25 November 2025 and 6 January 2026, and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mrs Nelson;
- Mrs Nelson stated in her emails on 25 November 2025 and 6 January 2026 that she would not be attending this hearing;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- One witness is due to attend this hearing to give live evidence;

- Not proceeding may inconvenience the witness;
- The charges relate to events that allegedly occurred between 2016 to 2022;
- Further delay may have an adverse effect on the ability of witness accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mrs Nelson in proceeding in her absence. Mrs Nelson will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. Mrs Nelson has provided a detailed response to the allegations. Furthermore, the limited disadvantage is the consequence of Mrs Nelson's decisions to absent herself from the hearing, waive her rights to attend, and/or be represented, and to not give evidence or make live submissions on her own behalf.

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

### **Decision and reasons on application to amend the charge**

The panel heard an application made by Ms Knight, on behalf of the NMC, to amend the wording of charges 2a and 2b.

It was submitted by Ms Knight that the proposed amendment would provide clarity and more accurately reflect the evidence and would not materially change the substance of the charge.

### **Charges 2a and 2b**

2. On an unknown date, responded to a post on Facebook of a chicken dressed in a hijab entitled 'Dressed to kill', with the following comments:

- a) “love ~~the~~ **your** comment”
- b) “I almost fall off the ~~sofa~~ **settee** laughing my heads off”.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of the Rules.

The panel was of the view that such an amendment, as applied for, was in the interest of justice. The panel was satisfied that there would be no prejudice to Mrs Nelson, as the amendment does not materially change the nature of the charge, and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

#### **Details of charge (as amended)**

That you, a Registered Nurse:

1. On unknown dates in 2017 and 2018, posted on Facebook one or more of the comments set out in Schedule A.
2. On an unknown date, responded to a post on Facebook of a chicken dressed in a hijab entitled ‘Dressed to kill’, with the following comments:
  - a) “love your comment”
  - b) “I almost fall off the settee laughing my heads off”.
3. On one or more occasions on unknown dates in 2017 and 2018, referred to Person A on Facebook as a “lump of lard” and/or “Mrs lump of lard” or words to that effect.

4. On an unknown date in 2016 or 2017, told neighbours about a Muslim patient who had needed his private parts shaved and you laughed about how embarrassed the patient was.
5. On unknown dates between 2016 and 2018, you laughed about how Muslim patients had died and mocked their burials.
6. On an unknown date in December 2018, said “there’s so and so, fucking Muslim back from Norway” or words to that effect.
7. On or around 20 March 2019, approached Person B and:
  - a) One or more times, spat on or towards Person B
  - b) Told Person B to go back home to their own country
8. On 4 September 2022, called Person B a “fucking Muslim”.
9. On unknown dates, would use the words “so and so Muslim and/or “fucking Muslim to Person B
10. On an unknown date, said that Person C must be a prostitute because Person C had a red solar powered light on her house
11. On an unknown date, stated “their gran has monkey brains” which was a reference to Person C
12. Your conduct at any or all of Charges 1 to 4 and 10 to 11 above was racially motivated and/or discriminatory and/or offensive.
13. Your conduct at any or all of Charges 1 to 4 and 10 to 11 constituted bullying and/or harassment.

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

### **Schedule A**

“.....Iranians are revengeful, lol, Filipinos finish the job! So get it right you obnoxiously fat ugly Mrs Lump of Lards the only whore here is you and your immigrant families, that’s probably how your refugee mum married your father!”

“So the estranged so and so Muslim is allegedly returning, I believe that when I see it. If I was him I would go back to my country and marry someone else who is not deluded and has so much disabilities [sic] which includes [PRIVATE], people like that are just a waste of space and better off dead...Don’t worry [Person A], I am not scared, I know how to handle people like him and I know how to tell a story. The Police are on my side.”

“Which coconut I am sandwich with two?”

“Hey lunatic neighbours especially at number [PRIVATE]...With your [PRIVATE], there is no point me trying to reason to you as your [PRIVATE].....As a piece of advice, go and see a psychiatrist to help with your madness and [PRIVATE]...As the saying goes, a person entertains a lunatic is twice as mad...Goodbye Lump of Lard”

### **Decision and reasons on application to admit the written statements of Person A and Person B as hearsay evidence**

The panel heard an application made by Ms Knight under Rule 31 to allow the written statements of Person A (Witness 1) and Person B (Witness 2) into evidence. Ms Knight referred the panel to the case of *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin).

Ms Knight submitted that Person A and Person B were not present at this hearing and, whilst the NMC had made sufficient efforts to ensure that these witnesses were present, they were unwilling to attend today due to the length of time that this matter has taken to come to a final hearing, and the impact that this delay has had on Person A. Ms Knight submitted that there is a cogent reason for Person A and Person B's non-attendance at this hearing.

Ms Knight submitted that there are charges in this case, namely charges 5, 6, 7b, and 9, of which the sole and decisive evidence that the NMC rely on is contained within the witness statements of Person A and Person B.

Ms Knight submitted that in the preparation of this hearing, the NMC had informed Mrs Nelson of the hearsay applications and served her with the hearsay bundles. Despite knowledge of the nature of the evidence to be given by Person A and Person B, Mrs Nelson made the decision not to attend this hearing. On this basis Ms Knight advanced the argument that there was no lack of fairness to Mrs Nelson in allowing Person A and Person B's written statements into evidence. Ms Knight therefore submitted that it would be fair and relevant to admit the witness statements of Person A and Person B into evidence. Ms Knight, when questioned, accepted that there was no [PRIVATE] before the panel to suggest that Person A was inhibited from attending.

The panel 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 legal assessor also advised the panel of the relevant factors to take into account, as identified in the case of *Thorneycroft*.

The panel decided to approach each witness statement in turn.



Regarding Person A's witness statement, the panel considered that the charges in this case are serious and therefore it is important for the evidence to be tested due to the seriousness of the allegations. The panel considered that there would be a serious adverse impact on Mrs Nelson's nursing career if these charges are found proved.

The panel considered that there is a cogent reason for Person A's non-attendance. It considered that Person A has been consistent in their reasoning for not wanting to attend this hearing, which is the length of time that it has taken for this matter to come to a hearing. While the panel had sympathy for Person A having to wait a prolonged period to give their evidence, the panel was not satisfied that disengaging due to the length of time was in and of itself a good reason for their non-attendance in the context of this case, and the gravity of the charges.

The panel considered that the NMC has taken reasonable steps to secure the attendance of Person A. The NMC consistently sought to engage with Person A, offer them support, and explain the need for them to attend. Despite all efforts, Person A chose not to attend this hearing to give live evidence.

The panel noted that Mrs Nelson was given prior notice of the NMC's intention to make this hearsay application, which gave Mrs Nelson an opportunity to comment on the application.

Regarding the nature and extent of the challenge of the statements, the panel noted that Mrs Nelson extensively challenges the evidence of Person A, has provided a lengthy and detailed response refuting the allegations, and alleged that a great deal of the evidence has been fabricated.

The panel considered that Person A's witness statement is the sole and decisive evidence in respect of a majority of the charges. As the witness statement is sole and decisive evidence, the panel must consider whether it is demonstrably reliable or whether there is some means of testing it. The panel did not consider that the witness statement was

demonstrably reliable. These allegations arose over a neighbourhood dispute and it is apparent that there is ill feeling on all sides with allegations by all parties involved that others are lying. In light of this context, the reliability of the evidence would turn on the credibility of the witnesses, and so, in the panel's judgement, there is no effective way of testing it in their absence and of satisfying itself of the statement's accuracy and reliability.

Having gone through each of the factors in *Thorneycroft*, the panel considered, on balance, that it would be unfair to admit Person A's witness statement into evidence given the evident challenge by Mrs Nelson as to the credibility of Person A's evidence. The panel considered that as Person A is not attending this hearing to be subject to challenge, there is no meaningful way to test the accuracy and reliability of their evidence. The need for this evidence to be properly tested is underscored by Mrs Nelson claiming that some of the evidence has been fabricated. Such concerns should be put to Person A directly so that they can comment on the authenticity and truthfulness of what they have presented especially when these allegations, if proved, would have a significant adverse impact on Mrs Nelson. Fairness demands that this evidence be properly tested in light of Mrs Nelson's responses which is not possible in the absence of Person A.

In these circumstances the panel rejected the application to admit Person A's witness statement into evidence. Regarding the documents supplied by Person A, the panel noted that Mrs Nelson has provided a detailed response and commented on their credibility. The panel considered that these documents should be admitted as they can be effectively tested by cross referencing them to Mrs Nelson's responses.

Regarding the witness statement of Person B, the panel considered that the charges in this case are serious and therefore it is important for the evidence to be tested due to the seriousness of the allegations. The panel considered that there would be a serious adverse impact on Mrs Nelson's nursing career if these charges are found proved.

The panel considered that there is a cogent reason for Person B's non-attendance, he had made it clear that he did not want to attend, given the length of time it has taken for this

matter to come to a hearing. While the panel had sympathy for Person B having to wait a lengthy amount of time to give evidence, the panel was not satisfied that this was in and of itself a good reason for their non-attendance.

The panel considered that the NMC has taken reasonable steps to secure the attendance of Person B, however, despite all efforts, Person B chose not to attend this hearing to give live evidence. The NMC consistently sought to engage with Person B, offer them support, and explain the need for them to attend. Despite all efforts, Person B chose not to attend this hearing to give live evidence.

The panel noted that Mrs Nelson was given prior notice of the NMC's intention to make this hearsay application, which gave Mrs Nelson an opportunity to comment on the application.

Regarding the nature and extent of the challenge of the statements, the panel noted that Mrs Nelson extensively challenges the evidence of Person B, has provided a lengthy and detailed response refuting the allegations, and alleged that a great deal of the evidence has been fabricated.

The panel considered that Person B's witness statement is the sole and decisive evidence in respect of all the charges which pertain to him. The panel considered that the evidence of Person B referred to alleged in-person incidents in which Mrs Nelson was said to make racially offensive comments, and was said to have spat at Person B. As a result, Person B's evidence is critical, as it is the only direct evidence from their perspective of what occurred during these alleged incidents. The panel has considered the evidence of Person A, and whether it is supportive of Person B's account, however for many of the allegations it is not clear whether Person A directly witnessed the alleged incidents, or was simply relaying what she was told by Person B. As Mrs Nelson denies that these incidents occurred, and alleges that the allegations have been fabricated, there is a need for the evidence of Person B to be properly tested and explored. These allegations arose over a neighbourhood dispute and it is apparent that there is ill feeling on all sides with

allegations by all parties involved that others are lying. In light of this context, the reliability of the evidence would turn on the credibility of the witnesses, and so there is no effective way of testing it in their absence.

Having gone through each of the factors in *Thorneycroft*, the panel considered, on balance, that it would be unfair to admit Person B's witness statement into evidence given the evident challenge by Mrs Nelson as to the credibility of Person B's evidence. The panel considered that as Person B is not attending this hearing to be subject to challenge, there is no meaningful way to test the accuracy and reliability of their evidence.

In these circumstances the panel rejected the application to admit Person B's witness statement into evidence.

### **Decision and reasons on application to offer no evidence**

The panel heard an application made by Ms Knight to offer no evidence in relation to charges 5, 6, 7a, 7b, 8, and 9. She submitted that the hearsay applications for Person A and Person B were rejected by the panel. Ms Knight went on to explain that those witness statements were sole and decisive to these charges.

Ms Knight referred the panel to the NMC guidance on offering no evidence (ref: DMA-3) and submitted that there is no longer a realistic prospect of finding the facts proved.

The panel accepted the advice of the legal assessor.

The panel considered that there is no longer a realistic prospect of finding charges 5, 6, 7a, 7b, 8, and 9 proved. The panel noted that as the witness statements of Person A and Person B were not admitted as hearsay evidence, there is no evidence supporting these charges.

The panel therefore accepted Ms Knight's application to offer no evidence and charges 5, 6, 7a, 7b, 8, and 9 are found not proved.

### **Decision and reasons on further application to amend the charge**

The panel heard a further application made by Ms Knight, on behalf of the NMC, to amend the wording of charges 12 and 13.

It was submitted by Ms Knight that the proposed amendment would provide clarity and more accurately reflect the evidence and would not materially change the substance of the charge.

### **Charge 12**

12. Your conduct at any or all of Charges ~~4 to 11~~ **1 to 4 and 10 to 11** above was racially motivated and/or discriminatory and/or offensive.

### **Charge 13**

13. Your conduct at any or all of Charges ~~4 to 11~~ **1 to 4 and 10 to 11** constituted bullying and/or harassment.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of the Rules.

The panel was of the view that such an amendment, as applied for, was in the interest of justice. The panel was satisfied that there would be no prejudice to Mrs Nelson, as the amendment does not materially change the nature of the charge, and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

## **Decision and reasons on application to redact parts of Mrs Nelson's evidence**

The panel heard an application made by Ms Knight to redact parts of Mrs Nelson's evidence. Ms Knight made an application to redact the following in particular:

- Reference to the outcome of the county court case, a case in which Person A and Person C were the claimants, and Mrs Nelson was the defendant
- Witness statements in their entirety from Person 4, Person 5, Person 6, Person 7, and Person 8
- Email in its entirety from Person 9 to Mrs Nelson dated 19 August 2021
- Parts of the letter from Person 10 dated 29 August 2021 which refers to the outcome of the county court judgement
- Parts of the supporting statement from Person 11 dated 25 August 2021
- Parts of the letter from Person 12 dated 28 August 2021
- Parts of the letter from Person 13 dated 16 August 2023
- Parts of the letter from Person 14 dated 4 August 2023
- Parts of the email from Mrs Nelson dated 9 December 2024 which references Person 15's witness statement

Regarding the reference to the outcome of the county court case, Ms Knight submitted that this is inadmissible. She submitted that the panel should assess and make a decision based on the evidence before it, rather than taking into account the findings of a third party. Ms Knight submitted that it is not known what the nature of the court case was, and that the NMC were not able to obtain the transcripts from this case, despite efforts being made to obtain them.

Regarding the witness statements of Person 4, Person 5, Person 6, Person 7, and Person 8, Ms Knight submitted that the NMC do not agree with the contents of the witness statements and would ordinarily request these witnesses to be called to answer questions under cross examination. Ms Knight submitted that Mrs Nelson is not attending this

hearing, and does not intend to call any of these witnesses. Ms Knight therefore invited the panel to omit these witness statements from evidence.

Regarding the Email from Person 9 to Mrs Nelson dated 19 August 2021, Ms Knight submitted that the NMC do not accept that a section of this email is factually correct as the case of the NMC was not closed in March 2018 due to a lack of evidence. Ms Knight therefore invited the panel to omit this part of Person 9's email.

Regarding the letter from Person 10 dated 29 August 2021, Ms Knight submitted that a section at the bottom of the letter makes reference to the outcome of the county court case, and, for reasons already provided, should be omitted from evidence.

Regarding the supporting statement from Person 11 dated 25 August 2021, Ms Knight submitted that reference is made to the NMC allegations being made through spite and as a result of vindictive behaviour. Ms Knight submitted that this is a decision for the panel to make after hearing all of the evidence in this case. Ms Knight therefore invited the panel to omit this part of Person 11's supporting statement.

Regarding the Letter from Person 12 dated 28 August 2021, Ms Knight submitted that reference is made to the NMC case being closed in March 2018 due to a lack of evidence. Ms Knight submitted that this is factually incorrect and should be omitted from evidence.

Regarding the Letter from Person 13 dated 16 August 2023, Ms Knight submitted that the comments made by Person 13, regarding there being a long-term malicious campaign against Mrs Nelson, and that there are no grounds for the allegations to be upheld, is a decision for the panel to make after it has heard all of the evidence in this case.

Regarding the letter from Person 14 dated 4 August 2023, Ms Knight submitted that reference is made to the allegations being spiteful and malicious. Ms Knight submitted that this is a decision for the panel to make after it has heard all of the evidence in this case.

Regarding the Email from Mrs Nelson dated 9 December 2024 which references Person 15's witness statement, Ms Knight submitted that the NMC would seek to call Person 15 to explore their witness statement further. Ms Knight submitted that as Mrs Nelson is not attending this hearing, and does intend to call any witnesses on her behalf, reference to this witness statement should be omitted from evidence.

The panel accepted the advice of the legal assessor.

The panel took each piece of evidence in turn.

Regarding the outcome of the county court case, the panel considered that it does not have the transcript from the case before it, and it does not know what occurred in the hearing. The panel further noted that it has not seen the final judgement from the case and that the only evidence before it is Mrs Nelson's recollections of the events. The panel considered that it was its responsibility to make an assessment of the evidence, rather than relying on a reported outcome of the county court proceedings. The panel therefore decided to omit any reference to the outcome of the county court case from evidence.

Regarding the witness statement of Person 4, the panel noted that it contained material which might be relevant to the character of Person C as it could impact their credibility. Person 4 made allegations that Person C has made threats about Mrs Nelson, and attempted to distress Mrs Nelson by feeding vermin, leaving food on her driveway, and sweeping rubbish towards her property. The panel considered that this material may be relevant to the credibility of Person C as it could indicate their attitude and behaviour towards Mrs Nelson. Moreover, the panel considered that this material could be effectively tested as Person C will be present during this hearing, and so these matters could be put to them directly. Therefore, the panel decided that it was fair to admit the extracts of Person 4's statement which was relevant to Person C.

Regarding the witness statements of Person 5, Person 6, Person 7, and Person 8, the panel considered that these were not witness statements prepared for the NMC



proceedings, but were provided to the Civil Court. The panel considered that the witness statements are not relevant to the allegations in this case, but instead provide context to the situation which is not disputed by any party. The panel therefore decided to omit the witness statements of Person 5, Person 6, Person 7, and Person 8 from evidence.

The panel considered that the remaining pieces of evidence the NMC sought to exclude amounted to character evidence which included references to a prior investigation, and some of the character witnesses offered their opinion on the nature of the allegations put forward by Person A and Person B. The panel noted that the NMC disputed some of the factual assertions contained within the character evidence about how the prior investigation concluded. The panel considered that these matters are not relevant to Mrs Nelson's character, and so the opinions of these witnesses are not relevant to the decision the panel is required to make. The panel therefore decided to omit sections of the character evidence which referred to a prior investigation or offered opinions on the nature of the allegations put forward by Person A and Person B.

## **Background**

Mrs Nelson was referred to the NMC on 11 February 2018 by Person A. Person A raised concerns about allegedly offensive and discriminatory remarks made by Mrs Nelson to herself and other neighbours. Person A alleged that Mrs Nelson had also posted such comments to social media, namely Facebook, and that she had reported Mrs Nelson to the police.

Person A also alleged that Mrs Nelson had been racially abusive toward her husband, Person B, in person on several occasions, and that Mrs Nelson had continued to harass and discriminate against her over social media.

## **Decision and reasons on application to admit evidence**

The panel heard an application made by Ms Knight to admit an extract from the judgement of the county court case into evidence. Ms Knight explained that the NMC had been provided a copy of this by Person C.

Ms Knight submitted that most of the judgement does not relate to the matters in this case, and may be prejudicial to Mrs Nelson. However, Ms Knight submitted that there is a section of the judgement which the NMC say is relevant to this case and should be admitted into evidence. Ms Knight submitted that there would be limited prejudice to Mrs Nelson in admitting this section of the judgement as Mrs Nelson would have already received the judgement in its entirety. Ms Knight submitted that the relevant part of the judgement was limited to where it recorded Mrs Nelson accepting that she had used the term '*lump of lard*' in reference to Person A, although she had not meant it to be offensive.

The panel accepted the advice of the legal assessor.

The panel considered that it would not be necessary to have the entire judgement from the county court case before it, accepting Ms Knight's submissions that most of the material is not relevant to the matters in this case, and may be prejudicial to Mrs Nelson. The panel therefore decided that it would be fair and relevant to admit the section of the judgement which the NMC say is relevant to this case.

### **Decision and reasons on facts**

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

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

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will

be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel heard live evidence from the following witness called on behalf of the NMC:

- Witness 3 (Person C): A neighbour of Mrs Nelson

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 the NMC and Mrs Nelson.

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

### **Charge 1**

That you, a Registered Nurse:

1. On unknown dates in 2017 and 2018, posted on Facebook one or more of the comments set out in Schedule A.

**This charge is found proved.**

In reaching this decision, the panel took into account the screenshots of various Facebook posts which contain Mrs Nelson's name and photograph, which appear to identify her account as the source of the posts. The panel noted that there are four separate comments within Schedule A. Within the posts, the panel noted that the four comments set out in Schedule A are evident on the screenshots in themselves. However, the panel took into account Mrs Nelson's case where she challenges the authenticity of the Facebook posts. In Mrs Nelson's response to the allegations, she stated:

*'The Facebook posts I made were a result of the distress I faced [...] I acknowledge my lapse in judgment when sharing about the harassment I endured on my Facebook page*

[...]

*Again, I want to draw attention to the format in which the evidence is being presented, which appears easily manipulable and raises suspicions regarding the post's authenticity. It is concerning to note that the post seems to have been cropped, potentially altering its original context, that it may not be made from my own facebook page.*

[...]

*I must emphasise that while some of the Facebook posts under scrutiny may have been made on my profile, I cannot assert with absolute certainty that I am their author.*

[...]

*Moreover, some of these posts were not authored by me'*

The panel noted that there is no context in relation to the Facebook posts. The panel considered that the screenshots contain Mrs Nelson's name and photograph, identifying her account as the source of the posts.

The panel considered that it is not clear whether Mrs Nelson truly disputes the origin and/or authenticity of the content of the screenshots or not. Rather she suggests they *'may have been cropped,'* or that their format is *'easily manipulable,'* and that they *'may or may not be'* from her Facebook page. Mrs Nelson suggests she is unsure if any of the posts have been tampered with or manipulated. In places, Mrs Nelson accepts making

some of the posts provided to the panel, and accepts it was a lapse in judgment. For example, Mrs Nelson accepts that the screenshots relevant to Charge 2 are legitimate. As a result, the panel considered that it was presented with a range of screenshots, some of which are accepted to be legitimate by Mrs Nelson.

The panel further observed that in totality there are almost 200 pages of screenshots provided by Person A. The panel therefore considered it had been provided with a volume of screenshots, some of which were agreed to be legitimate. These screenshots show various comments, many of which are linked to the accepted dispute that existed between Mrs Nelson and Person A and Person B. The screenshots show that on multiple occasions Mrs Nelson made comments relevant to that ongoing dispute. Furthermore, Mrs Nelson has accepted the authenticity and origin of some of the screenshots and appears to deny some of the comments set out in Schedule A and some of the other charges. Therefore, the panel considered that it was more likely than not that the exhibit contained comments which were in fact made by Mrs Nelson.

Therefore, having regards to the entirety of the exchanges of the Facebook posts, the panel considered, on the balance of probabilities, that Mrs Nelson did post the comments set out in Schedule A. The panel therefore found this charge proved on the balance of probabilities.

### **Charges 2a and 2b**

2. On an unknown date, responded to a post on Facebook of a chicken dressed in a hijab entitled 'Dressed to kill', with the following comments:
  - a) "love your comment"
  - b) "I almost fall off the settee laughing my heads off".

**These charges are found proved.**

In reaching this decision, the panel took into account the screenshot of the Facebook comment. The panel also took into account Mrs Nelson's case in which she accepts that she made the comments. The panel had sight of Mrs Nelson's response to the allegations in which she stated:

*'I acknowledge the comment I made about the sticker, specifically the phrase "I almost fell off the settee laughing my head off." [...] It was a lighthearted [sic] remark with no intent to cause harm or discriminate against anyone.'*

The panel therefore found this charge proved on the balance of probabilities.

### **Charge 3**

3. On one or more occasions on unknown dates in 2017 and 2018, referred to Person A on Facebook as a "lump of lard" and/or "Mrs lump of lard" or words to that effect.

### **This charge is found proved.**

In reaching this decision, the panel took into account the screenshots of the Facebook posts in which Mrs Nelson refers to someone as a *'lump of lard'* and *'Mrs lump of lard'* on several occasions.

The panel also took into account Mrs Nelson's acknowledgement of using the term in her responses to the allegations. In Mrs Nelson's response to the allegations, she stated:

*'I admit to having used the term "lump of lard" on my facebook in the past'*

The panel also had sight of the county court judgement dated 9 December 2021 which stated:

*'The defendant accepted that where there are references to a lump of lard, which appears in numerous different entries, that that was in fact a reference to the first claimant (Person A). Although she wished the court to accept that it was not a derogatory reference.'*

The panel considered that Mrs Nelson accepted using the term *'lump of lard,'* online, although acknowledged her assertion that she did not direct this at anybody. However, the panel had regard to Mrs Nelson conceding using that term in respect of Person A during the County Court Proceedings. Therefore, the panel concluded that it was more likely than not that the references to a *'lump of lard'* or *'Mrs lumps of lard'* presented in the screenshots were references to Person A. Therefore, the panel found this charge proved on the balance of probabilities.

#### **Charge 4**

4. On an unknown date in 2016 or 2017, told neighbours about a Muslim patient who had needed his private parts shaved and you laughed about how embarrassed the patient was.

**This charge is found proved.**

In reaching this decision, the panel took into account Person C's witness statement which stated:

*'I also heard Lyn talking to the neighbours about a Muslim patient who had apparently needed his private parts shaved. Lyn was laughing about how embarrassed this patient was. [...]*

The panel noted that when questioned in oral evidence, Person C maintained that she was sure that these were the words that Mrs Nelson had said. Person C explained that she had overheard this conversation as Mrs Nelson was speaking on her driveway.

The panel also had sight of Mrs Nelson's response to the allegations in which she stated:

*'I categorically deny the allegation that I spoke to neighbors [sic] about a Muslim patient or made any inappropriate comments about their personal situation. [...]*

The panel found Person C to be clear and consistent when giving live evidence. Person C was able to explain that she had overheard the conversation because Mrs Nelson spoke rather loudly, and her voice drifted through an open window. Person C described being sure of what she had heard and maintained as much when questioned by the panel.

The panel also asked questions relevant to Person C's credibility, which Mrs Nelson had raised in her response. For instance, Person C denied ever sweeping rubbish or engaging in anti-social behaviour towards Mrs Nelson. The panel considered this evidence alongside the video recording presented by Mrs Nelson purporting to show Person C sweeping rubbish onto her property. The panel considered that the video is short, unclear, and while it shows Person C sweeping her driveway it is not clear that she sweeps items onto Mrs Nelson's property. The panel also considered the video evidence which shows the presence of an animal in a garden, but concluded it did not demonstrate that Person C was deliberately feeding them in order to harass Mrs Nelson. Therefore, the panel did not consider that the video recordings undermined the credibility of Person C.

Having considered the clear, consistent, and credible live evidence presented by the witness, alongside Mrs Nelson's bare denial, the panel was satisfied that the NMC had proved this charge on the balance of probabilities

## **Charge 10**

10. On an unknown date, said that Person C must be a prostitute because Person C had a red solar powered light on her house



**This charge is found proved.**

In reaching this decision, the panel took into account Person C's witness statement which stated:

*'There was another incident regarding a red solar-powered light I had purchased to put out the back of my house. From my window, I overheard Lyn say to some neighbours that because the light was red, I must be a prostitute. They were all laughing loudly at this, and it was horrible. [...]*'

The panel noted that when questioned in oral evidence, Person C maintained that she was sure that these were the words that Mrs Nelson had said.

The panel also had sight of Mrs Nelson's response to the allegations in which she stated:

*'I categorically deny ever stating that Person C [...] must be a prostitute because of the red solar-powered light on her house and have no recollection of this incident.'*

The panel found Person C to be clear and consistent when giving live evidence. The panel was satisfied with the credibility of Person C, for the reasons set out in respect of Charge 4. Therefore, the panel considered the evidence presented by Person C, against Mrs Nelson's bare denial. The panel was satisfied that the NMC had proved this charge on the balance of probabilities.

## **Charge 11**

11. On an unknown date, stated "their gran has monkey brains" which was a reference to Person C

**This charge is found proved.**

In reaching this decision, the panel took into account Person C's witness statement which stated:

*'one day in front of my grandchildren Lyn said to Mrs [...], "Their gran has monkey brains".'*

The panel noted that when questioned in oral evidence, Person C maintained that she was sure that these were the words that Mrs Nelson had said.

The panel also had sight of Mrs Nelson's response to the allegations in which she stated:

*'I categorically deny ever stating that Person C [...] saying "their gran has monkey brains".'*

The panel found Person C to be clear and consistent when giving live evidence and has set out its reasons for this already. The panel therefore found this charge proved on the balance of probabilities.

## **Charge 12**

12. Your conduct at any or all of Charges 1 to 4 and 10 to 11 above was racially motivated and/or discriminatory and/or offensive.

**This charge is found proved.**

In reaching this decision, the panel considered each charge individually.

Regarding charge 1, specifically the first comment set out in Schedule A, which makes reference to Iranians being revengeful, the panel considered that this was racially motivated. The panel noted that referring to an entire race of people as revengeful is objectively racist. The panel also considered that Mrs Nelson's comment regarding the

refugee parents was also objectively racist. Therefore, it is more likely than not that a person who makes an objectively racist comment, where that comment has no obvious alternative or innocent meaning, is engaging in racially motivated behaviour. The panel also considered that race was a protected characteristic under the Equality Act 2010, and so such comments were also discriminatory and offensive.

Regarding the second comment set out in schedule A, which makes reference to *'the estranged so and so Muslim'*, the panel considered that this was racially motivated. The panel considered that telling someone to go back to their own country is objectively racist. The panel considered that there is no innocent explanation for making this comment. Therefore, it is more likely than not that a person who makes an objectively racist comment, where that comment has no obvious alternative or innocent meaning, is engaging in racially motivated behaviour. The panel further considered that this comment was discriminatory, as it makes specific reference to people with [PRIVATE] being *'just a waste of space'* and *'better off dead.'* The panel considered that this was a reference to the protected characteristic of disability, and was discriminatory and offensive because it suggested they had no worth as human beings.

Regarding the third comment set out in Schedule A, which makes reference to the *'coconut'* comment, the panel took into account Mrs Nelson's case that *'My understanding of the term is to describe someone as "crazy" and not as a racial insult.'* The panel acknowledged that the word *'coconut'* can be construed as a racial insult, however, the panel considered the context in which Mrs Nelson was responding to a person who referred to someone as *'Miss coconut'* and suggested that they were fabricating stories and were *'a right psycho'*. In context, Mrs Nelson used the term *'coconut'* as a pejorative to refer to people she was implicitly calling *'crazy'*. Therefore, the panel found that this was not a racial comment but was a pejorative referring to the protected characteristic of disability and so was discriminatory and offensive.

Regarding the fourth comment set out in Schedule A, which makes reference to Mrs Nelson's *'lunatic neighbours'*, the panel considered that there were no racial undertones in

this comment. However, the panel considered that this comment is objectively discriminatory as there is reference to someone [PRIVATE]. The panel considered that this comment refers to the protected characteristic of disability in a derogatory way, and that there is no innocent explanation for making this comment. The panel considered that [PRIVATE] disability was a protected characteristic and such a comment was therefore discriminatory and offensive.

Regarding charge 2, the panel considered that these comments were discriminatory and offensive as they referred to a protected characteristic, namely religion. The panel considered that Mrs Nelson's comments in relation to a picture of a chicken wearing a hijab with the comment '*dressed to kill*' were encouraging discrimination towards a particular religion, specifically Islam. The image of the chicken linked those wearing hijabs to violence and was therefore discriminatory. The panel acknowledges that Mrs Nelson did not post the image, but indicated support for it in the comments by saying that she loved the comment and was laughing hysterically at it. The panel took into account Mrs Nelson's explanation that she did not see the image as having a racial connotation and denied that there was any discriminatory intent, but did not comment on whether it was offensive. Nevertheless, the panel considered that expressing positive support for an image which was discriminatory, is also discriminatory and offensive, as Mrs Nelson was encouraging posts which linked Muslims to acts of violence.

Regarding charge 3, the panel considered that there are no racial or discriminatory undertones in this comment. The panel however found Mrs Nelson's comment to be offensive by referencing a person's weight and calling them a '*lump of lard*'.

Regarding charge 4, the panel considered that this was a degrading matter brought about by a person's faith. The panel acknowledge Mrs Nelson's denial of this incident occurring and her representations that she is a registered nurse who is '*fully committed to maintaining patient confidentiality and professionalism*', however, the panel has found Charge 4 proved. The panel considered that Mrs Nelson's actions in this context were matters which humiliated and discriminated against the patient's faith. It considered that

there was no reason to mention the patient's faith and therefore identify the patient as a Muslim. The panel considered that this was discriminatory as Mrs Nelson was singling out a specific patient, who was Muslim, and so it went to the protected characteristic of religion. The panel considered that Mrs Nelson was emphasising the embarrassment and discomfort of a patient while stating that he was a Muslim. While the patient was not said to be present for this discussion, the panel considered that sharing the embarrassment and discomfort of a patient while singling him out as a Muslim was discriminatory and offensive.

Regarding charge 10, the panel considered that Mrs Nelson's comment regarding Person C was offensive. It considered that there is no innocent explanation for making this comment.

Regarding charge 11, the panel noted that Person C interpreted this comment to have racial undertones. The panel considered that this comment was offensive and racially motivated. The panel then considered that Person C's grandchildren are mixed race, and that '*monkey*' or terms to that effect can be used as a pejorative in respect of people of colour. Although the comment was directed at Person C, it was said in the presence of two mixed race children, and the word '*monkey*' would have been deliberately selected by Mrs Nelson. The panel considered this in light of its finding that Mrs Nelson had made a number of racially motivated comments during the course of her dispute with her neighbours. The panel considered that it was likely that a person who made racially motivated comments during the course of a neighbourhood dispute would continue to do so. Therefore, in all the circumstances, the panel considered that the comment was objectively racist, and so was racially motivated, discriminatory, and offensive.

### **Charge 13**

13. Your conduct at any or all of Charges 1 to 4 and 10 to 11 constituted bullying and/or harassment.

**This charge is found proved (in relation to charges 1, 3, 10, and 11)**

In reaching this decision, the panel considered each charge individually.

Regarding charge 1, the panel considered that Mrs Nelson's conduct constituted harassment. The panel considered that some of Mrs Nelson's comments made unwanted reference to the protected characteristics of race and religion. The panel also considered that Mrs Nelson's conduct had the purpose of violating the dignity of one of her neighbours, on one occasion saying that they were a waste of space.

Regarding charge 2, the panel considered that Mrs Nelson's conduct did not constitute bullying or harassment. The panel considered that Mrs Nelson's comment was said in response to something else and was not directed at a specific individual.

Regarding charge 3, the panel considered that Mrs Nelson's conduct constituted bullying. The panel had regard to the NMC guidance on misconduct (ref: FTP-2a) which describes bullying as:

*'unwanted behaviour from a person or a group of people that is either offensive, intimidating, malicious or insulting.'*

The panel noted that it hasn't heard from Person A in this case, and noted that Person A's evidence was not accepted as hearsay. The panel inferred by the context of the neighbourhood dispute that Person A and Mrs Nelson do not like each other, and so insults would be unwanted by either party. The panel considered that calling someone a *'lump of lard'* on multiple occasions is insulting and offensive. The panel further considered that repeatedly making offensive comments online about someone's weight would also constitute harassment.

The panel considered that the harassment in charges 1 and 3 taken together amounted to repeated comments which were racially motivated, offensive, and discriminatory against another.

Regarding charge 4, the panel considered that Mrs Nelson's conduct did not constitute bullying or harassment. The panel considered that Mrs Nelson's comment was said in response to something else and was not directed at a specific individual.

Regarding charges 10 and 11, the panel considered that Mrs Nelson's conduct constituted bullying and harassment. The panel considered that Mrs Nelson's comments were insulting and offensive. It considered that calling someone a prostitute, and insulting them in front of their grandchildren, with racial undertones, amounts to bullying and harassment.

The panel therefore found this charge proved in relation to charges 1, 3, 10, and 11.

### **Fitness to practise**

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mrs Nelson's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the

circumstances, Mrs Nelson's 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. [...] it is not any professional misconduct which will qualify. The professional misconduct must be serious.*'

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

Ms Knight identified the specific, relevant standards where Mrs Nelson's actions amounted to misconduct. Ms Knight submitted that the charges found proved in this case are all examples of behaviour which is either racially motivated, discriminatory, or offensive. Ms Knight further submitted that in relation to charges 1, 3, 10, and 11, the panel found that Mrs Nelson's actions constituted bullying or harassment. She submitted that despite these incidents occurring in Mrs Nelson's private life, they raise fundamental concerns about Mrs Nelson's ability to uphold the standards of the nursing profession.

### **Submissions on impairment**

Ms Knight 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 case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).



Ms Knight submitted that there is no evidence that any patients have come to any actual harm as a result of Mrs Nelson's actions. However, Ms Knight submitted that because of the nature of the views that Mrs Nelson has expressed, there is a risk of patient harm, including psychological harm, for example if a patient were to see or hear Mrs Nelson expressing her personal views in a clinical environment, or if they were to see this being posted on social media.

Ms Knight submitted that Mrs Nelson has breached fundamental tenets of the nursing profession, and brought the nursing profession into disrepute. Ms Knight submitted that making discriminatory comments inside or outside of professional practice represents a serious concern which may be difficult to put right and can be indicative of a deep-seated attitudinal concern.

Ms Knight submitted that Mrs Nelson has demonstrated a lack of remorse and insight into her behaviour. She submitted that the concerns in this case do not relate to Mrs Nelson's clinical practice, and are instead behavioural and attitudinal. Ms Knight submitted that this behaviour is not something that can be easily remedied. She therefore submitted that there is a risk of repetition and a consequent risk of harm. Ms Knight invited the panel to make a finding of current impairment on the ground of public protection.

Ms Knight submitted that a finding of current impairment is also necessary on the ground of public interest to mark the unacceptability of Mrs Nelson's behaviour, to uphold proper professional standards of conduct and behaviour, and to maintain public confidence in the nursing profession. She submitted that public confidence in the nursing profession would be undermined if a finding of impairment were not made on the ground of public interest

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments.

## **Decision and reasons on misconduct**

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

The panel was of the view that Mrs Nelson's actions did fall significantly short of the standards expected of a registered nurse, and that Mrs Nelson's actions amounted to a breach of the Code. Specifically:

***'20 Uphold the reputation of your profession at all times***

*To achieve this, you must:*

***20.1 keep to and uphold the standards and values set out in the Code***

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

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

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

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

***20.10 use all forms of spoken, written and digital communication (including social media and networking sites) responsibly, respecting the right to privacy of others at all times'***

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 Mrs Nelson's professionalism has been called into question. It had regard to its previous finding that Mrs Nelson's conduct constituted discrimination, bullying, and harassment. The panel acknowledged that these incidents occurred outside of Mrs Nelson's professional practice, however it considered that there are standards in which registered nurses should conduct themselves. The panel had regard to the NMC guidance on misconduct (ref: FTP-2a) which emphasised that nurses must treat people fairly and without discrimination, bullying or harassment at all

times. As the facts found proved amounted to discrimination, bullying, and harassment, the panel considered that this conduct, whilst occurring outside of professional practice, breached fundamental tenets of the nursing profession and called into question Mrs Nelson's ability to uphold the Code, which she ought to be aware of as a registered nurse. The panel found that Mrs Nelson's actions did fall seriously short of the conduct and standards expected of a registered nurse and amounted to misconduct.

## **Decision and reasons on impairment**

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

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 February 2024, which states:

*'The question that will help decide whether a professional's fitness to practise is impaired is:*

*"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"*

*If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.'*

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

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

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

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

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

The panel considered that there is no evidence before it that any patients were caused harm as a result of Mrs Nelson's misconduct. However, the panel considered that Mrs Nelson made a series of offensive discriminatory comments which included racially motivated remarks and a suggestion that those with [PRIVATE] were *'better off dead.'* The

panel considered that the facts found proved, in totality, demonstrate that Mrs Nelson holds deep-seated attitudinal discriminatory views. The panel considered this did pose a risk of harm to patients. Firstly, as some of the comments were publicly accessible, a patient could come across the comments and be hurt or offended by their contents. Secondly, the panel concluded that there was a risk that a person who holds such beliefs may discriminate against patients who are of different racial or religious backgrounds, or have [PRIVATE]. The panel had regard to the NMC guidance on misconduct which indicated that discriminatory attitudes could have a direct impact on the quality of care provided.

While the panel acknowledged the positive testimonials, which indicated that there were no concerns about Mrs Nelson's professional practice, the facts found proved demonstrate that Mrs Nelson has expressed these views in an offensive, derogatory, and discriminatory manner. While there is no evidence that Mrs Nelson has expressed her views, or acted in a way which has put patients at risk in the past, the panel considered that the presence of these views poses a risk to the quality of healthcare she may provide. Consequently, there is a risk of harm to patients although there are no reported concerns about her professional practice.

The panel considered the factors set out in the case of *Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin) when determining whether or not Mrs Nelson has taken steps to strengthen her practice. That is:

*'Whether the misconduct is easily remediable;*

*Whether it has in fact been remedied;*

*Whether it is therefore highly unlikely to be repeated'*

In answer to whether the misconduct is easily remediable, the panel concluded that it is not easily remediable. It was of the view that the misconduct is capable, in principle, of being addressed, but with difficulty. As the misconduct is attitudinal in nature, the panel

was of the view that it would require a significant change of Mrs Nelson's mindset and much work on her part, in order to address and remedy the misconduct.

In answer to whether the misconduct has been addressed and remedied, the panel considered that it had not been. The panel acknowledged that Mrs Nelson's misconduct had occurred in the context of a bitter and protracted neighbourhood dispute, and that in such situations individuals may say or do things they later came to regret. It also noted that Mrs Nelson had also expressed some regret for some of her posts. However, the panel considered that there is limited evidence before it to suggest that Mrs Nelson has taken steps to remediate the concerns. It considered that there is limited evidence before it of any insight, remorse, or reflection by Mrs Nelson. The panel also considered that there is no evidence before it of any relevant training undertaken by Mrs Nelson to address the concerns in this case.

Regarding insight, the panel considered that Mrs Nelson has limited insight as she has not demonstrated an understanding of the impact of her actions and their potential to put patients at a risk of harm. The panel was of the view that Mrs Nelson has not demonstrated an understanding of how her misconduct has impacted negatively on the reputation of the nursing profession. The panel considered the positive testimonials provided by Mrs Nelson's professional colleagues, managers, and people in her personal life, who indicated that they were aware of the allegations that Mrs Nelson faces, and the certificates evidencing training completed by Mrs Nelson. However, the panel considered that these testimonials and certificates do not go to the underlying concerns that have been identified in this case. The panel determined that Mrs Nelson has demonstrated limited insight into her misconduct and has not remediated it.

In answer to whether the misconduct is highly unlikely to be repeated, the panel is of the view that there is a risk of repetition and consequent risk of harm as there is a lack of evidence before the panel to suggest that the misconduct in this case has been addressed or remediated. The panel therefore decided that a finding of impairment is necessary on the ground of public protection.

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 concluded that public confidence in the nursing profession would be undermined if a finding of impairment were not made in this case. The panel considered that a member of the public would be shocked and troubled to learn that a registered nurse had displayed racial and discriminatory behaviour through social media, and had bullied and harassed others. Indeed, a member of the public may be hesitant to access healthcare if they were aware that a registered nurse, who made racially motivated comments, and engaged in discriminatory conduct was permitted to practise without regulatory action having been taken. A person with [PRIVATE] may be uncomfortable accessing healthcare, if they knew that the registered nurse treating them had publicly expressed views that suggested people with [PRIVATE] are a '*waste of space*' and '*better off dead.*' This member of the public may worry that nurses are not respectful of their humanity, and so may have no confidence that they would be treated with respect, kindness, and compassion.

Therefore, a finding of impairment is necessary to reinforce to the public that the fundamental tenets of the nursing profession must be respected by registered professionals, in their private and professional lives. Moreover, a finding of impairment is necessary to communicate to the profession at large that harassing, bullying, and discriminating against others is completely unacceptable and will result in regulatory action being taken.

The panel further considered the NMC guidance on impairment (ref: DMA-1) which indicated that some concerns are so serious that a finding of impairment is required to uphold proper professional standards and maintain public confidence in the profession.

Included in the examples of this is *'discriminatory behaviours such as racism, sexism, homophobia or any other types of discrimination.'* As Mrs Nelson has been found to have engaged in discriminatory and racially motivated conduct, the panel considered that this was an example of a serious case where a finding of impairment was necessary to mark that discriminatory attitudes and racially motivated conduct in healthcare are intolerable.

Therefore, the panel therefore also finds Mrs Nelson's fitness to practise impaired on the ground of public interest.

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

## **Sanction**

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

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

## **Submissions on sanction**

Ms Knight referred the panel to the NMC guidance on sanctions and guidance on particularly serious cases (ref: SAN-2), specifically the sections concerning discrimination. Ms Knight submitted that taking no action or imposing a caution order would be inappropriate in this case given the seriousness of the misconduct identified.



Ms Knight submitted that a conditions of practice order would be inappropriate as the NMC's position is that there are no practical, workable, or measurable conditions that can be formulated to manage the deep-seated attitudinal issue that the panel has identified.

Ms Knight submitted that a suspension order would not be appropriate given the panel's finding of a deep-seated attitudinal concern.

Ms Knight submitted that a striking off order is the only appropriate and proportionate sanction in this case given the seriousness of Mrs Nelson's misconduct, and the identification of a deep-seated attitudinal concern which may be difficult to remediate. Ms Knight submitted that a striking off order is the only appropriate sanction that will be sufficient to protect patients and members of the public, and maintain professional standards.

The panel accepted the advice of the legal assessor.

### **Decision and reasons on sanction**

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

The panel took into account the following aggravating features:

- Deep-seated attitudinal concerns
- Limited insight into misconduct
- A pattern of racially motivated, discriminatory, and offensive misconduct over a period of time

- Conduct which had the potential to put people at risk of suffering harm

The panel also took into account the following mitigating features:

- Some regret expressed by Mrs Nelson
- Personal mitigation including caring responsibilities, and that this was a long-standing neighbourhood dispute
- Positive character testimonials indicating a long-standing history of effective practice

The panel acknowledges Mrs Nelson has expressed some regret, the panel considered that this did not extend much further than acknowledging the comments on social media were made as a result of distress. The panel considered that this is limited regret, and does not acknowledge the full extent of her conduct. Consequently, the panel did not assign this factor much weight. Similarly, the panel acknowledges Mrs Nelson's personal circumstances and previous history of effective practice, but do not consider they provided much mitigation in light of the concerns raised.

The panel afforded significant weight to the evidence of deep-seated attitudinal concerns related to discrimination, because these deep-seated concerns are contrary to core values of the Code. The panel also considered that the misconduct created a risk of harm to others, which is of significant concern in light of the objective to protect the public.

In all the circumstances, the panel identified that Mrs Nelson has displayed discriminatory views and behaviours. Mrs Nelson has made racially motivated comments, both online and in-person, suggested that those with [PRIVATE] do not deserve to live, and discriminated against race, religion, and disability. The panel considered the NMC guidance on sanctions for particularly serious cases (ref: SAN-2) which indicates that cases of a registered professional exhibiting discriminatory views and behaviours are particularly serious. This is because they may have a particularly negative impact on public safety, public confidence or professional standards. Indeed, the guidance suggests

that in cases related to discrimination, restrictive regulatory action may be necessary against nurses who have displayed discriminatory views and behaviours and have not demonstrated comprehensive insight, remorse and strengthened practice. In the circumstances Mrs Nelson has denied there is a concern, and has not demonstrated comprehensive insight, remorse, or strengthened practice. Therefore, the panel concluded that this is a particularly serious case of misconduct

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

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

The panel next considered whether placing conditions of practice on Mrs Nelson's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be easily addressed through retraining as there are no concerns regarding Mrs Nelson's clinical practice, and the concerns are behavioural and attitudinal in nature. Furthermore, the panel concluded that the placing of conditions on Mrs Nelson's registration would not adequately address the seriousness of this case and would not protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*
- ...
- ...

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel went through each of the relevant factors which might make a suspension order appropriate. The panel considered that this was not a single instance of misconduct, but was repeated over a number of years. The panel had regard to its previous finding that Mrs Nelson's misconduct demonstrated deep-seated attitudinal issues. Whilst the panel accepted that there was no evidence of subsequent repetition, it was not satisfied that Mrs Nelson had insight such that she did not pose a significant risk of repeating the behaviour. In fact, it noted its findings at the impairment stage, to the effect that as Mrs Nelson had only limited insight and had taken no steps to remediate her misconduct, there was a risk of repetition. Given that many of the factors that may make a suspension order the appropriate sanction were not present in this case, the panel went on to consider the factors that may make a strike off the appropriate and sufficient order.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

Mrs Nelson's actions were significant departures from the standards expected of a registered nurse. The panel was of the view the regulatory concerns raise fundamental questions about Mrs Nelson's professionalism, and that the findings in this particular case demonstrate that Mrs Nelson's actions were serious and to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body. The panel considered that public confidence in the nursing profession and the NMC as the regulator cannot be maintained unless Mrs Nelson is struck off the register. In all the circumstances, the panel concluded that Mrs Nelson's misconduct, and lack of any meaningful steps to address it, were fundamentally incompatible with her remaining on the register.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Mrs Nelson's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves, the panel has concluded that nothing short of this would be sufficient in this case.

The panel had regard to the principle of proportionality and acknowledged the impact that a striking off order will have on Mrs Nelson as she will no longer be able to practise as a registered nurse. However, the panel considered that a striking off order was necessary to protect the public, maintain public confidence in the nursing profession, and to send a clear message to the public and the profession about the standard of behaviour required of a registered nurse. The panel was satisfied that the significant public protection and

public interest considerations identified in this case outweighed Mrs Nelson's own interests.

This will be confirmed to Mrs Nelson in writing.

### **Interim order**

As the striking-off order cannot take effect until the end of the 28-day appeal period, or, if Mrs Nelson appeals, once the appeal has been heard or otherwise disposed of, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Mrs Nelson's own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

### **Submissions on interim order**

The panel took account of the submissions made by Ms Knight. She submitted that an interim order is necessary to protect the public and meet the public interest. Ms Knight invited the panel to impose an interim suspension order for a period of 18 months to allow time for any possible appeal.

The panel accepted the advice of the legal assessor.

### **Decision and reasons on interim order**

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order. The panel considered that it had identified a risk of harm to patients which had not been addressed or remediated.

Accordingly, the panel was satisfied that an interim order was necessary to protect the public from that risk of harm during the appeal period. As there is a risk of harm, the panel further considered that an interim order would be necessary to maintain public confidence in the profession. As to allow a registrant to practice when they pose a discernible risk of harm to patients, would indicate to the public that the profession was not being effectively regulated, and that their safety was not being properly considered.

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 allow time for any possible appeal.

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

That concludes this determination.