

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

**Substantive Hearing  
Thursday 7 August – Friday 22 August 2025  
Monday 11 May- Wednesday 13 May 2026**

Nursing and Midwifery Council  
2 Stratford Place, Montfichet Road, London, E20 1EJ

**Name of Registrant:** Helen Oluyemisi Balogun

**NMC PIN:** 08L0310E

**Part(s) of the register:** Nurses part of the register Sub part 1  
RNMH: Mental health nurse, level 1 (28 April 2009)

**Relevant Location:** London

**Type of case:** Misconduct

**Panel members:** Des McMorrow (Chair, Registrant member)  
Sarah Morgan (Registrant member)  
Christopher Bithell (Lay member)

**Legal Assessor:** John Moir (7-22 August 2025)  
Tracy Ayling KC (11-14 May 2026)

**Hearings Coordinator:** Anya Sharma (7-8 and 13-22 August 2025)  
Ekaette Uwa (12 August 2025)  
Eidvile Banionyte (11-14 May 2026)

**Nursing and Midwifery Council:** Represented by Amy Taylor, Case Presenter

**Mrs Balogun:** Present and represented by Alice Byron,  
Counsel instructed by the Royal College of  
Nursing (RCN)

**Facts proved (by admission):** Charge 4

**Facts proved:** Charges 1a, 1b, 3, 5, 6a, 6b, 6d, 6e, 6f, 7, 8a,  
and 8b

<b>Facts not proved:</b>	Charges 2, 6c, 6g, 6h, 8c, 8d and 8e
<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 application to amend the charge

The panel heard an application made by Ms Taylor, on behalf of the Nursing and Midwifery Council (NMC), to amend the wording of charges 4, 5, 6 and 7 under Rule 28(1)(a).

Ms Taylor provided the panel with a document which included the proposed drafted amendments for charges 4, 5, 6 and 7. She submitted that the proposed charges do not include any new information that is not already present within the NMC exhibit bundle, which had been shared with you and the RCN in advance of this substantive hearing.

Ms Taylor invited the panel to consider the NMC Guidance on General approach to charging, Reference PRE-2B, Last Updated 1 October 2024.

It was submitted by Ms Taylor that, in relation to these proceedings, the proposed amendments can be made without injustice to you; and they would provide clarity and more accurately reflect the evidence. Ms Taylor submitted that if the amended charges were to be found proved by the panel, it would allow the panel to deal appropriately with the issues of impairment and sanction.

The proposed amendments are as follows:

4. On an unknown date before June 2023, during a handover, referred to a patient **or a patient's partner** as being "half-caste"
5. Your conduct at charge 4 above displayed a discriminatory attitude towards a patients-**and/or another** based on the grounds of race.

6. On various dates in 2023 harassed Colleague 1 by engaging in the following unwanted conduct which had the effect of creating an intimidating/hostile/degrading/humiliating or offensive environment for Colleague 1:

**a) On an unknown date in 2023, whilst in the presence of Colleague 1, sang Christian hymns**

~~a)~~ **b)** On an unknown date in 2023, told Colleague 1 that “Jews don’t believe in Jesus” or “Jews not accepting Jesus” or words to that effect;

~~b)~~ **c)** On unknown dates, on one or more occasions, in the presence of Colleague 1, said the word “Juda” when a member of staff of Ethiopian origin, entered a room;

~~c)~~ **d)** Ignored and/or refused to speak to Colleague 1;

~~d)~~ **e)** Was dismissive of Colleague 1;

~~e)~~ **f)** Raised your voice to Colleague 1;

~~f)~~ **g)** Raised your voice when telling Colleague 1 what to do;

~~g)~~ **h)** Called Colleague 1 a “hypocrite” or words to that effect.

7. Your conduct at Charge 6a and/or Charge 6b **and/or Charge 6c** above was motivated by a discriminatory attitude towards Colleague 1 based on the grounds of race and/or religion.

Ms Byron submitted that the NMC’s application to add a sub charge at this late stage, despite having this information previously and having chosen not to charge this matter previously, gives rise to some degree of injustice to a registrant and also significant stress.

Ms Byron referred the panel to the NMC Guidance on General approach to charging and invited it to have regard to the issue of injustice in consideration of the matter of proportionality. She submitted that the mischief that is alleged as a new charge 6a) is already covered by the previous existing charge 6a) and 6b), namely discriminatory behaviour towards Colleague 1 on the basis of her religion. Ms Byron submitted that the panel will also hear evidence from Colleague 1 in relation to these concerns in due course.

Ms Byron referred the panel to the following extracts within the NMC Guidance on General approach:

*Over-charging a case (including factual assertions which are unnecessary or oppressive) adds unnecessary complications to a hearing, and may be procedurally unfair.*

*Where there are multiple examples of assertions relating to the nurse, midwife or nursing associate's conduct, we want to ensure that the charges we ask the Fitness to Practise Committee to make a decision about are necessary and proportionate.*

*Proportionate charging means we should select for charging those assertions which:*

- *properly reflect the seriousness of the conduct alleged;*
- *reflect the period of time over which the alleged conduct has occurred; and*
- *if found proved, allow the Committee to deal appropriately with issues of impairment and sanction.*

Ms Byron then addressed the panel in relation to the above bullet points. In relation to the first bullet point, she submitted that the charges that are already before the panel at charges 6a and 6b properly reflect the seriousness of the conduct alleged by Colleague 1. In relation to the second bullet point, she submitted that the period of time is uncertain and the evidence in relation to this is wide but should be taken as relevant. In relation to the third bullet point, Ms Byron invited the panel to ask itself if this charge is found proved what difference would it make, or what necessity is there to have this additional charge and when considering the issues of impairment and sanction, would it change the shape of the case so significantly that it needs to be a standalone charge.

*This approach means there may be evidence in our possession which could amount to misconduct but in respect of which we will not lay any charges because it would not be proportionate to do so. The decision not to include a charge which could amount to misconduct needs to be taken with considerable care; any evidence relating to matters not charged should not be included in the evidence bundle for the hearing or will need to be redacted out of the bundle. This means we won't be overcharging and will avoid the hearing becoming unnecessarily lengthy and complicated.*

Ms Byron submitted that the issues relating to Colleague 1's evidence are numerous and distinct, and there are a number of matters for the panel to grapple with. She submitted that to add this charge at this stage would make the hearing unnecessarily lengthy and complicated. She submitted that when considering the merits of this case, the panel already has before it conflicting witness statements.

Ms Byron submitted that amending this charge at such late notice and where allowing the proposed amendments would give rise to the mischief alleged being overcharged, these proposed amendments cannot be made without injustice.

Ms Byron submitted that whilst there is no objection to the proposed amendments in respect of charges 4 and 5, charge 5 could also be amended to read: your conduct at charge 4 above displayed a discriminatory attitude based on the grounds of race to avoid potentially complicated wording.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel was of the view that the amendments, as applied for, were in the interests of justice. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendments being allowed. The panel was also of the view that the proposed amendments are important for the context of the

charges and would potentially be important, if found proved, in terms of misconduct, impairment and sanction. It was therefore appropriate to allow the amendments, as applied for, to ensure clarity and accuracy.

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

Ms Byron made a request that this case be held partly in private as and when there is any reference to the health or personal circumstances of any witnesses. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms Taylor indicated that she did not oppose the application.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined to go into private session in connection with the health and personal circumstances of witnesses as and when such issues are raised.

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

That you, a Registered Nurse:

1. On separate and unknown dates before June 2023, during handovers, made the following comments about Patient A:
  - a) That they were being "cheap and tight and that was typical as he is Jewish" or words to that effect;
  - b) That they were "being cheap as he is Jewish" or words to that effect.

2. On an unknown date in 2023, made a comment that a patient “is a Jew. He is a devil” or words to that effect.
3. Your conduct at Charge 1a) and /or Charge 1b) and/or Charge 2 displayed a discriminatory attitude towards patients based on the grounds of race and/or religion.
4. On an unknown date before June 2023, during a handover, referred to a patient or a patient’s partner as being “half-caste”.
5. Your conduct at Charge 4 above displayed a discriminatory attitude towards a patient and or another based on the grounds of race.
6. On various dates in 2023 harassed Colleague 1 by engaging in the following unwanted conduct which had the effect of creating an intimidating/hostile/degrading/humiliating or offensive environment for Colleague 1:
  - a) On an unknown date in 2023, whilst in the presence of Colleague 1, sang Christian hymns
  - b) On an unknown date in 2023, told Colleague 1 that “Jews don’t believe in Jesus” or “Jews not accepting Jesus” or words to that effect;
  - c) On unknown dates, on one or more occasions, in in the presence of Colleague 1, said the word “Juda” when a member of staff of Ethiopian origin, entered a room;
  - d) Ignored and/or refused to speak to Colleague 1;
  - e) Was dismissive of Colleague 1;
  - f) Raised your voice to Colleague 1;
  - g) Raised your voice when telling Colleague 1 what to do;

h) Called Colleague 1 a “hypocrite” or words to that effect.

7. Your conduct at Charge 6a and/or Charge 6b) and/or charge 6c) above was motivated by a discriminatory attitude towards Colleague 1 based on the grounds of race and/or religion.
  
8. On various dates between September 2022 and June 2023 harassed Colleague 2 by engaging in the following unwanted conduct which had the effect of creating an intimidating/hostile/degrading/humiliating or offensive environment for Colleague 2:
  - a) Snatched a form from Colleague 2’s hand;
  - b) After snatching a form, instructed another member of staff “to just do it, don’t listen to Colleague 2.” or words to that effect;
  - c) Shouted at Colleague 2;
  - d) Called Colleague 2 “a silly girl” or words to that effect;
  - e) Called Colleague 2 a “hypocrite” or words to that effect.

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

### **NMC Opening**

Ms Taylor provided the panel with the background to the case and referred it to the relevant parts of the NMC bundles.

You joined the NMC register on 28 April 2009 and commenced employment with the Priory Group on 9 November 2009. The NMC received a referral from the Priory Group on 4 December 2023 following a local investigation. There are several incidents that are said

to have taken place on various dates prior to June 2023. It is alleged that you made antisemitic comments about a patient on a number of separate occasions and that this occurred in the presence of Colleague 1. It is the NMC's case that these comments show a discriminatory attitude towards patients based on the grounds of race and religion. Further, in respect of charge 4, which has been admitted, it is the NMC's case that this too shows a discriminatory attitude towards people on the grounds of race.

It is also alleged that you engaged in conduct which had the effect of creating an environment that is intimidating, hostile, degrading, humiliating or offensive, in respect of Colleague 1. It is further alleged that you made remarks to, and ignored, Colleague 1, acted in a dismissive way towards them and raised your voice at them. You are also alleged to have sung Christian hymns and referred to Jews not believing in Jesus, and said the word 'Juda' whenever a certain member of staff entered the room and that those actions were motivated by a discriminatory attitude towards Colleague 1 on the grounds of race or religion.

The final charges relate to your alleged conduct directed towards Colleague 2, including snatching forms out of Colleague 2's hand, shouting at Colleague 2 and calling Colleague 2 a 'silly girl' and a 'hypocrite'.

Ms Taylor informed the panel that several witnesses will be called to give oral evidence on behalf of the NMC.

#### **Decision and reasons on application to admit written statement of Witness 4**

The panel heard an application made by Ms Taylor under Rule 31 to allow the written statement of Witness 4 into evidence. Witness 4 was not present at this hearing and, whilst the NMC has made sufficient efforts to ensure that this witness was present, Witness 4 has informed the NMC that they do not wish to attend the hearing to give evidence at this time.

Ms Taylor submitted that it is the NMC's case that Witness 4's witness statement is both relevant and fair and therefore should be admitted into evidence.

Ms Taylor informed the panel that the NMC had put you on notice of the witness difficulties and by doing so have gone beyond what is required as it is a matter for the regulator as to how it gets its witnesses to a hearing, and if a witness does not attend, to then make a hearsay application. She submitted that there has been no unfairness caused to you as to keeping you informed regarding the difficulties with Witness 4. Ms Taylor referred the panel to the NMC hearsay bundle, which sets out the efforts made by the NMC to secure the attendance of Witness 4.

Ms Taylor referred the panel to the cases of *Thorneycroft v NMC [2014] EWHC 1565 (Admin)*, *2014 WL 8663529*, *Mansaray v NMC [2023] EWHC 730 (Admin)*, *2023 WL 02715713* and *El Karout v NMC [2020] EWHC 3079 (QB)*, *2020 WL 06728944*.

Ms Taylor also referred the panel to the NMC Guidance on Evidence, Reference DMA-6, Last Updated 9 June 2025.

Ms Taylor submitted that the evidence of Witness 4 is relevant and goes to charges 1a), 1b), 6d), 6e), 6f) and 6g), and that it would be fair to admit this evidence. She submitted that there are several matters that the panel should take into account, as set out in *Thorneycroft*:

- (i) whether the statements were the sole or decisive evidence in support of the charges;*
- (ii) the nature and extent of the challenge to the contents of the statements;*
- (iii) whether there was any suggestion that the witnesses had reasons to fabricate their allegations;*
- (iv) the seriousness of the charge, taking into account the impact which adverse findings might have on the Appellant's career;*

- (v) whether there was a good reason for the non-attendance of the witnesses;*
- (vi) whether the Respondent had taken reasonable steps to secure their attendance; and*
- (vii) the fact that the Appellant did not have prior notice that the witness statements were to be read.*

Ms Taylor then addressed the panel in respect of the seven matters set out in *Thorneycroft*. In respect of (i), she submitted that in this case, the evidence of Witness 4 is not sole or decisive in support of the relevant charges that they speak to. Ms Taylor submitted that there is evidence from Colleague 1, Witness 2 and Witness 4, as well as your own admissions, the local investigation interview and the disciplinary hearing notes and reflective accounts which support the charges that Witness 4's evidence relates to.

In respect of (ii), Ms Taylor submitted that the contested nature of some of the evidence has somewhat come to light during cross examination of other witnesses but set out that Ms Bryon would be best placed to address the panel on this point.

In respect of (iii), Ms Taylor submitted that it has been suggested in your local investigation interview, disciplinary hearing notes, reflective accounts and during the cross examination that Colleague 1 and Colleague 2 had spoken together and fabricated their allegations against you. Ms Taylor submitted that there does not appear to be a suggestion in the documents pertaining to you and the exhibits, interview notes and reflections to suggest that Witness 4 also collaborated with Colleague 1 and Colleague 2 to fabricate their allegations. She submitted that it is however appreciated that this is likely your account and not referenced in the papers before the panel. The allegations in relation to charge 1 are also accepted by you on the basis that it was 'words to that effect'.

In respect of (iv), Ms Taylor submitted that these charges are serious and relate to a discriminatory attitude based on the grounds of race and religion and engaging in unwanted conduct that had the effect of creating an intimidating hostile, degrading or offensive environment in respect of Colleague 1.

In respect of (v), Ms Taylor submitted that there is no good reason provided as to the non-attendance of Witness 4. She submitted that Witness 4 had engaged with the NMC process, had provided a witness statement and there had been no suggestion beforehand that Witness 4 would not have been further supportive of the NMC proceedings. Ms Taylor submitted that it was unfortunate that the email from the NMC to Witness 4 confirming the hearing dates was sent to her work email address in May 2025, and they had left that employment in March 2025. There was no bounce back email or automated replies stating that Witness 4 had left that employment. Ms Taylor submitted that, despite more recent attempts to have Witness 4 attend the hearing, it is clear from the telephone note dated 13 August 2025 that Witness 4 did not wish to engage at this stage.

In respect of (vi), Ms Taylor submitted that it can be seen from the hearsay bundle that attempts have been made by the NMC to obtain contact details for Witness 4 when it became aware that they were no longer working at the Priory Group, which were eventually successful. On 8 August 2025, the NMC Case Coordinator spoke to Witness 4 to explain the situation. Ms Taylor submitted that this was not a witness that the NMC had any prior concerns about in relation to their engagement with the process, given that they had provided the signed statement and there was no suggestion that they would not attend to give oral evidence. When the NMC Case Coordinator spoke with Witness 4 on 8 August 2025 via email, Witness 4 appeared fairly positive but asked to read her statement first before she got back to the NMC.

Ms Taylor submitted that whilst the NMC has considered all of the options available at this stage, the hearsay application would be the most appropriate option going forward. She submitted that other options include a witness summons, which could put this hearing in jeopardy of concluding in time.

In respect of (vii), Ms Taylor submitted that you were put on notice of the witness difficulties on day 1 of the hearing and that there has been no unfairness to you.

In light of all these factors, Ms Taylor invited the panel to admit the evidence of Witness 4.

Ms Byron referred the panel to the NMC hearsay bundle. She set out that it is before the panel that Witness 4 signed a witness statement on 27 June 2024. She submitted that whilst an email dated 30 December 2024 can be seen within the bundle with some questions from an NMC Case Coordinator sent to Witness 4, there is no evidence of any response to this email in the bundle. Ms Byron submitted that chronologically, the NMC was subsequently told that Witness 4 had left the Priory Group in March 2025. She referred the panel to emails within the hearsay bundle sent to Witness 4 dated 28 May 2025, 17 July 2025 and 29 July 2025 with no response received by Witness 4.

Ms Byron submitted that the inference can be drawn that Witness 4 left the Priory Group in March 2025 and therefore did not receive these emails, but there is nothing before the panel to satisfy it that any action was taken by the NMC at any time in respect of this until 6 August 2025, a day before the substantive hearing was due to start. She submitted that it would have been clear to the NMC that there may have been an issue with Witness 4, given that the NMC had not heard from Witness 4 since June 2024.

Ms Byron set out that the NMC was provided with Witness 4's personal email address on 8 August 2025, when this hearing had already commenced. In response to an email from the NMC, Witness 4 indicated they would read their statement and get back to them, but nothing further. Within the bundle, a telephone note dated 13 August 2025 sets out that Witness 4 spoke to the NMC and declined to give evidence, with no reason given. Ms Byron submitted that it is not apparent whether Witness 4 was asked for any reason, but it can be seen that Witness 4 was offered support and possible other options, including directions and summons to attend the hearing and Witness 4's response was still no.

Ms Byron invited the panel to consider the following principles set out in *NMC v Ogbonna* [2010] EWCA Civ 1216 and *R (Bonhoffer) v GMC* [2012] IRLR 37 and made the following submissions:

1. *The admission of the statement of an absent witness should not be regarded as a routine matter and the Fitness to Practise (FTP) rules require the Panel to consider the issue of fairness before admitting the evidence.*

Ms Byron submitted that fairness is the crucial and central part when considering your case and the potential admission of this evidence.

2. *The fact that the absence of the witness can be reflected in the weight to be attached to their evidence is a factor to weigh in the balance, but will not always be a sufficient answer to the objection to admissibility.*

Ms Byron submitted that although the panel will be mindful of weight to attach to evidence, in the circumstances where it is such a highly disputed matter and there is already conflicting evidence before this panel, the balancing exercise in attributing weight in this matter would not sufficiently remedy a missing witness and the hearsay account should not be admitted.

3. *The existence or otherwise of a good and cogent reason for the non-attendance of the witness is an important factor. However the absence of a good reason does not automatically result in the exclusion of the evidence.*

Ms Byron submitted that there is no good and cogent reason for Witness 4's non-attendance and invited the panel not to speculate as to why Witness 4 has not attended.

4. *Where such evidence is the sole or decisive evidence in relation to the charges, the decision whether or not to admit requires the Panel to make a careful assessment, weighing up the competing factors. The assessment should involve a consideration of the issues in the case, the other evidence to be called and the potential consequences of admitting the evidence and the Panel must be satisfied having undertaken this assessment that, either the evidence is demonstrably reliable or that there is some means of testing its reliability.*

Ms Byron submitted that Witness 4's witness statement falls short on both claims. She submitted that it is not demonstrably reliable and there is no other means of testing its reliability in Witness 4's absence without the opportunity to cross examine their account.

Ms Byron then made submissions to the panel on the factors set out in *Thorneycroft*. She submitted that when considering Witness 4's witness statement, there is reference to two issues. In respect of the inappropriate comments, it is accepted that Witness 4's witness statement is not the sole evidence in respect of those comments, and the panel has heard evidence from other witnesses. In respect of whether Witness 4's statement is decisive, Ms Byron submitted that the panel has heard two interpretations of the words that you used in the meeting that underpins charge 1a). She set out that the panel also has your admission as to what was said and submitted that Witness 4's witness statement provides another alternative form of words, which could be a decisive factor for the panel when considering this charge.

Ms Byron submitted that the bullying allegations against Colleague 1 are set out in Witness 4's statement, and that the panel has received evidence around this general theme and it has been introduced by other witnesses. She submitted that there are however allegations raised by Witness 4 that appear only in her witness statement and are sole and decisive.

Ms Byron set out that this application comes at the close of the evidence given by all of the other NMC witnesses and it does not come as a surprise that there is a high degree of challenge to the statement. She submitted that due to this, the panel may query contents of Witness 4's witness statement and why a healthcare assistant who said she only worked with you twice also asserts that she would always be working alongside Colleague 1 when she was allegedly bullied. Ms Byron submitted that these are matters which in the absence of the opportunity to challenge Witness 4, the panel will not be able to litigate and come to a decision on and this goes to admissibility. She submitted that it would be wrong to assume that there would be little challenge to Witness 4's witness statement simply

because they comment on charges which you have made admissions to, which have not been formally accepted by the panel.

Ms Byron submitted that there are concerns in relation to whether Witness 4 had reason to fabricate the allegations. She submitted that the panel have heard evidence as to the division between the nursing staff and healthcare assistants and day shift and night shift, as well as tension in the workplace. Ms Byron submitted that fabrication by healthcare assistants is an issue in this case and ought to be properly considered.

Ms Byron submitted that the allegations of bullying and holding discriminatory views in this case are extremely serious for someone who is a nurse and significant care should be applied when scrutinising the admission of hearsay evidence.

Ms Byron submitted that there is no good reason for the non-attendance of Witness 4, and they have made it clear they did not wish to attend and have no intention of supporting the NMC's case. She submitted that given that there is no evidence of reciprocal contact between Witness 4 and the NMC between December 2024 and 6 August 2025, it is not fair to say that reasonable steps have been taken by the NMC, just because some steps have been taken to contact Witness 4 after this hearing has started. Ms Byron submitted that the steps that were taken by the NMC were simply too late, and that nothing was done in anticipation of this hearing.

Ms Byron submitted that there was no prior notice given that Witness 4's witness statement was to be read, and a case conference was held on 23 July 2025 where no issues were raised about Witness 4's attendance at this hearing.

Taking all of these factors into account, Ms Byron submitted that to admit the witness statement of Witness 4 would be fundamentally unfair.

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 4 serious consideration. The panel noted that Witness 4'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 also considered whether you would be disadvantaged by the change in the NMC's position of moving from reliance upon the live testimony of Witness 4 to that of a written statement.

The panel considered that you and your representative have been provided with a copy of Witness 4's statement in advance of this substantive hearing, and that these are therefore not matters of which you were unaware. The panel was also of the view that, when considering all of the evidence before it, Witness 4's evidence is not sole and decisive in relation to the charges against you. It would be able to mitigate potential unfairness by adopting caution about what weight it places on Witness 4's witness statement. The panel considered that the evidence in this case comes down to competing versions of events and it would need to conduct a balancing exercise during its deliberations.

The panel accepted, as conceded by Ms Taylor, that there was no good reason for the non-attendance of Witness 4. It noted however that the lack of a good reason does not automatically result in its exclusion. It was a matter to be weighed in the balance.

The panel next considered whether the NMC had made sufficient efforts to secure Witness 4's attendance at the hearing. The panel had sight of the NMC hearsay bundle which detailed the communication with Witness 4 from 30 December 2024 until 13 August 2025. The panel took into account that Witness 4 had provided the NMC with a signed witness statement and had made no indication that they would not be attending the hearing to give evidence until recently when they were contacted by the NMC.

The panel considered that the submission made on your behalf that Witness 4 was involved in collusion with other witnesses did not have any reference to evidence supporting that allegation. The panel considered it to be speculative.

The panel took into account that there is a public interest in the issues being explored fully which supported the admission of this evidence into the proceedings. The panel considered that the unfairness in this regard worked both ways in that the NMC was deprived, as was the panel, from reliance upon the live evidence of Witness 4 and the opportunity of questioning and probing that testimony. There was also public interest in the issues being explored fully which supported the admission of this evidence into the proceedings.

In these circumstances, the panel came to the view, after carefully balancing the factors identified above, that it would be fair and relevant to accept into evidence the written statement of Witness 4 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 redact parts of Witness 4's witness statement**

Ms Byron made an application to redact parts of Witness 4's witness statement. She set out that the first proposed redaction would be to paragraph 7, where there is a reference to a staff nurse named Ms 2 being present on that occasion, and what Ms 2 had said to you. Ms Byron submitted that Ms 2 is not before this panel as a witness and, especially given that it is hearsay evidence, it is not right that the panel takes account of this hearsay by an absent witness of what someone else may have said.

Ms Byron submitted that the second proposed redaction, which was in dispute, is in respect of paragraph 20, where Witness 4 outlined that '*Helen had quite a hostile energy towards [Colleague 1], and I wondered if [Colleague 1] being Jewish contributory factor*'.

Ms Byron invited the panel to redact the second part of this sentence. She submitted that this is speculative, and it would therefore not be fair for it to be left in evidence.

Ms Byron submitted that the main crux of her application is to apply for the panel to find Witness 4's investigation meeting notes, dated 14 June 2023, inadmissible. She submitted that there is a significant difference between these investigation meeting minutes and Witness 4's NMC witness statement which has been signed and dated with a statement of truth. Ms Byron submitted that the panel has heard evidence from multiple witnesses this week about these investigation meeting minutes, and it is in a confusing territory. She submitted that Witness 2 could not confirm the validity of them, and other witnesses who have spoken of their own investigation meeting minutes have said during their evidence that they were also concerned about the accuracy of them. Ms Byron submitted that in the circumstances, it would not be fair for any reliance to be placed on them, and it goes beyond the panel being able to attach appropriate weight where they see fit.

Ms Byron submitted that in these circumstances, the panel cannot attach any weight to these investigation meeting minutes and they ought to therefore be seen as inadmissible.

Ms Taylor submitted that the NMC does not oppose Ms Byron's application in relation to paragraph 7.

In relation to the proposed redaction in relation to paragraph 20, Ms Taylor submitted that Witness 4 is entitled to an opinion based on what she saw and heard, and that in this section of her witness statement, Witness 4 goes through a number of incidents that she says she personally observed. Ms Taylor set out that this section is titled 'Treatment of colleagues' and there is reference to the difference in treatment between Colleague 1 and the other colleagues. She further set out that paragraph 18 of Witness 4's witness statement, for instance, states '*this behaviour was only directed towards [Colleague1]*'. Ms Taylor submitted that for these reasons, she would ask the panel to not redact this section of paragraph 20.

In relation to the proposed redaction to Witness 4's investigation meeting minutes, Ms Taylor submitted that this goes to the charges, and it is fair to include these notes. She submitted that it is accepted that there have been points raised in the evidence of other witnesses regarding the specific wording used in the investigation meeting notes and this is something that the panel will need to bear in mind. Ms Taylor submitted that the meeting notes were never said to be verbatim, and at the bottom of each page the following sentence can be seen *'Please note these notes are not verbatim however they are intended to be a record of the key points of discussion which took place during the meeting'*. Ms Taylor set out that during the meeting there was a note taker from HR present who took handwritten notes and then drafted these electronic notes which were processed by HR and later provided to the NMC. Ms Taylor submitted that whilst it is accepted that these notes are not verbatim, the investigation notes largely align with the evidence in Witness 4's witness statement.

Ms Taylor further submitted there is a public interest in the issues being explored fully and this supports the admission of these investigation notes into the proceedings and for those to remain as part of the evidence.

The panel heard and accepted the advice of the legal assessor.

The panel took into account that the proposed redaction in relation to paragraph 7 was not contested and was therefore of the view that it would be fair to allow the redaction.

In relation to the proposed redaction in respect of paragraph 20, the panel considered that Witness 4 was not present at the hearing and that this evidence could therefore not be tested. It also noted that the part of paragraph 20 objected to was clearly speculative. The panel was therefore of the view that it would not be fair to admit this section of paragraph 20 into evidence and allowed the redaction.

In relation to the proposed redaction to Witness 4's investigation meeting minutes, the panel was of the view that it would be appropriate to allow them to remain part of the

evidence. It noted that the minutes of investigative meetings had already been entered into evidence as part of Witness 2's witness statement. It considered that questions regarding what weight, if any, could be placed on the disputed minutes were for it to consider during its consideration of facts. It determined that it would deal with these matters appropriately by applying appropriate caution during its consideration of facts.

### **Decision and reasons on application to redact parts of the RCN registrant response bundle**

The panel heard an application made for a redaction by Ms Taylor at page 5 of the RCN registrant response bundle. Ms Taylor set out that page 5 is a statement from MS 3 dated 17 December 2023, and the redaction request is in respect of the penultimate paragraph, which reads as follows:

*'I have not observed any discriminating or bullying behaviour by Helen towards other members of the team.'*

Ms Taylor submitted that this could be viewed as an attempt to rebut the assertion that there has been bullying and discriminatory conduct by you, which is a matter for the panel to determine at the facts stage. She submitted that the NMC is not in a position to rebut that paragraph, as MS 3 is not being called as a witness in these proceedings, and the NMC therefore is not able to test that assertion. Ms Taylor submitted that this goes further than a mere character reference, which should comment on the registrant as an individual. She submitted that looking at the following paragraph, which states *'I believe, Helen is caring, compassionate, competent, and willing to support and work collaboratively with her colleagues in the MDT'*, there are no issues taken with this as it is commenting on your character.

Ms Taylor submitted that MS 3 explains in her statement that she works one night a week at the Priory Hospital in Roehampton, and that she has known you for over seven years. She submitted that it is not known what shift MS 3 worked, or if she ever worked a shift

alongside you and Colleague 1 or Colleague 2, or whether MS 3 was present at handover with you when those individuals were present or when the alleged incidents took place. Ms Taylor submitted that for all these reasons, she would invite the panel to redact this comment from the registrant response bundle.

Ms Byron submitted that this is a character reference and that there is nothing in this reference that goes to the specific charges which have been brought against you. She set out that MS 3's statement starts with '*I am aware of the allegations the NMC are considering*'. Ms Byron submitted that the sentence in dispute is simply a reference to the allegations that you face, and it is matter for you who you approach for character references and whether you call witnesses.

Ms Byron submitted that this sentence does not go to the facts which the panel are to determine, and that it is no different from the other paragraphs in the statement. She submitted that it is clearly relevant as it goes to your character as a nurse, given that this character reference is someone that you have worked with, and the panel has to the right to see and to hear what they have got to say.

Ms Byron submitted that the issue goes to weight, and it is a matter for the panel to attribute what weight, if any, this sentence and MS 3's experiences with you, have on the facts. She submitted that it is not suggested in any way that this goes beyond character, that this goes to the issue of character and not the issue of facts, and the panel will also be hearing full legal advice in relation to this.

Ms Byron submitted that it is therefore fair and relevant for this statement to be admitted in full.

The panel heard and accepted the advice of the legal assessor.

The panel considered that the paragraph in question from MS 3's statement is not in relation to the facts in this case but relates to your character and MS 3's experience of

working with you. The panel was therefore of the view that it would be fair and relevant in the circumstances to allow MS 3's statement in full to remain in evidence, and it would apply weight accordingly during its deliberations at the facts stage.

### **Decision and reasons on allowing Ms 1 to speak with you whilst under affirmation**

[PRIVATE].

[PRIVATE].

Ms 1 informed the panel that in order to do this, she will need to speak to you and take instructions. Ms 1 set out that she accepts that you are currently under affirmation and this is not something that usually would be done during a registrant's evidence, [PRIVATE].

Ms Taylor submitted that the NMC does not object to Ms 1 being allowed to speak to you in respect of logistics going forward.

The panel heard and accepted the advice of the legal assessor.

The panel took into account the submissions made and was content for Ms 1 to speak with you in relation to logistics going forward, as opposed to any discussions around evidence.

Following this, the panel was informed by Ms Byron that Ms 1 had successfully spoken to you, and that you had indicated that you were happy to continue giving your evidence [PRIVATE]. Ms Byron explained to the panel that you would be adopting techniques such as breathing exercises and taking regular breaks during your evidence to assist you. She submitted that if the panel were to adjourn proceedings until tomorrow, this will result in a further delay in you completing your evidence and another night with you being under affirmation and not being able to speak to your representative.

Ms Taylor submitted that the NMC is content for any reasonable adjustments such as regular breaks and shorter days to be implemented to assist you in completing your evidence. [PRIVATE].

The panel took into account all of the submissions made. It considered that it would take longer than the remainder of the day to conclude your evidence and was of the view that you would benefit from a break from giving evidence for the rest of the day. The panel determined that it would be appropriate in the circumstances to adjourn proceedings and start afresh tomorrow morning to continue and conclude your evidence.

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

At the end of the evidence on facts, the panel heard an application made by Ms Taylor, on behalf of the NMC, to amend the wording of charges 2 and 3.

2. On an unknown date in 2023, made a comment that a patient "~~is a Jew.~~ "He is a devil" or words to that effect.
3. Your conduct at Charge 1a) and/or Charge 1b) ~~and/or Charge 2~~ displayed a discriminatory attitude towards patients based on the grounds of race and/or religion.

Ms Taylor submitted that the investigation meeting notes in relation to charge 2 are not and were never said to be verbatim, and the evidence of Colleague 1 is that there were in fact two incidents, not one, and that at the time you said, 'he is a devil', no reference was made to the fact that he was Jewish or any other religion or race. This account is the same as that included in Colleague 1's witness statement. It was submitted by Ms Taylor that the proposed amendment would provide clarity and more accurately reflect the evidence and can be made without injustice.

Ms Byron submitted that this amendment cannot be made without injustice. She submitted that justice dictates a fair and proper prosecution of charges and a registrant being aware

of the charges they face throughout the proceedings. Ms Byron submitted that it would be unfair and unjust at this late stage for the NMC to seek to amend the charge on its interpretation of what the evidence is.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended.

The panel was of the view that such an amendment, as applied for, was not in the interests of justice. The panel was not satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. The panel was therefore of the view that it would be inappropriate to allow the amendment.

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

At the outset of the hearing, the panel heard from Ms Byron on your behalf, who informed the panel that you made an admission to charge 4.

The panel therefore finds charge 4 proved, 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, including the character references on your behalf, with the submissions made by Ms Taylor on behalf of the NMC and by Ms Byron.

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 witnesses called on behalf of the NMC:

- Colleague 1: Senior Healthcare Assistant at the Priory Group
- Witness 1: Deputy Ward Manager at the Priory Group
- Witness 2: Ward Manager at the Priory Group at the time of the alleged incidents
- Colleague 2: Senior Healthcare Assistant at the Priory Group
- Witness 3: Staff Nurse at the Priory Group

The panel also took into account the hearsay evidence of the following NMC witness:

- Witness 4: Healthcare Assistant at the Priory Group at the time of the alleged incidents.

The panel also heard evidence from you under affirmation.

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 the RCN on your behalf.

The panel heard evidence from Witness 2, who was appointed to conduct a local investigation into the allegations against. He was not a witness of fact in any charges or sub-charges against you. His witness statement incorporated the investigative meeting

minutes of those he spoke to in the course of his investigation, including you. Witness 2 considered you to be someone he was on friendly terms with as a work colleague.

Witness 2 did not review the investigatory meeting minutes for accuracy, nor did he make any reference to them in compiling his report. He did not interview everyone who was a potential witness. Witness 2 was at pains to proffer his opinion to the panel in relation to the charges, despite being warned not to do so. The panel were not impressed by the lack of thoroughness in his investigation.

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

### **Charge 1a**

1. On separate and unknown dates before June 2023, during handovers, made the following comments about Patient A:
  - a) That they were being “cheap and tight and that was typical as he is Jewish” or words to that effect;

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

The panel noted that you had made a partial admission to this charge, namely in respect of ‘*words to that effect*’, which it did not accept prior to hearing the evidence.

In reaching this decision, the panel took into account the oral evidence and written statements of Colleague 1, Witness 1 and Witness 3, as well as your evidence.

The panel first had sight of Witness 3’s witness statement, which states the following:

*‘We had been discussing the concerns and checking regarding Patient A’s purchasing of medication externally during the handover, on the morning question.*

*Whilst we were discussing it, Helen said ‘you know those Jews are cheap’ or words to that effect. I was aware Patient A was Jewish he had told us, and my understanding was that Helen was told/knew this too.’*

The panel also took into account Witness 3’s oral evidence, where she stated, *‘it was those words there, those exact words, those Jews are cheap’.*

The panel also had sight of the following from Witness 3’s Investigation Meeting Notes dated 1 June 2023 :

*‘During handover I was with 2 agency staff and over-heard Helen commenting ‘those Jews are cheap’ as the patient didn’t want to pay for his transport to pick up his medication. I looked at [Colleague 1] as she is Jewish. I heard [Colleague 1] say something but not sure what that is.’*

The panel considered that Witness 3’s witness statement is consistent with their oral evidence and is also consistent with the contemporaneous investigation meeting notes.

The panel also took into account Colleague 1’s evidence. It noted that Colleague 1 in her oral evidence did not agree with her investigation meeting notes dated 15 June 2023 and explained that the notes taken were not fully accurate and reflected an earlier draft.

The panel noted that it had had sight of witness statements and heard oral evidence from the following NMC witnesses who had all made a link between you referring to Patient A ‘being Jewish’ and an attitude to money:

Colleague 2 in her NMC witness statement sets out *“Helen said ‘you know these Jews are cheap’ or words to that effect”*. In her oral evidence, Colleague 2 stated *‘ “it was those words, those exact words, you know those Jews are cheap”* and explained she was an arm’s length from the Registrant when this was said, and [Colleague 1] was present.

Witness 4 in her witness statement sets out *“On one occasion Helen “went on to say that he was being cheap and tight, and this is typical as he is Jewish or words to that effect ... and [Colleague 1] informed Helen that she herself was Jewish and that these comments were inappropriate”*

Witness 1 in her witness statement sets out *“Helen was discussing the patient wanting to buy something to which she said he is stingy because he is Jewish or words to that effect... I quickly informed Helen that this was not appropriate and not right. Helen tried to minimise this by responding saying that she was just explaining the difference and that she would not say it in front of anybody, to which I told her it was unacceptable regardless. Helen then just continued with the handover.”*

Colleague 1 in her witness statement set out *“I recall an incident which occurred during handover from the night staff to the day staff, where Helen made a comment about a patient. The patient was of Jewish origin and the issue of his funding came up during handover. I think that he might have been self-funding his stay at the Hospital. Helen turned around and said to myself and some other staff members that there was possibly a problem with his funding for the next week and then said, “He’s a Jew you know... mean.”. I stood up when she said this, as I am Jewish myself and I took offence to her comment. I said to Helen that I found her comment to be very offensive, but she completely ignored me and turned away to continue writing her report. She responded as if nothing had happened. Helen is very aware that I am Jewish.”*

The panel also considered your evidence in relation to this charge. It noted that during your oral evidence, you accepted that you had said *‘don’t like to spend money...Jew’*

The panel was therefore of the view that although there are differences in what each witness has said in their evidence, the common theme indicates that you inferred that Patient A was tight with money and that this correlated with him being Jewish.

The panel therefore find this charge proved.

## **Charge 1b**

1b) That they were “being cheap as he is Jewish” or words to that effect.

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

In reaching this decision, the panel took into account its findings in respect of charge 1a.

The panel also took account of the following extract from Witness 1’s internal statement, which was completed near the time of the incident:

*‘Second time was also during the time she was handing over. She had made a remark about an elderly male patient who happened to be Jewish; that he is a Jew and he does not like spending his money. She was spoken to immediately and told that it was not appropriate to stereotype a patient at all especially based on religion and group. She was dismissive and said she only mention this because she is within the handover room and she would not have done so in front of the patient.’*

The panel further noted the following extracts from Witness 1’s NMC witness statement, under the heading ‘Inappropriate comments’:

*4. I cannot recall the date; however, I believe it was at sometime in the late summer. During the morning handover, Helen was discussing a patient, who is an elderly gentleman and self-pays for his care. I believe Helen was discussing the patient wanting to buy something to which she said he is stingy because he is Jewish or words to that effect.*

*5. I quickly informed Helen that this was not appropriate and not right. Helen tried to minimise this by responding saying that she was just explaining the difference and that she would not say it in front of anybody, to which I told her it was*

*unacceptable regardless. Helen then just continued with the handover.*

The panel considered that Witness 1 confirmed during her live evidence that the word used by you was ‘*stingy*’.

The panel also considered your evidence in relation to this charge. It noted that during your oral evidence, you accepted that you had said ‘*don’t like to spend money...Jew*’. The panel also took into account your written reflection, which corroborates this:

*‘I later said that “you know would not like to spend his money because he is Jewish”.*

*In the morning, when I was giving a handover to the day team when I repeated what was discussed in the handover. One month later, I was called by management and said someone has reported me. Management said two people reported me. They said that I bullied them and threatened. They also said I abuse their culture. Couple of days later, two of the Senior Health Care Assistants (SHCA) misinterpreted my words and reported me to management that I am bullying, intimidating and also insulting them.’*

The panel also considered the hearsay evidence of Witness 4. It acknowledged that whilst it did not hear live evidence from Witness 4 and can therefore not put full weight on Witness 4’s witness statement, it is still relative to its consideration as it is corroborative. It noted the following extract from Witness 4’s witness statement, which is consistent with the evidence of other witnesses, as well as your evidence:

*‘The comments arose as during the handover Helen was talking about her not wanting to buy medications for a patient as she thought he could buy it himself and that the patient had become frustrated. Helen then went on to say that he was being cheap and tight, and this is typical as he is Jewish or words to that effect.*

...

*On the second occasion Helen again made comments about this patient being cheap as he is Jewish and, on this occasion, [Witness 1], the Deputy Ward Manager was present who also mentioned to Helen how inappropriate this comment was. Again, I do not recall Helen apologising.'*

The panel therefore find this charge proved.

### **Charge 2**

2. On an unknown date in 2023, made a comment that a patient "is a Jew. He is a devil" or words to that effect.

**This charge is found NOT proved.**

In reaching this decision, the panel considered the wording of the charge, in particular 'comment', singular. It also took into account your evidence and the evidence of Colleague 1.

The panel considered that during cross-examination, Colleague 1 was asked if you had made any reference to religion when you called the patient a devil, to which Colleague 1 replied '*no, she didn't*'. The panel was of the view that whilst other witnesses, including Colleague 1, believe that this patient is Jewish, there is no evidence before it that supports that you made a comment that a patient '*is a jew*' when referring to the patient as a devil.

The panel therefore find this charge not proved.

### **Charge 3**

3. Your conduct at Charge 1a) and /or Charge 1b) and/or Charge 2 displayed a discriminatory attitude towards patients based on the grounds of race and/or religion.

**This charge is found proved in respect of charges 1a and 1b.**

In reaching this decision, the panel took into account its findings in relation to charges 1a and 1b.

The panel did not accept your explanation that you provided during your oral evidence, where you referenced tribes in Nigeria, and it was unable to identify any correlation between this and the reference to Jews. Further, the panel did not find your evidence in relation to you not knowing that Patient A was Jewish and that they eat kosher food because you work nights credible. The panel found your explanation that you did not serve meals at night to not be credible, as a situation could have arisen where Patient A required food at night. The panel also considered that information in respect of dietary preferences would have been handed over shift to shift and would have also been noted in Patient A's records.

The panel was of the view that the comments made by you as set out in charges 1a and 1b can only reasonably be interpreted as demonstrating a discriminatory attitude towards patients based on the grounds of race and/or religion.

The panel therefore found this charge proved.

The panel did not go onto consider charge 3 in relation to charge 2 as it had found charge 2 not proved.

**Charge 4**

4. On an unknown date before June 2023, during a handover, referred to a patient or a patient's partner as being "half-caste".

**This charge is found proved by admission.**

### **Charge 5**

5. Your conduct at Charge 4 above displayed a discriminatory attitude towards a patient and or another based on the grounds of race.

**This charge is found proved.**

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

The panel was of the view that 'half-caste' is an offensive term, and there is no explanation as to why you would have used that term to describe an individual. The panel also took account of Witness 1's oral evidence. The panel considered that whilst Witness 1 in their evidence to the panel stated that you had not used the term 'half-caste' maliciously, it was of the view that what you said displayed a discriminatory attitude towards someone on the grounds of race.

The panel also had sight of the following from Witness 1's statement, which is consistent with their oral evidence:

*'This was in the morning handover. She was handing over and had said that the patient's boyfriend was half caste. When I mentioned that the term was derogatory and outmoded. She replied; 'half caste, I have them in my family.' She was told the appropriate term to use is mixed race or biracial but she demonstratively dismissed this. This was witnessed by the incoming staff both permanent and agency staff.'*

This was further substantiated in Witness 1's NMC witness statement:

*7. On a separate occasion, approximately a month or two after the comment regarding the elderly patient, Helen referred to one of our other patients as being half-caste.*

*8. I again corrected Helen, saying that we do not use this term, as it is derogatory. Helen responded saying I have them in my family, my grandchildren are halfcaste, or words to that affect. I again informed Helen that that language is not acceptable, and you should use either bi-racial or mixed race.*

*9. Helen then continued the handover, without any apology.*

*10. Again, there was students present during this handover and I try to be a role model for them and wanted to ensure that they know that we cannot use terms like that and that it is unacceptable.*

The panel also took into account that during your oral evidence, you explained that the words 'half caste' is the language that you use and that '*you have got them in your family*'. The panel noted that Witness 1 in her evidence stated that you had used the term 'half-caste' twice, had repeated the term after you had been told that the term was outdated, and did not seek to find out what was offensive about it, apologise or try and reflect on it at the time. The panel was also of the view that during your evidence you spoke about how you are from Nigeria and that this is the term used there, and that you sought to minimise the impact of you having used the term 'half-caste'

The panel also took into account the context of you working in a multicultural setting on a mental health ward and considered it implausible that you were unaware of the derogatory nature of the term 'half-caste'. It was also of the view that you could have described the

individual by other means, and to use the colour of someone's skin as a descriptor in an unnecessary context is offensively discriminating.

The panel therefore find charge 5 proved.

### **Charge 6a**

6. On various dates in 2023 harassed Colleague 1 by engaging in the following unwanted conduct which had the effect of creating an intimidating/hostile/degrading/humiliating or offensive environment for Colleague 1:

- a) On an unknown dated in 2023, whilst in the presence of Colleague 1, sang Christian hymns

**This charge is found proved.**

In reaching this decision, the panel took into account your evidence as well as the evidence of Colleague 1.

The panel took into account the following from Colleague 1's witness statement:

*'...heard [you] singing a lot of Christian hymns...there was one incident where she and a colleague were sitting very closely behind me while I was at my computer and they started singing Christian hymns very loudly. I felt that their actions were a bit of a jibe at me.'*

The panel further noted Colleague 1's investigation meeting notes, where she spoke about the same incident, but relating to matters of antisemitism:

*'Helen was singing Christian hymns in my ear and saying that 'Jews don't believe in Jesus'*

The panel also took into account your oral evidence, where you accept that there was one occasion on which Christian hymns were being played on the radio in the office. You further explained in your evidence that whilst people do sing along to music that is played on the radio, you stated that you could not remember whether you sang along to them or not and also mentioned that it never happened.

The panel was of the view that your evidence is contradictory in nature and inconsistent and found Colleague 1's evidence to be preferable. The panel therefore determined, on the balance of probabilities, that it is more likely than not that you sang Christian hymns whilst in the presence of Colleague 1, which had the effect of creating an intimidating, hostile and offensive environment for Colleague 1 which amounted to harassment.

The panel therefore find this charge proved.

### **Charge 6b**

- b) On an unknown date in 2023, told Colleague 1 that "Jews don't believe in Jesus" or "Jews not accepting Jesus" or words to that effect;

**This charge is found proved.**

In reaching this decision, the panel took into account your evidence as well as the evidence of Colleague 1.

The panel took into account the following from Colleague 1's witness statement:

*'Helen had made some similar comments in the past, including some half-joking comments about Jews not accepting Jesus. I think she was half-joking but her comments did hit home for me. I do not think that a belief system is something people should joke about.'*

The panel also took into account your evidence. It noted that during oral evidence, you were adamant that you had never said anything like 'Jews don't believe in Jesus', and that you thought that Colleague 1 was a Christian: *'I disagree, we are all Christian, we are all the same'*.

The panel was of the view that Colleague 1's evidence has been consistent. It considered that there appears to be a consistent theme and pattern of behaviour regarding your behaviour towards your antisemitic comments which you try to minimise, where you believe that you are not doing anything wrong. The panel also did not accept your view that Colleague 1 and Colleague 2 were colluding and took into account that there is no corroborating evidence in this regard before it to support such a view other than from Witness 2.

Witness 2 was the only witness who gave support to your allegation that Colleague 1 and Colleague 2 were colluding against you. Witness 2 made no reference of any concerns in relation to collusion in his management report. He told the panel that Colleague 1 and Colleague 2 had approached him jointly with concerns about you. He made no reference to this in his investigative report. Both Colleague 1 and Colleague 2 denied having met Witness 2 other than separately other than in the context of their investigative meeting minutes held many days apart. The panel were unimpressed with the quality of Witness 2's investigation and his evidence. It preferred the accounts from Colleague 1 and Colleague 2 that they had not been colluding against you.

The panel therefore determined, on the balance of probabilities, that it is more likely than not that you told Colleague 1 that 'Jews don't believe in Jesus' or 'Jews not accepting

Jesus' or words to that effect, which had the effect of creating an intimidating, hostile, degrading and offensive environment for Colleague 1 which amounted to harassment.

**Charge 6c)**

c) On unknown dates, on one or more occasions, in in the presence of Colleague 1, said the word "Juda" when a member of staff of Ethiopian origin, entered a room;

**This charge is found NOT proved.**

The panel was of the view, on the balance of probabilities, that the NMC had not discharged its burden of proof in relation to this charge. In particular, it did not hear from the colleague referred to, nor was he apparently interviewed in the local investigation. Therefore, the panel find this charge not proved.

**Charge 6d)**

d) Ignored and/or refused to speak to Colleague 1;

**This charge is found proved.**

In reaching this decision, the panel took into account your evidence as well as the evidence of Colleague 1, Witness 1 and Witness 4.

The panel had sight of the following extracts from Witness 4's witness statement:

*'Helen's behaviour towards [Colleague 1] built up over a few months to the point where if [Colleague 1] was doing something, Helen would tell her she was doing it wrong and would raise her voice and tell her stop. It was very dismissive.*

...

*This behaviour was only directed towards [Colleague 1]. Helen was always very pleasant to me and quite maternal and overly kind. On occasions she would be hugging me and then being rude to [Colleague 1].'*

The panel also took into account the following from Witness 1's witness statement:

*'In supervision on the 17 May 2023 [Colleague 1] informed me as to how Helen would make her feel and what she would do. [Colleague 1] informed me that sometimes Helen would make backhanded comments towards her and said she was bullied by Helen in her supervision on 17 May 2023. She did not expatiate on these allegations. I encouraged and supported [Colleague 1] to raise a complaint about Helen and provided her continuous support going through the investigation and its outcome as it was making her distressed. [Colleague 1] also mentioned that she was ignored by Helen when on night duty with her and felt that she couldn't approach her.'*

The panel also took into account Colleague 1's written evidence in relation to this, namely:

*'When the investigation into Helen's comments about the Jewish patient commenced, staff members were being called in to make statements...when she found out I had made a statement, she ignored me and refused to speak to me. I remember trying to tell her about patients during handover but she would not look at me and blanked me...Her behaviour made me dread going to handover'*

The panel noted that Colleague 1's account, as set out in her written statement, is consistent with her oral evidence, and also corroborated by both Witness 1 and Witness 4's accounts. The panel considered that during your oral evidence you denied having done this and also put forward the defence that Witness 2 had advised you not to speak to support workers individually after the allegation was made.

The panel therefore determined, on the balance of probabilities, that it is more likely than not that you ignored and/or refused to speak to Colleague 1, which had the effect of creating an intimidating, hostile, degrading and offensive environment for Colleague 1 which amounted to harassment.

#### **Charge 6e)**

e) Was dismissive of Colleague 1;

**This charge is found proved.**

In reaching this decision, the panel took into account your evidence as well as the evidence of Colleague 1, Witness 1 and Witness 4. The panel also took into account its findings in respect of charge 6d).

The panel had sight of the following from Witness 1's witness statement:

'Behaviour towards [Colleague 1]

Helen could be abrasive and if she does not agree with you, you would know.

...

*'In supervision on the 17 May 2023 [Colleague 1] informed me as to how Helen would make her feel and what she would do. [Colleague 1] informed me that sometimes Helen would make backhanded comments towards her and said she was bullied by Helen in her supervision on 17 May 2023. She did not expatiate on these allegations. I encouraged and supported [Colleague 1] to raise a complaint about Helen and provided her continuous support going through the investigation and its outcome as it was making her distressed. [Colleague 1] also mentioned that she was ignored by Helen when on night duty with her and felt that she couldn't approach her.'*

The panel also took into account the following from Witness 4's witness statement:

*'Treatment of other colleagues*

*Around December 2022/ January 2023, I noticed that Helen had a change in attitude towards [Colleague 1]. It started as Helen making dismissive comments to [Colleague 1] in that if [Colleague 1] spoke, Helen would tell her to stop speaking or stop interrupting when in fact [Colleague 1] was aiding the conversation. These comments appeared to be quite belittling towards [Colleague 1].*

*It often centred on [Colleague 1] not knowing as much or not doing things correctly, which was untrue. She then would say hello to everyone but [Colleague 1] in the mornings and evenings, going out of her way to ignore her.*

*Helen's behaviour towards [Colleague 1] built up over a few months to the point where if [Colleague 1] was doing something, Helen would tell her she was doing it wrong and would raise her voice and tell her stop. It was very dismissive.'*

The panel also took into account your oral evidence in relation to this. It noted that you denied being dismissive to Colleague 1 and *'that when you are confronted, you take it all in and that you do not see that as being dismissive'*.

The panel found Colleague 1's evidence to be consistent and corroborative with the accounts of both Witness 1 and Witness 4, and therefore preferred Colleague 1's evidence to your evidence.

The panel therefore determined, on the balance of probabilities, that it is more likely than not that you were dismissive of Colleague 1, which had the effect of creating an intimidating, degrading and humiliating environment for Colleague 1 which amounted to harassment.

#### **Charge 6f)**

f) Raised your voice to Colleague 1;

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

In reaching this decision, the panel took into account your evidence as well as the evidence of Colleague 1, Witness 1 and Witness 4. The panel also took into account its findings in respect of charges 6d) and 6e).

The panel took account of the following extract from Witness 4's witness statement:

*'Helen's behaviour towards [Colleague 1] built up over a few months to the point where if [Colleague 1] was doing something, Helen would tell her she was doing it wrong and would raise her voice and tell her stop. It was very dismissive.'*

The panel also took into account Colleague 1's oral evidence. It noted that during cross-examination, Colleague 1 was asked: *'Helen never raised her voice or shouted at you'*, to which Colleague 1 responded *'I disagree, she shouted hypocrites quite loudly and raised her voice, there were others present.'* Colleague 1 further stated in her oral evidence that you raised your voice many times and that you had a different communication style to others.

The panel also took into account your oral evidence in relation to this. You explained that you naturally have a loud voice as you are from Nigeria/Africa.

The panel determined, on the balance of probabilities, that it is more likely than not that you had raised your voice to Colleague 1, which had the effect of creating an intimidating, hostile, degrading and humiliating environment for Colleague 1 which amounted to harassment.

### **Charge 6g)**

g) Raised your voice when telling Colleague 1 what to do;

### **This charge is found NOT proved.**

The panel was of the view, on the balance of probabilities, that the NMC had not discharged its burden of proof in relation to this charge. It was not satisfied there was sufficient evidence to distinguish between raising your voice to Colleague 1 when telling her what to do from the evidence of raising your voice in charge 6e). Accordingly, the panel found this charge not proved.

### **Charge 6h)**

h) Called Colleague 1 a “hypocrite” or words to that effect.

**This charge is found NOT proved.**

In reaching this decision, the panel took into account the evidence of Colleague 1. It noted that during cross-examination, Colleague 1 was asked: *‘Helen never raised her voice when shouting at you’*, to which Colleague 1 responded *‘I disagree, she shouted hypocrites quite loudly and raised her voice, there were others present.’*

*Colleague 1 was also asked during cross-examination ‘Hypocrites was not in your witness statement’ to which Colleague 1 responded ‘ I didn’t remember it... probably a few things I could add now. I was in shock, I do remember her calling me hypocrites to our face, with other colleagues present, you have brought it to mind’*

The panel also took into account Colleague 1’s investigation meeting notes dated 15 June 2023, which state:

*‘One time she felt that we were undermining her and took it personally when she saw me and [Colleague 2] smiling together shouting ‘you hypocrites, I know what you mean’*

The panel also took into account that Colleague 2 in her oral evidence did not recall this happening.

The panel considered all of the evidence before it and was of the view that what it has before it is not cogent or consistent enough to find this charge proved on the balance of probabilities.

**Charge 7**

7. Your conduct at Charge 6a and/or Charge 6b) and/or Charge 6c) above was motivated by a discriminatory attitude towards Colleague 1 based on the grounds of race and/or religion.

**This charge is found proved (under deletion of the reference to charge 6c).**

In reaching its decision, the panel took into account its findings in respect of charges 6a and 6b and was of the view that based on all of the evidence before it that your conduct was specific in relation to Colleague 1's faith and was motivated by a discriminatory attitude. The panel did not accept your evidence that you were of the view that Colleague 1 was a Christian, which was never put to Colleague 1 in her evidence.

The panel therefore find this charge proved.

**Charge 8a)**

8. On various dates between September 2022 and June 2023 harassed Colleague 2 by engaging in the following unwanted conduct which had the effect of creating an intimidating/hostile/degrading/humiliating or offensive environment for Colleague 2:

a) Snatched a form from Colleague 2's hand;

**This charge is found proved.**

In reaching this decision, the panel took into account Colleague 2's oral and written evidence. The panel considered that during panel questions, Colleague 2 was asked '*how exactly was it taken out of your hand*', to which she explained that you were standing beside her. Colleague 2 also demonstrated to the panel a physical example of 'the snatch'.

The panel also noted Colleague 2's witness statement:

*'We had noticed there had been a few problems with these forms on a few occasions where the night shift had entered the night shift requirements for observations rather than those for the day shift and we were concerned that this could potentially lead to a mistake if taken as accurate by a new member of staff. I tried raising this with Helen one evening. After I explained the issue, Helen simply snatched the forms out of my hand.'*

The panel considered that Colleague 2's witness statement and her live evidence has been consistent in her description of what happened on both occasions, particularly through cross-examination and panel questions.

The panel also considered that you had mentioned a few times during your evidence that you stated *'okay, took it from her, let me have it'*. In response to whether you had snatched the form out of Colleague 2's hand, you responded *'never, she was by my side, body to body'*. You further told the panel that you only recall one occasion when this happening. The panel was of the view that there was inconsistency from you, and your live evidence went from *'I never did that'* to *'kind of just took it from her, said give it to me.'* It also took into account that Colleague 2 spoke about being 'driven by policy', whilst you spoke about being frustrated about being challenged. The panel considered that this appears to be a common theme throughout this case.

The panel was therefore of the view that it is more likely than not that the snatching did happen and therefore find this charge proved, in that you harassed Colleague 2 by engaging in unwanted conduct which had the effect of creating a hostile or offensive environment for Colleague 2

### **Charge 8b)**

b) After snatching a form, instructed another member of staff "to just do it, don't listen to Colleague 2." or words to that effect;

**This charge is found proved.**

In reaching this decision, the panel took into account its findings in relation to charge 8a).

The panel took account of the following extract from Colleague 2's witness statement:

*'On another occasion, one of the forms contained a large number of crossings out and was really quite confusing to read. I asked Helen if she could arrange for the form to be re-written (the forms only take a few minutes to complete) to prevent the risk of mistake. This time Helen snatched the form out of my hand and gave it to an HCA telling her, "Just do this, don't listen to her.". The issue of forms had previously been discussed in the daytime team meeting and the ward manager had advised me that if forms had not been completed correctly then they should be given back to the handover staff.'*

The panel considered that Colleague 2's witness statement and her live evidence has been consistent in her description of what happened on both occasions, particularly through cross-examination and panel questions.

The panel also took into account your live evidence and how you spoke about being frustrated due to being challenged, and that you *'then told someone else to go and deal with it'*.

Balancing the evidence it has before it, the panel was of the view that it found Colleague 2's evidence to be more consistent in her account compared to your evidence. The panel preferred Colleague 2's evidence. The panel was therefore of the view that it is more likely than not that this did happen and find this charge proved, in that you harassed Colleague 2 by engaging in unwanted conduct which had the effect of creating an intimidating/hostile/degrading/humiliating or offensive for Colleague 2.

## Charge 8c)

c) Shouted at Colleague 2;

### **This charge is found NOT proved.**

In reaching this decision, the panel took into account the following from Colleague 2's statement:

*'Helen was dismissive of what I had said and shouted at me, it was not really like a conversation between colleagues, but more Helen pulling rank as a nurse as she was more senior.*

*That morning, we were waiting for Helen to turn up so we could do the handover. I had my phone on the table – I probably should not have had it there and I do accept this. That day the handover was running really late and I had tapped my phone screen to check the time and Helen had shouted at me and called me, I think it was, 'a silly girl'. I said, 'please don't shout at me', but she continued. After a short time I told Helen that I would not be spoken to in that manner and explained this to the Nurse in Charge, [Witness 3] who was present), and then went to the Ward Manager's office and called the bleep holder and told them what had happened.'*

The panel also took into account Colleague 2's investigation meeting notes dated 7 June 2023, which is consistent with her written and oral evidence of having been shouted at by you and raising this with Witness 3:

*'Advised she left handover due to being shouted at and informed management of this'*

The panel however noted that Witness 3 did not mention this in her written statement. Further, during cross-examination, Witness 3 stated that she had never seen you shout during handover meetings. The panel also took into account your evidence. You told the panel that you spoke to Colleague 2 during the handover in a 'calm way' and did not raise your voice.

The panel considered that your evidence in relation to this charge is consistent and corroborated by the evidence of Witness 3. The panel therefore find this charge not proved.

### **Charge 8d)**

d) Called Colleague 2 "a silly girl" or words to that effect;

### **This charge is found NOT proved.**

In reaching this decision, the panel took into account the following from Colleague 2's statement:

*'Helen was dismissive of what I had said and shouted at me, it was not really like a conversation between colleagues, but more Helen pulling rank as a nurse as she was more senior.*

*That morning, we were waiting for Helen to turn up so we could do the handover. I had my phone on the table – I probably should not have had it there and I do accept this. That day the handover was running really late and I had tapped my phone screen to check the time and Helen had shouted at me and called me, I think it was, 'a silly girl'. I said, 'please don't shout at me', but she continued. After a short time I told Helen that I would not be spoken to in that manner and explained this to the Nurse in Charge, [Witness 3] who was present), and*

*then went to the Ward Manager's office and called the bleep holder and told them what had happened.'*

The panel however noted that Witness 3, who was present at the time, did not mention this in her written statement. Further, during cross-examination, Witness 3 was asked whether she had ever heard you refer to anyone as a 'silly girl' to which she responded 'no, not to my recollection'. The panel also took into account your evidence. You told the panel that you spoke to Colleague 2 during the handover in a 'calm way' and did not raise your voice.

The panel considered that your evidence in relation to this charge is consistent and corroborated by the evidence of Witness 3. The panel therefore find this charge not proved.

#### **Charge 8e)**

e) Called Colleague 2 a "hypocrite" or words to that effect.

#### **This charge is found NOT proved.**

In reaching this decision, the panel took into account its findings in relation to both charges 8c) and 8d).

The panel considered Colleague 2's evidence in relation to this charge. It noted that there is no mention of you having called Colleague 2 'a hypocrite' within her investigation meeting notes, nor her witness statement. The panel took into account that the only mention of this can be found within the investigation meeting notes of Colleague 1:

*'One time she felt that we were undermining [Helen] and took it personally when she saw me and [Colleague 2] smiling together shouting 'you hypocrites, I know what you mean'*

When questioned by the panel as to whether she had been called a hypocrite by you, Colleague 2 responded *'I don't believe so'*.

The panel also considered your evidence. It noted that you deny calling Colleague 2 a hypocrite and that you did not use that word. The panel also took into account Witness 3's oral evidence and considered that when asked whether you called anyone a hypocrite, Witness 3 responded 'no'.

The panel was of the view that on the balance of probabilities your evidence in relation to this charge has been corroborated by the evidence of Witness 3. The panel therefore find this charge not proved.

### **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 safely and effectively without restriction.

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 serious misconduct. Secondly, only if the facts found proved amount to serious 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.'*

Ms Taylor 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 Taylor identified the specific, relevant standards where your actions amounted to misconduct. She referred the panel to sections 8.2, 8.5, 9.1, 9.3, 20.1, 20.2, 20.3, 20.5, 20.7, 20.8 of the Code.

Ms Taylor referred the panel to the NMC guidance on Misconduct FTP-2a and specifically to the section relating to bullying, harassment and victimisation.

Ms Taylor submitted that nurses hold an important position of trust within society, caring and protecting people for whom they are responsible. She further submitted that members of the nursing profession are expected to uphold the rights of those they care for and to act in their best interests. She also submitted that registrants must work and be trusted to work with, and alongside, diverse groups of people.

Ms Taylor submitted that the failures that the panel found proven in this case do raise fundamental questions about your ability to uphold the standards and values set out in the Code. She submitted that such conduct can seriously undermine the public's trust and confidence in the profession and invited the panel to find that the facts found proved amount to serious misconduct.

Ms Byron submitted that misconduct is a matter for the panel and that you remain neutral in this matter.

### **Submissions on impairment**

Ms Taylor 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. She made reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

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) ...'*

Ms Taylor submitted that the first three limbs of the *Grant* test were engaged in this case and that the panel could answer those questions in the positive.

Ms Taylor also submitted that the panel must consider whether the concerns can be addressed by you taking steps to strengthen your practice, whether the concerns have been addressed and whether it is highly unlikely that the conduct would be repeated.

Ms Taylor submitted that when considering the risk to public safety, the panel found that you made discriminatory comments about a patient on the basis of their race and/or religion and to a patient or patient's partner on the basis of their race. She acknowledged that there is no evidence before the panel that any patients have in fact been put at risk of harm and that the comments have been made to colleagues and not to patients directly. However, Ms Taylor submitted, that there are significant concerns that this type of behaviour could easily be repeated if you were to continue working as a registered nurse and it could lead to a risk to public safety, especially as the concerns raised suggest deep-seated attitudinal issues.

With reference to public confidence in the profession, Ms Taylor submitted that the panel can find that your fitness to practise is impaired even if there is no ongoing risk to the safety of people receiving care.

Ms Taylor submitted that the key charges in this case are not a single lapse of judgement and that they indicate a deep-seated attitudinal issue. She submitted that the breaches of the Code constitute a serious risk for public safety and the public's confidence in the profession.

Ms Taylor submitted that there is little evidence of remorse demonstrated, although some may be found. Referring to the panel's earlier findings, she submitted that the panel found a consistent theme and pattern of behaviour regarding antisemitic comments which you tried to minimise, or you believed that you were doing nothing wrong.

Ms Taylor submitted that your fitness to practise is currently impaired on both grounds.

Ms Byron submitted that when assessing your fitness to practise, the panel must not assess your practice in 2023, but your fitness to practise today.

Ms Byron reminded the panel about the evidence you gave at the hearing earlier, expanding on the history of your career.

Ms Byron submitted that to this day there have been no concerns about your day-to-day clinical practice. She reminded the panel that since your current referral to the NMC, you have been working under an interim conditions of practice order with no further referrals to the NMC.

Referring to your bundle submitted for this resumed hearing, Ms Byron submitted that your performance reviews speak positively of your communication, interpersonal skills, cultural awareness and general positive attitude, attributes and qualities as a nurse by your former manager.

With reference to your testimonials from colleagues, friends and family members, Ms Byron submitted that the common theme which threads through these testimonials is a description of you as a warm, compassionate, respectful and supportive person and a nurse.

Ms Byron submitted that although you contested a number of the charges, it does not mean automatically that insight cannot be demonstrated in relation to those charges which were found proved. In addition to this, Ms Byron submitted that you made admissions in respect of charge 1, albeit on a different wording, and charge 4 at early stages in the proceedings. She further submitted that you continued to reflect since the panel's findings on facts and in your most recent bundle, have set out a detailed reflection of your learnings, acknowledgement and recognition of the seriousness of the panel's findings.

Ms Byron told the panel that within your reflection you set out your assurances as to the steps you have taken and the learning you have completed, which demonstrates your commitment to carrying on positively within your practice.

Ms Byron submitted that through your reflection, you have outlined sincere remorse and demonstrated introspective thinking and insight into perspectives beyond your own and your understanding of how a person's intention does not remove the impact of negative and harmful language or communication style.

Ms Byron submitted that your reflections demonstrate ongoing learning, ongoing reflection and remorse, apologies and significant insight into the panel's finding on facts.

Ms Byron submitted that there is evidence of the articles and books you read and the learnings from them with the use of the resources available to you. She also submitted that you have undertaken targeted and relevant training courses and referred the panel to the training course certificates in your bundles.

With reference to the *Grant* test, Ms Byron submitted that having been referred to the NMC for these allegations has been an extremely sobering experience for you. She submitted that you learnt a very important lesson and you wish to express that you would never put yourself in a position where you would find yourself being referred to the NMC for these kinds of concerns again.

Referring to the NMC guidance DMA-1, Ms Byron submitted that whilst deep-seated attitudinal issues can be difficult to address, meaningful change is not impossible, *'there may be circumstances in which there is compelling evidence that a professional has genuinely reflected on their behaviour and attitudes, recognised the impact on those affected by it and the wider profession and taken steps to affect genuine change where a professional can demonstrate insight, learning and development that may no longer pose*

*a risk to public safety, public confidence and the professions and to the professional standards’.*

Ms Byron submitted that even if the panel finds that there was evidence of deep-seated attitudinal issues in 2023, there is now evidence of insight, remediation, strengthening of practice.

Ms Byron submitted that given your long and successful career prior to these concerns and continued employment since, the panel can be satisfied that the conduct found proved is unlikely to be repeated.

With reference to the public interest, Ms Byron invited the panel to consider what a member of the public would think if they had a full picture of the concerns raised and the steps taken in the three years since to address these concerns when considering the future and the fitness to practise of a nurse who is supported by positive testimonials, ongoing work and who has reflected and demonstrated insight. Ms Byron submitted that the stresses and the pressures of the NHS are of such at this current stage that it might be considered in the public interest, having weighed and balanced all of these factors, to allow for a competent and qualified nurse to return to practice without a finding of impairment.

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*, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin) and *Cohen v General Medical Council* [2008] EWHC 581.

### **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:*

3.1 *treat people with kindness, respect and compassion*

**8 Work co-operatively**

*To achieve this, you must:*

8.2 *maintain effective communication with colleagues*

8.5 *work with colleagues to preserve the safety of those receiving care*

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

*To achieve this, you must:*

9.1 *provide honest, accurate and constructive feedback to colleagues*

9.3 *deal with differences of professional opinion with colleagues by discussion and informed debate, respecting their views and opinions and behaving in a professional way at all times*

**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*
- 20.8 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.

The panel considered all of the charges separately:

- Charges 1a, 1b and 3. The panel determined that your conduct in these charges found proved was very serious, deeply unpleasant and went far beyond what the public would expect from a registered nurse. The panel determined that displaying discriminatory attitudes towards patients based on the grounds of race and/or religion went against the fundamental standards of the profession and found this to be serious professional misconduct.
- Charges 4 and 5. The panel reminded itself of its earlier findings that you displayed a discriminatory attitude towards a patient and/or another based on the grounds of race. The panel determined that no discriminatory behaviour can and should be tolerated in a professional environment and found that your conduct amounted to serious professional misconduct.
- Charges 6a, 6b, 6d, 6e, 6f and 7. The panel determined that specifically in relation to charges 6d, 6e and 6f, dismissing colleagues could affect patient safety and created a toxic working environment. This therefore amounted to serious professional misconduct. The panel noted the NMC guidance on bullying and harassment and specifically: *'The NMC takes concerns about bullying, harassment, discrimination and victimisation very seriously. Although bullying is not included as a prohibited behaviour under the Equality Act, it can have a serious effect on workplace culture, and therefore the safety of people receiving care, if it is not dealt with'*.

- Charges 8a and 8b. The panel found that your conduct amounted to harassment and you belittled a junior member of your staff. The panel determined that this amounted to serious professional misconduct.

The panel determined that your conduct would be considered deplorable by fellow practitioners.

The panel found that your actions did fall seriously short of the conduct and standards expected of a Registered Nurse and amounted to serious 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 NMC Guidance on *'Impairment'* (Reference: DMA-1 Last Updated:28/01/2026) in which the following is stated:

*'Being fit to practise is not defined in our legislation but for us it means that a professional on our register can practise as a nurse midwife or nursing associate safely and effectively without restriction.'*

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 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*
- d) ...'*

The panel first considered your past misconduct.

The panel determined that patients were put at risk of harm as a result of your misconduct. It determined that your misconduct towards colleagues created a toxic working

environment from which harm could flow. The panel also determined that if patients were to overhear the views you displayed towards your colleagues, this could have put patients at risk of harm too.

The panel considered the NMC guidance on discrimination:

*'We've made clear that no form of discrimination including, for example, racism, should be tolerated within healthcare. Discriminatory behaviours of any kind can negatively impact public protection and the trust and confidence the public places in nurses, midwives, and nursing associates. We therefore take concerns of this nature seriously regardless of whether they occur in or out of the workplace. These concerns may suggest a deep-seated problem with the nurse, midwife or nursing associate's attitude, even when there's only one reported complaint.'*

The panel also determined that your misconduct breached the fundamental tenets of the nursing profession and brought it into disrepute.

The panel then had regard to the case of *Cohen*.

*"It must be highly relevant in determining if a [registrant's] fitness to practise is impaired that first his or her conduct which led to the charge is easily remediable, second that it has been remedied and third that it is highly unlikely to be repeated."*

The panel considered the serious nature of the facts found proved. The panel determined that there may be some identifiable areas of your practice which are capable of remediation in relation to your communication with colleagues. However, it determined, that the attitudinal, deep-seated and deeply-embedded discriminatory concerns were very difficult to remedy.

The panel next considered whether your misconduct has been remedied and had regard to your insight and the evidence of remediation. The panel considered your reflective

pieces and oral evidence and determined that you have very limited personal insight at this time.

The panel determined that your reflections remained focused on the use of inappropriate or offensive language, rather than demonstrating insight into the underlying discriminatory beliefs and attitudes that informed those remarks. The panel noted that in your most recent reflective statement you stated: *'Describing someone using the wrong word or term can lead to all sorts of misunderstandings'*. The panel was concerned that you continued to frame the issue as one of wording or misunderstanding, rather than fully acknowledging the deeply offensive nature of what was said and its impact on others.

The panel found that, even in your updated reflection, you had not adequately grappled with the effect of your conduct on public trust and confidence in the profession. While you had undertaken communication training, the panel was not satisfied that you had meaningfully reflected on the broader reputational damage caused to the profession or the seriousness of the conduct from the perspective of the public.

The panel also noted an absence of empathy towards those affected, particularly Colleague 1, and found no clear evidence that you had genuinely considered how your comments may have affected them personally.

Overall, the panel concluded that you had not demonstrated insight into the discriminatory nature of your conduct, its impact on colleagues, or the wider effect on public confidence in the profession.

The panel also noted a specific paragraph in your reflective statement: *'I was asked to submit my statement, which was duly submitted on time, and was advised to undertake further studies in areas of Equality, Discrimination, Race and Communication. I have adhered to every instruction and advice given by the case investigators, stakeholders and the NMC.'* The panel determined that this did not sound like a genuine attempt to remediate and did not demonstrate personal commitment to it.

The panel also did not have before it an up-to-date reference from your current manager.

Taking all of the above into account, the panel decided there is a risk of repetition and consequently a real risk of significant harm. Accordingly, a finding of impairment is necessary on the ground of public protection.

The panel bore in mind the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on public interest grounds is required in order to maintain public confidence in the profession and to declare and uphold the standards of conduct expected of a Registered Nurse. The panel determined that the public's trust and confidence in the profession and the NMC, would be seriously undermined if a finding of current impairment was not made.

In all the circumstances, the panel determined that you are not able to currently practice *'safely and effectively without restriction'*.

Having regard to all of the above, the panel was satisfied that your 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 you off the register. The effect of this order is that the NMC register will show that you have 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 regard to the NMC Guidance on *'The sanctions available'* (Reference: SAN-2 Last Updated: 28/01/2026).

### **Submissions on sanction**

Ms Taylor referred the panel to the NMC guidance on Sanction *'The purpose of and approach to sanctions'* (Reference: SAN-1 Last Updated: 28/01/2026).

Ms Taylor submitted that the following were the aggravating features in this case: a pattern of misconduct over a period of time, failure to work collaboratively with colleagues (which includes discrimination), your denial of the allegations and that your defence has been rejected, level of insight, risk of harm. Ms Taylor reminded the panel that level of insight cannot be both an aggravating and a mitigating factor.

Ms Taylor did not address the panel on mitigating factors.

Ms Taylor submitted that taking no action, imposing a caution order or imposing conditions or a suspension period for even the maximum time available would not reflect the seriousness of the conduct in this case.

Ms Taylor referred the panel to the NMC Guidance on *'Sanctions for the highest risk cases'* (Reference SAN-4 Last Updated: 28/01/2026), and specifically the part referring to discriminatory conduct. She submitted that this case involves not only discriminatory comments, but also harassment of colleagues on a number of occasions, reflecting a deep-seated attitudinal issue.

Ms Taylor submitted that for all of these reasons the panel may feel that only removal from the Register is sufficient. She submitted this conduct, as found proved, is incompatible with continuing to practise as a nurse and invited the panel to impose a striking off order.

The panel also bore in mind Ms Byron's submissions.

Ms Byron told the panel that you wanted to express your remorse and apologies to witnesses or anyone else who has been impacted by the charges which the panel has found proved.

Ms Byron submitted that the following were the mitigating factors in this case: some early admissions in relation to charge 1, albeit to a different wording, and charge 4, apologies to those impacted, relevant training courses (including the equality, diversity and inclusion course and communication courses), you have worked in a nursing role since these events without any further regulatory referrals, positive testimonials and performance reports, unblemished career of 14 years.

Ms Byron told the panel about your personal circumstances and addressed the panel on the impact a striking off order would have on you and your family.

Given the panel's findings on misconduct and impairment, Ms Byron did not address the panel on taking no further action or a caution order.

Addressing the panel on a conditions of practice order, Ms Byron submitted, that you have been subject to an interim conditions of practice order since your referral to the NMC. She recognised that the purposes of an interim conditions of practice order and a substantive conditions of practice order are different. However, Ms Byron submitted that, notwithstanding the panel's findings on impairment, and given that you have been properly compliant with an interim conditions of practice order, there is evidence that you are working as a registered nurse with no further referrals to the NMC. Ms Byron further submitted that this goes some way to demonstrate that patients would not be put at a risk of harm if you were permitted to continue working with a set of appropriate, workable and proportionate conditions. She submitted that a conditions of practice order would allow you to work on developing the insight which the panel have concluded is still lacking.

Ms Byron acknowledged that the proposal of a conditions of practice order is unusual in a case of this type, however, given that you have worked on an interim conditions of practice order with an employer up to this stage, she submitted that this is a matter which weighs in your favour and the panel ought to take into consideration when considering substantive sanction.

Ms Byron submitted that if the panel did not agree with an imposition of a conditions of practice order, the next appropriate and proportionate sanction would be one of a suspension order. Referring the panel to the NMC guidance on Sanction SAN-2d, Ms Byron submitted that the two principles apply in your case: *'a suspension order is appropriate when the impairment is very serious but not fundamentally incompatible with continuing to be a registered professional'* and *'an outcome less severe than a strike off would still satisfy the overarching objective'*.

Ms Byron also invited the panel to consider that a temporary removal rather than a permanent removal from the Register may meet the impairment found in this matter. She also submitted that a substantive suspension may be sufficient to protect the public and public confidence in the profession.

Ms Byron acknowledged that attitudinal concerns are more difficult to address, but it is not fundamentally impossible. She submitted that although the assessment of the panel that your insight is currently limited, you have demonstrated your ability to reflect, research, engage and step outside of your own perspective when considering others, the impact on others and your communication style. Insight and remediation, Ms Byron submitted, is an ongoing process and a further period of restriction may allow you to work on these foundations and assess and address the deficiencies identified by the panel. She further submitted that your ability to work with previous NMC orders demonstrates that you can work within a regulatory framework and engage positively with your regulator.

Ms Byron submitted that a suspension order with review would not only serve the overarching objective of public protection and public interest, but would also allow you the

time and opportunity to really embed and address the concerns identified by the panel and to demonstrate to a future panel that you can practise safely and professionally.

Ms Byron referred the panel to the NMC Guidance on *'Deciding between suspension and strike off'* (Reference SAN-3 Last Updated: 28/01/2026). She submitted that you have cooperated throughout the proceedings and have sought to engage with the fitness to practise process and therefore it may be appropriate for the panel to use a suspension order as a means to give you a last chance to engage, reflect and show insight.

Ms Byron submitted that an order which removes you from the register would have a fundamental impact on both you and others around you who you support.

Ms Byron submitted that for the panel to conclude that a striking off order is the appropriate sanction, the panel must be satisfied that you are fundamentally incompatible with remaining on the register as a nurse. She submitted that despite the concerns relating to your fitness to practise, you are not someone who is fundamentally incompatible with remaining on the Register and that there is some realistic prospect that you will develop full insight, reflection and strengthen your practice, which you will be able to demonstrate to a future panel.

Ms Byron told the panel how important being a nurse is to you and how fundamental it is to you and your community.

The panel heard and accepted the advice of the legal assessor.

### **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. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive

in its effect, may have such consequences. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Pattern of misconduct over a period of time
- Very limited personal insight
- Abuse of a position of trust in the sense that your conduct was directed towards junior colleagues
- Failure to work collaboratively with colleagues
- Discriminatory comments made about a vulnerable patient in your care, a relative of a patient, and colleagues

The panel also took into account the following mitigating features:

- Early partial admission of the facts
- You have worked under an interim conditions of practice order since the events causing concern
- Previous unblemished record
- Some training and testimonials

Whilst the panel considered that, as submitted by Ms Byron, your early admissions were a mitigating feature, the panel placed little weight on this as this was not a full admission to the charges. The panel also gave minimal weight to your training certificates as the majority of them were not recent and you did not demonstrate how you had applied your learning in practice.

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.

The panel next considered a caution order and had regard to the NMC Guidance on ‘*Caution order*’ (Reference: SAN-2b Last Updated: 28/01/2026) in which the following is stated:

*‘A caution is only appropriate if the Committee has decided there’s no risk to the public or to people using services that requires the professional’s practice to be restricted. This means the case is at the lower end of the spectrum of impaired fitness to practise, but the Committee wants to mark that what happened was unacceptable and must not happen again.’*

The panel considered that your actions were not at the lower end of the spectrum, and it found that there is a risk to patient and public safety. The panel therefore determined that a sanction that does not restrict your practice would not protect the public. The panel also determined that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be appropriate. The panel is mindful that any conditions imposed must be relevant, proportionate, workable and measurable. The panel had regard to the NMC Guidance on ‘*Conditions of practice order*’ (Reference: SAN-2c Last Updated: 28/01/2026) and had regard to the following factors:

- ‘...
  - *identifiable areas of the professional’s practice in need of assessment and/or retraining*
  - ...
  - *potential and willingness to respond positively to retraining (this should be based on specific evidence provided by the professional)*
  - ...
  - *people using services will not be put at risk either directly or indirectly as a result of the conditions*
  - ...’

The panel is of the view that there are no relevant, proportionate, workable or measurable conditions that could be formulated, given the nature of the charges in this case. The panel determined that the misconduct identified in this case was not something that can be addressed through retraining, as it related to attitudinal concerns. The panel also determined that due to the seriousness of the facts found proved, conditions of practice would not protect the public nor meet the public interest in this case.

The panel went on to consider whether a suspension order is appropriate in this case. The panel had regard to the NMC Guidance on ‘*Suspension order*’ (Reference: SAN-2d Last Updated: 28/01/2026) in which the following factors on when a suspension order may be appropriate are set out:

- *‘the impairment is very serious but not fundamentally incompatible with continuing to be a registered professional*
- *an outcome less severe than strike-off would still satisfy the over-arching objective.’*

The panel also had regard to the key considerations as set out in the NMC Guidance to weigh up before imposing a suspension. It noted the following list of circumstances that may make a suspension order an appropriate sanction:

- *‘the charges found proved are at the most serious end of the spectrum and call into question the professional’s suitability to continue practising, either currently or at all*
- *while it is possible that the professional could be fit to practise in future, only a period out of practice would be sufficient to allow them to fully strengthen their practice through reflection, the development of their professional skills and / or development of insight and remediation*
- *there is a risk to the safety of people using services if the professional were allowed to continue to practise even with conditions*

- *what went wrong is so serious that public confidence in the profession and professional standards could not be maintained if the professional were able to continue practising without stopping for a period of time*
- *....'*

Whilst the panel acknowledged that the risks identified could be managed by you being temporarily removed from the Register, it considered that it would not be sufficient to uphold public confidence in the profession and maintain professional standards due to the seriousness and nature of the facts found proved. Given your very limited personal insight, the panel considered that there is no realistic possibility that you would address the concerns to such a level where you could return to practise safely.

The panel had regard to the NMC Guidance on *'Deciding between suspension and strike off'*. In particular, it had regard to:

*'Consider the professional's insight and attitude to addressing the concerns, and whether it is realistically possible that these will change positively during the suspension period. If it is unlikely the professional will try to address the concerns, there may not be appropriate for them to be suspended in the hopes that they will eventually return to practice.'*

Taking into account its previous findings, together with your reflective statements and supporting evidence, the panel concluded that it was unlikely your insight into, or attitude towards, addressing the concerns would change during a period of suspension. While the panel acknowledged your engagement with the proceedings, it determined that you had not demonstrated meaningful personal insight into the concerns, despite having been subject to interim conditions of practice order.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

In considering a striking-off order, the panel had regard to the NMC Guidance on ‘*Sanctions for the highest risk cases*’ (Reference SAN-4). The panel determined that this case falls within the definition of being a ‘*highest risk case*’, as it involved conduct that was discriminatory towards colleagues, patients and a patient’s relative.

The panel also had regard to the following considerations as set out in the NMC Guidance entitled ‘*Striking-off order*’ (Reference: SAN-2e Last Updated; 28/01/2026):

- *Do the charges found proved raise fundamental questions about their professionalism?*
- *Can public confidence in the profession be maintained if the professional is not removed from the Register?*
- *Is there any amount of insight and reflection which could keep people receiving care and members of the public safe, maintain public confidence in the profession, and uphold professional standards?*
- *Is there a realistic prospect that, after suspension, the professional will have gained insight and strengthened their practice such that the risk they pose will have reduced?*

The panel found that the charges proved raised fundamental concerns regarding your professionalism, and that public confidence in the profession would not be maintained were you to remain on the Register. The panel further determined that, whilst meaningful and sustained insight and reflection could, in principle, address the concerns identified, there was no realistic prospect that a period of suspension would result in you developing sufficient insight or strengthening your practice to such an extent that the risk you pose would be reduced.

Your actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with you remaining on the Register. The panel was of the view that the findings in this particular case demonstrate that your actions were

serious and to allow you to continue practising would not protect the public and would undermine public confidence in the profession and in the NMC as a regulatory body.

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

The panel considered that this order was necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

This will be confirmed to you in writing.

### **Interim order**

As the striking-off order cannot take effect until the end of the 28-day appeal period, 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 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 Taylor.

Ms Taylor invited the panel to impose an interim suspension order for a period of 18 months to cover any appeal period.

Ms Byron made no submissions on your behalf.

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

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to cover any appeal period.

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

That concludes this determination.