

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

**Substantive Hearing  
Monday 28 November 2022 – Thursday 1 December 2022**

Virtual Hearing

|                                       |   |
|---------------------------------------|---|
| <b>Name of Registrant:</b>            | Clare Evans   |
| <b>NMC PIN</b>                        | 96C0907E  |
| <b>Part(s) of the register:</b>       | Registered Nurse – Sub-part 1 Adult Nursing (15 March 1999)   |
| <b>Relevant Location:</b>             | Derbyshire  |
| <b>Type of case:</b>                  | Misconduct  |
| <b>Panel members:</b>                 | Wayne Miller (Chair, Lay member)<br>Jennifer Childs (Registrant member)<br>Christine Moody (Lay member) |
| <b>Legal Assessor:</b>                | Charles Conway  |
| <b>Hearings Coordinator:</b>          | Taymika Brandy  |
| <b>Nursing and Midwifery Council:</b> | Represented by Yvonne Ferns, Case Presenter   |
| <b>Miss Evans:</b>                    | Not present and unrepresented at the hearing  |
| <b>Facts proved:</b>                  | All   |
| <b>Facts not proved:</b>              | None  |
| <b>Fitness to practise:</b>           | Impaired  |
| <b>Sanction:</b>                      | Striking-off order  |
| <b>Interim order:</b>                 | <b>Suspension order (18 months)</b>   |

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

The panel was informed at the start of this hearing that Miss Evans was not in attendance and that the Notice of Hearing letter had been sent to Miss Evans' registered email address by secure email on 20 October 2022.

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

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and link to the virtual hearing and, amongst other things, information about Miss Evans' right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

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

## **Decision and reasons on proceeding in the absence of Miss Evans**

The panel next considered whether it should proceed in the absence of Miss Evans. It had regard to Rule 21 and heard the submissions of Ms Ferns who invited the panel to continue in the absence of Miss Evans. She submitted that Miss Evans had voluntarily absented herself and referred the panel to the relevant cases of *R v Hayward* [2001] EWCA Crim 168, *R v Jones* [2002] UKHL5, *GMC v Adeogba* [2016] EWCA Civ 162 and *Davies v Health and Care Professions Council* [2016] EWHC 1593 (Admin).

Ms Ferns submitted that Miss Evans has made no request for an adjournment, and that there is nothing to suggest that adjourning this hearing would serve any useful purpose. She submitted that Miss Evans had the opportunity to engage with the NMC and attend this hearing.

Ms Ferns submitted that it is fair, appropriate and proportionate to proceed in the absence of Miss Evans.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*' as referred to in the case of *Jones*.

The panel has decided to proceed in the absence of Miss Evans. In reaching this decision, the panel has considered the submissions of Ms Ferns, the written representations from Miss Evans, and the advice of the legal assessor. It has had regard to the factors set out in the decision of *Jones and Adeogba* and it had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Miss Evans;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- Three witnesses have attended today to give evidence via video link;
- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Miss Evans in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered address, she will not be able to challenge the evidence relied upon by the NMC and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Miss Evans' decisions to absent herself from the hearing, waive her rights to attend, and/or be represented. The panel noted that Miss Evans has submitted evidence for it to consider.

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

### **Details of charge**

That you, a registered nurse:

- 1) Used social media in an inappropriate way in that you posted material on social media platforms as shown in schedule 1
- 2) Posted the following on social media:
  - a) Referred to the BLM movement as a terrorist organisation
  - b) Stated that *'BLM money helped no black person ever'*
- 3) Used your status as a nurse in an inappropriate way in that:
  - a) Posted on social media telling people to remove their masks
  - b) Stated that the *'friendly NHS is killing you quietly'*
  - c) Promoted the removal of the track and trace system

- d) Stated that *'our NHS has lied to everyone throughout this pandemic'*
- e) Stated I am a nurse and I never trusted a doctor on my life or 26 year career ... guess what ... I was right not to any time'
- f) Posted *'COPD is manmade medical negligence of your mismanaged undiagnosed asthma'*
- g) Posted to social media *'sick of hearing about payrises for nurses I am a nurse and I wouldn't give them fuck all for tik tok through a crisis or neglect*
- h) Referred to the COVID-19 vaccine as *'this is not a fucking vaccine'*
- i) Stated *'those masks will not protect you from fuck all let alone a virus ... do you understand me'*
- j) Stated *'this PCR test cannot test for a virus ... do you understand'*

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

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

The panel heard an application made by Ms Ferns to admit further evidence, namely, seven screenshots that had previously formed part of the evidence adduced by the NMC and considered by the Case Examiners ("CE"). The screenshots were relevant to charges 3 f)- 3 j). Ms Ferns explained that although these screenshots had not formed part of the final exhibit bundle for this hearing due to an administrative error, these screenshots were sent to Miss Evans as part of the bundle of evidence considered by the CE on 21 September 2021.

The panel were provided two emails by Ms Ferns. The first email dated 21 September 2021 was an Egress secure file transfer sent to Miss Evans' registered email address subject titled: CE 081448/2020. The second email provided was from an NMC Senior Lawyer dated 28 November 2022, in which he states:

*'I've attached the CE masters. The relevant screenshots are at pages 90 and 171-177.*

*I confirm that this was the bundle sent to the registrant prior to the CE's considering whether she had a case to answer.'*

Ms Ferns also referred the panel to a further letter sent to Miss Evans by an NMC investigator, dated 21 September 2021 which states:

*'We're sending your case to the case examiners*

*With this letter, I've sent you everything from the final list of documents our case examiners will consider, including our investigation report. Please look through these documents carefully – there might be new ones you haven't seen yet, or changes to the ones you have seen.*

[...]

***What we've sent with this letter***

- *Regulatory concerns response form*
- *Investigation report*
- *Document Bundle A: Material the NMC intends to rely on*
- *Consent form for NMC to share information with your representative'.*

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

The panel considered all of the information before it, namely, the two emails and the letter dated 21 September 2021. The panel considered whether it would be fair to Miss Evans in granting this application. The panel has decided that Miss Evans must have had sight of these screenshots previously and also decided that these screenshots were highly relevant to the charges, and therefore it was fair and relevant to admit them.

The panel therefore decided to grant the application. The panel will give the appropriate weight to this further evidence once it has heard and evaluated all of the evidence before it.

## **Background**

Ms Ferns outlined the background to the case.

Ms Ferns informed the panel that Miss Evans entered the NMC Register as a Registered Adult Nurse on March 1999.

On 15 January 2021, Ms 1, a Band 5 Staff Nurse who does not know Miss Evans came across her Twitter profile. Ms 1 was sufficiently concerned about Miss Evans' Twitter profile and alleged tweets that she made a referral to the NMC. Ms 1 was very concerned that Miss Evans was allegedly spreading "*dangerous misinformation*" about the pandemic and encouraging people to ignore official government health advice. She was of the view that Miss Evans was allegedly abusing her position of trust as a nurse and using her status as a nurse to harm the public.

In February 2021, Dr 1, a GP Partner, who does not know Miss Evans came across her Twitter profile and Twitter feed. Dr 1 felt it was dangerous for someone who claimed to be a healthcare professional to allegedly spread false claims. She was concerned about Miss Evans' social media posts and referred Miss Evans to the NMC.

On 24 January 2021, Ms 2, a school health nurse, and who does not know Miss Evans came across her Twitter profile and her Twitter tweets and feed. She was also concerned about Miss Evans' social media posts and having confirmed that Miss Evans was registered with the NMC as a nurse, referred her to the NMC. She felt that, as a nurse, Miss Evans has a particular responsibility not to allegedly spread misinformation.

## **Decision and reasons on facts**

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

The panel has drawn no adverse inference from the non-attendance of Miss Evans.

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:

- Ms 1: A School Health Nurse.
- Ms 2: A Registered Nurse.
- Dr 1: A Salaried GP Partner.

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 Miss Evans.

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

### **Charge 1**

*1) Used social media in an inappropriate way in that you posted material on social media platforms as shown in schedule 1.*



**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Ms 1 and Ms 2 it also took into account Miss Evans' bundle and the screenshots provided of material from Miss Evans' social media accounts.

The panel had sight of the screenshots of Miss Evans twitter account and it noted that Miss Evans had clearly indicated in her twitter biography (which is visible to all twitter users), that she was a *'[Registered General Nurse ("RGN")] Respiratory/ Chronic Disease Specialist, Whistleblower, Corruption Destructor..wider vision to #changetheworld for all'* . The panel also had regard to a video of Miss Evans, which she had uploaded to her Facebook account and shared publicly in which she makes reference to her being a RGN and states that Covid is not real.

The panel took account of Ms 1's witness statement that states:

*'I included a screenshot of a Twitter post from January 2021 in which Clare retweeted a post from a member of the public who used their power of attorney to block their aunt from receiving a vaccination in a care home. This member of the public described this act, of abusing their power of attorney over their aunt, as: "A small victory against the vaccine establishment." In her retweet, Clare praised this member of the public by saying what they did was "Awesome",'*

The panel also took into account the screenshot that evidences the tweet referred to by Ms 1 in her witness statement, in which Miss Evans states:

*'This is awesome...refused a #vaccine in a care home...had POA...she won...stand up for you [sic] rights and family'*

The panel also had regard to another screenshot provided in Ms 2's evidence and it noted Miss Evans had posted the following tweet from her twitter account:

*'We have no virus...we have no pandemic we have a bunch of lying corrupt fake fucking cunts leading us'.*

The panel carefully considered and accepted the evidence of Ms 1 and Ms 2. The panel was of the view that both witnesses had provided clear evidence in relation to this charge and were able to reiterate their reasons for capturing these tweets from Miss Evans twitter account in their oral evidence. The panel carefully considered Miss Evans' response bundle and it noted that in her various communications with the NMC and in her written representations she does not dispute the provenance or content of the Twitter screenshots before the panel.

The panel considered all the evidence before it in relation to this charge and determined that the material created by Miss Evans was inappropriate and, in the circumstances, she had used social media in an inappropriate way as a registered nurse.

Accordingly, the panel found this charge proved.

### **Charge 2 a)**

*2) Posted the following on social media:*

*a) Referred to the BLM movement as a terrorist organisation*

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Dr 1 and the screenshots provided of material from Miss Evans' twitter account.

The panel noted that in the screenshot of Miss Evans' tweet it states that:

*'Makes me piss most of the world spent this year kneeling for BLM without realising it's a terrorist organisation because they like to follow my leader and think they are doing the right thing...no BLM money helped a black person ever...wakeup.'*

The panel also took account of Dr 1's witness statement in which she made direct reference to the tweet:

*'I looked further at her tweets and there were a few in particular that I found concerning, such as the following: "Makes me piss (sic) most of the world spent this year kneeling for BLM, without realising it's a terrorist organisation because they like to follow my leader and think they are doing the right thing... no BLM money helped a black person ever... #wakeup." This kind of tweet is not only offensive to black and minority ethnic people, but it's also offensive to people whose lives have been affected by terrorism; I grew up in Northern Ireland and found this incredibly offensive.'*

The panel considered Dr 1's evidence to be credible and clear and it was satisfied that in all the circumstances, Miss Evans had referred to the BLM movement as a terrorist organisation on social media.

Accordingly, this charge is found proved.

### **Charge 2 b)**

2) *Posted the following on social media:*

b) Stated that *'BLM money helped no black person ever'*

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence referred to in relation to Charge 2 b).

The panel noted that in the screenshot of Miss Evans' tweet it states that:

*'Makes me piss most of the world spent this year kneeling for BLM without realising it's a terrorist organisation because they like to follow my leader and think they are doing the right thing...no BLM money helped a black person ever...wakeup.'*

The panel also took account of Dr 1's witness statement in which she made direct reference to this tweet:

*'I looked further at her tweets and there were a few in particular that I found concerning, such as the following: "Makes me piss (sic) most of the world spent this year kneeling for BLM, without realising it's a terrorist organisation because they like to follow my leader and think they are doing the right thing... no BLM money helped a black person ever... #wakeup." This kind of tweet is not only offensive to black and minority ethnic people, but it's also offensive to people whose lives have been affected by terrorism; I grew up in Northern Ireland and found this incredibly offensive.'*

The panel considered Dr 1's evidence to be credible and clear and it was satisfied that in all the circumstances, Miss Evans stated that *'BLM money helped no black person ever'* on social media.

Accordingly, this charge is found proved.

### **Charge 3a)**

3) *Used your status as a nurse in an inappropriate way in that:*

a) *Posted on social media telling people to remove their masks*

**This charge is found proved.**

In reaching this decision, the panel took account of the evidence of Ms 1 and the screenshots of Miss Evans' tweets.

The panel noted that in the screenshots provided of Miss Evans' tweeting she states the following:

*'we have no virus... nothing to fear...remove your masks...open your business... these are rules not laws...we are and have been brainwashed for decades through fake science research government poor leadership and corruption...end of story'*

The panel also noted that in Dr 1's witness statement she refers to this tweet:

*'She was also encouraging people to remove their masks and to ignore official government health advice. I thought her posts were dangerous.'*

The panel considered that the screenshots provided clear evidence of Miss Evans' tweet and accepted the evidence of Dr 1. The panel also considered that Miss Evans telling people to remove their masks placed vulnerable people at risk if they were to follow her advice, which it considered dangerous and contrary to the health advice given by the government at the time. The panel was of the view that masks were considered one of the three ways identified to prevent the spread of Covid during the height of the pandemic and to protect the most vulnerable members of the public. In all the circumstances, the panel determined that Ms Evans' tweet was inappropriate and was satisfied that she had used her status as a nurse inappropriately.

Accordingly, this charge is found proved.

**Charge 3b)**

3) *Used your status as a nurse in an inappropriate way in that:*

*b) Stated that the 'friendly NHS is killing you quietly'*

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Ms 1 and the screenshots provided of material from Miss Evans' Twitter account.

The panel noted that in the screenshots of Miss Evans' tweet, she states the following comment in response to a tweet she had retweeted:

*'This is true... your friendly NHS is killing you'*

The panel also noted that in Ms 1's witness statement she refers to this tweet:

*'One such tweet was by someone with the user name 'Lord Bilderberg' who claimed that: "The NHS is complicit in the humanitarian crimes perpetrated against the British people." Clare shared this tweet in January 2021 with the caption: "This is true... your friendly NHS is killing you quietly."'*

The panel considered that the screenshot provided clear evidence of Miss Evans' tweet and accepted the evidence of Ms 1. The panel was of the view that Miss Evans' tweet was concerning and would have been confusing to members of the public during the pandemic. In addition, the panel considered that Miss Evans' tweet incited uncertainty and encouraged mistrust in the NHS, which had the potential to frighten some of the most vulnerable members of the public reliant on the NHS at the time. In all the circumstances, the panel determined that Ms Evans' tweet was inappropriate and was satisfied that she had used her status as a nurse inappropriately.

Accordingly, this charge is found proved.

**Charge 3 c)**

3) *Used your status as a nurse in an inappropriate way in that:*

*c) Promoted the removal of the track and trace system*

**This charge is found proved.**

In reaching this decision, the panel took account of the evidence of Ms 1, the Facebook Video and the screenshots provided of material from Miss Evans' twitter account.

The panel noted that in the screenshot provided of Miss Evans retweeting and subsequently sharing a tweet, she makes the following comment:

*'this to remove trace and trace from Iphone'*

The panel also noted that in the witness statement of Ms 1 she refers to this tweet:

*'in another tweet Clare encouraged people to remove the 'Track and Trace' application from their phones, and provided instructions on how to do so. In a separate Facebook video which Clare posted on 6 January 2021, (Exhibit JJ/2), Clare introduced herself as a Registered General Nurse who is trying to save the NHS. She also stated that she does not believe that Covid is real and cited the lack of a working Track and Trace system and questionable data as her reason.'*

The panel accepted the evidence of Ms 1 and was of the view that she had been consistent with her witness statement in her oral evidence.

The panel considered that the screenshot provided clear evidence of Miss Evans' tweet and the Facebook video where Miss Evans declared amongst other things, that we have never had a Track and Trace system. The panel also considered that the purpose of the NHS Track and Trace system was to control the rate of reproduction and to reduce the spread of Covid. It did this by alerting those who had been in close contact with someone with Covid or allowing those with Covid to report test results. The panel also considered that Miss Evans sharing these instructions during the pandemic as a registered nurse, undermined the government's efforts to control the spread, protect vulnerable members of the public and to save lives. The panel was of the view that this was contrary to the government advice at the time. In all the circumstances, the panel determined that Ms Evans' tweet was inappropriate and was satisfied that she had used her status as a nurse inappropriately.

Accordingly, this charge is found proved.

### **Charge 3d)**

*3) Used your status as a nurse in an inappropriate way in that:*

*d) Stated that 'our NHS has lied to everyone throughout this pandemic'*

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Ms 1, Ms 2 and the screenshots provided of material from Miss Evans' twitter account.

The panel noted that in the screenshots provided Miss Evans tweeted the following:

*'This... Our NHS has lied to everyone throughout this pandemic... our immune system works perfectly all by itself expect if someone has a condition which affects this and the vaccine has not been fully tested as they state... it's not even licensed.'*



The panel noted Ms 1's witness statement where she refers to this tweet:

*'Clare also shared another tweet from this user, in which they claimed: "The misinformation being spread as truths [sic] by the NHS is truly staggering. It no longer has our health top [sic] of its agenda." Along with her retweet, Clare commented: "This... our NHS has lied to everyone throughout this pandemic... our immune system works perfectly all by itself unless someone has a condition which affects this, and the vaccine has not been fully tested as they state, it's not even licensed."*

The panel considered that the screenshot provided clear evidence of Miss Evans' tweet and accepted the evidence of Ms 1 and Ms 2. The panel bore in mind that many members of the public are reliant on the NHS and were particularly reliant on the NHS and nurses during the pandemic to save lives and to treat those who were suffering from the disease. The panel considered that Miss Evans' tweet incited mistrust in the NHS. In all the circumstances, the panel determined that Ms Evans' tweet was inappropriate and was satisfied that she had used her status as a nurse inappropriately.

Accordingly, the panel found this charged proved.

### **Charge 3e)**

3) *Used your status as a nurse in an inappropriate way in that:*

*e) Stated I am a nurse and I never trusted a doctor on my life or 26 year career ... guess what ... I was right not to any time'*

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Ms 2 and the screenshots provided of material from Miss Evans' twitter account.

The panel noted that in the screenshots provided Miss Evans tweeted the following:

*'I am a #nurse and I never trusted a #doctor on my life or 26 year career...guess what..I was right not to any time'*

The panel noted Ms 2's witness statement where she refers to this tweet:

*'On 24 January 2021, I was viewing Twitter and one of Clare's tweets came across my news feed by chance. Her tweet caught my attention as it said, "I am a nurse and I have never trusted a doctor in my life or 26 year career... guess what... I was right not to any time (sic)." Clare's profile seemed to be a fully public profile, with all users able to interact with her posts and view content. Clare's Twitter bio said she was a whistleblower as well as a respiratory and chronic disease specialist.'*

The panel considered that the screenshot provided clear evidence of Miss Evans' tweet and that she clearly identified herself as a nurse in this tweet, it also accepted the evidence of Ms 2. The panel was of the view that a registered nurse informing members of the public that you cannot trust a doctor is concerning, particularly in the context of the pandemic where people were reliant on doctors to treat and save the lives of those suffering from Covid. In all the circumstances, the panel determined that Ms Evans' tweet was inappropriate and was satisfied that she had used her status as a nurse inappropriately.

Accordingly, this charge is found proved.

### **Charge 3f)**

3) *Used your status as a nurse in an inappropriate way in that:*

*f) Posted 'COPD is manmade medical negligence of your mismanaged undiagnosed asthma'.*

**This charge is found proved.**

In reaching this decision, the panel considered the screenshots provided of material from Miss Evans' Facebook account.

The panel noted that in the screenshots provided Miss Evans posted the following status on Facebook:

*'#COPD is a man made medical negligence of your mismanaged undiagnosed #asthma'.*

The panel considered that the screenshot provided clear evidence of Miss Evans' Facebook post. The panel bore in mind that Covid is a respiratory disease and it noted previously that Miss Evans had identified herself as a respiratory and chronic disease specialist on her social media. The panel was of the view that this could have led members of the public to believe that she had specialist knowledge in this area and therefore, adopting Miss Evans beliefs due to her status. In all the circumstances, the panel determined that Ms Evans' Facebook post was inappropriate and was satisfied that she had used her status as a nurse inappropriately.

Accordingly, the panel found this charge proved.

**Charge 3g)**

*3) Used your status as a nurse in an inappropriate way in that:*

*g) Posted to social media 'sick of hearing about payrises for nurses I am a nurse and I wouldn't give them fuck all for tik tok through a crisis or neglect*

**This charge is found proved.**

In reaching this decision, the panel considered the evidence of Ms 2 and the screenshots provided of material from Miss Evans' Facebook account.

The panel noted that in the screenshots provided Miss Evans posted the following status on Facebook:

*'Sick of hearing about payrises [sic] for #nurses I am a #nurse and I wouldn't give them fuck all for tik tok through a crisis or neglect'*

The panel also took account of Ms 2's witness statement that states:

*'[...]The beginning of the pandemic was a frightening time and no one knew what was coming. Nurses worked so hard during this time and they needed to maintain their wellbeing; they were stressed and scared. Team dynamics were so important for wellbeing, and a few nurses decided to dance on TikTok to lift one another's spirits. Clare's comment about these nurses was negative and insulting.'*

The panel accepted the evidence of Ms 2, who in her oral evidence was able to provide an insightful account into the stresses and difficulties faced by nurses working during the pandemic. The panel was of the view that Ms 2's evidence was credible and that the screenshot provided clear evidence of Miss Evans' Facebook post. The panel concluded that Miss Evans' posts on Facebook were both damaging and a criticism towards her colleagues and to the nursing profession. In all the circumstances, the panel determined that Ms Evans' Facebook post was inappropriate and was satisfied that she had used her status as a nurse inappropriately.

Accordingly, the panel found this charge proved.

### **Charge 3h)**

3) *Used your status as a nurse in an inappropriate way in that:*

*h) Referred to the COVID-19 vaccine as 'this is not a fucking vaccine'*

**This charge is found proved.**

In reaching this decision, the panel considered the screenshots provided of material from Miss Evans' Facebook account.

The panel noted that in the screenshots provided Miss Evans posted the following status on Facebook:

*'Had my TB jab that's why I'm not antivax... I know it works... this is not a fucking vaccine'*

The panel considered that the screenshot provided clear evidence of Miss Evans' Facebook post. The panel bore in mind that the vaccine was one of the governments solutions to provide the most effective level of protection against Covid and at the time there was a strong public health initiative to encourage members of the public to have the vaccine. The panel was of the view that Miss Evans as a registered nurse was in a position of trust and could have potentially caused harm to those by sharing such messages. In particular, this could have discouraged those that are vulnerable from having the vaccine. The panel further considered that this undermined the public health advice at the time. In all the circumstances, the panel determined that Ms Evans' Facebook post was inappropriate and was satisfied that she had used her status as a nurse inappropriately.

Accordingly, this charge is found proved.

**Charge 3i)**

3) *Used your status as a nurse in an inappropriate way in that:*

*i) Stated 'those masks will not protect you from fuck all let alone a virus ... do you understand me'*

**This charge is found proved.**

In reaching this decision, the panel considered the screenshots provided of material from Miss Evans' Facebook account.

The panel noted that in the screenshots provided Miss Evans posted the following status on Facebook:

*'Those #masks will not protect you from fuck all let alone a #virus... do you understand me'*

The panel considered that the screenshot provided clear evidence of Miss Evans' Facebook post. The panel considered that at the time members of the public were being encouraged to wear masks in order to prevent the spread of Covid and to protect themselves. The panel was of the view that Miss Evans' post undermined the public health advice at the time and could have been dangerous and caused further harm amidst the pandemic. The panel also considered that it could incite fear in those that were wearing masks in an attempt to protect themselves from the disease. In all the circumstances, the panel determined that Ms Evans' Facebook post was inappropriate and was satisfied that she had used her status as a nurse inappropriately.

Accordingly, this charge is found proved.

**Charge 3j)**

*3) Used your status as a nurse in an inappropriate way in that:*

*j) Stated 'this PCR test cannot test for a virus ... do you understand'*

**This charge is found proved.**

In reaching this decision, the panel took into account the screenshots provided of material from Miss Evans' Facebook account.

The panel noted that in the screenshots provided Miss Evans posted the following status on Facebook:

*'This #PCR test cannot test for a #virus...do you understand'*

The panel considered that the screenshot provided clear evidence of Miss Evans' Facebook post. The panel considered that this was inappropriate as it undermined the public health advice at the time regarding PCR test and also the importance of them in allowing people to identify if they had Covid aided by the NHS Track and Trace system. PCR tests at the time were also required for work purposes and assisted those that tested positive to isolate. The panel was mindful that if people did adopt Miss Evans' view at the time ignoring a positive test result for example could have increased the spread of Covid. In all the circumstances, the panel determined that Ms Evans' Facebook post was inappropriate and was satisfied that she had used her status as a nurse inappropriately.

Accordingly, this charge is found proved.

The panel has carefully considered Miss Evans' response bundle in relation to each of all the individual charges, however it considered that Miss Evans did not address or make any comments in respect of any of these charges.

## **Fitness to practise**

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Miss Evans' 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 suitability to remain on the register unrestricted.

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

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Miss Evans' fitness to practise is currently impaired as a result of that misconduct.

## **Submissions on misconduct and impairment**

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 Ferns invited the panel to take the view that the facts found proved amount to misconduct and were in breach of The Code: Professional standards of practice and behaviour for nurses and midwives (2018) ("the Code"). She then directed the panel to



specific paragraphs and standards and identified where, in the NMC's view, Miss Evans' actions amounted to a breach of those standards.

Ms Ferns submitted that the charges found proved are in relation to Miss Evans' actions in using her status as a registered nurse in an inappropriate way by voicing her own personal views and beliefs which were in direct conflict with official government health advice. She submitted that Ms Evans had described herself on Twitter as a Respiratory Nurse and Chronic Disease Specialist and that her aim was to influence people due to her specialist knowledge and for them to act in a certain way, which resulted in putting people at risk of harm.

Ms Ferns submitted that Miss Evans' actions are serious and fall short of what would be expected of a registered nurse. The areas of concerns identified involve a serious departure from expected standards. She referred the panel to the case of *Roylance*.

Ms Ferns submitted that Miss Evans' actions were serious and individually and collectively fall seriously short of the expected conduct of a registered nurse and amount to misconduct.

Ms Ferns then 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 referred the panel to the case *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin). She submitted that limbs a, b and c of Dame Janet Smith's test as set out in the Fifth Report from Shipman were engaged by Miss Evans' past actions.

Ms Ferns submitted that in the absence of any remediation, there remains a risk to the health, safety and wellbeing of the public should Miss Evans return to unrestricted practice. She submitted that Miss Evans has had limited engagement with the NMC and

has not demonstrated any remediation or insight. She further submitted that Miss Evans has not admitted the charges and that her fitness to practise is currently impaired by reason of her misconduct.

Ms Ferns referred the panel to the case of *Cohen v GMC* [2007] EWHC 581 (Admin) and submitted that the panel may find that Miss Evans' actions are serious and bring the nursing profession into disrepute. She submitted that nurses occupy a position of privilege and trust in society and are expected at all times to be professional.

Ms Ferns then invited the panel to consider whether Miss Evans was likely to repeat these actions in the future and consider any steps taken to remediate the concerns and whether Miss Evans' fitness to practise is currently impaired.

Ms Ferns submitted that it is a matter for the panel whether in light of the above, due to her misconduct and no evidence of remediation, Miss Evans is liable in the future to repeat the behaviour and conduct and whether the reputation of the nursing profession would be damaged if Miss Evans be permitted to practise unrestricted.

Ms Ferns submitted that Miss Evans' actions are serious that a finding of current impairment is required in order to maintain public confidence in the profession and the NMC and to uphold proper professional standards. She submitted that the public confidence in the profession and the NMC as regulator would be undermined if that behaviour was allowed to pass effectively unmarked.

Ms Ferns submitted that a finding of current impairment is necessary to declare and uphold proper standards and that Miss Evans' fitness to practise is currently impaired, on the grounds of public protection and otherwise in the public interest.

Ms Ferns referred the panel to the case of *White v GMC* [2021] EWHC 3286. She explained that the case deals with the correct procedure to be followed by an interim order

tribunal and she submitted that therefore on this basis, it is irrelevant for the panel's purposes today as a panel of the Fitness to Practice committee at a substantive hearing.

Ms Ferns referred the panel to Article 10 of the European Convention on Human Rights ("the ECHR"), which she submitted was relevant in the case of *White* and invited the panel to consider it in respect of this case.

Ms Ferns invited the panel to consider whether what Ms Evans had posted on her social media Twitter and Facebook "*fell within the bounds of legitimate freedom of speech*" protected by Article 10 of the ECHR or whether it went beyond "*legitimate medical comment to conspiracy theories, accusing the government of a campaign of lies and of a hoax*" and were therefore, matters which departed from "*Good Medical Practice*", undermining confidence in the profession and raising concerns as to "*patient safety*".

Ms Ferns submitted that Article 10 is a qualified right and one of the qualifications specifically identified within Article 10 2 is the legitimate aim of pursuing public safety and the protection of health. Ms Ferns referred the panel to para 15 of *White* that states:

*'a medical practitioner expressing opinions about medical matters his entitlement to freedom of expression is not absolute'*.

The panel accepted the advice of the legal assessor which included reference to the cases of *Roylance* and *Johnson and Maggs v NMC* [2013] EWHC 2140 (Admin). He also referred the panel to Article 10 of the ECHR:

*'1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.'*

*2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.'*

### **Decision and reasons on application for part of the hearing to be held in private**

After the panel heard the advice of the legal assessor, Ms Ferns made a request that this case be held partly in private on the basis that matters relating to Miss Evans health are referred to in her bundle. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

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

Having heard that there is reference to Miss Evans' health in the documentation before it, the panel determined to go into private only as and if such issues are raised in order to protect Miss Davies' right to privacy.

### **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, in reaching its decision, had regard to the protection of the public and the wider public interest and accepted that there was no burden or standard of proof at this stage and exercised its own professional judgement.

The panel was of the view that Miss Evans' actions amounted to a breach of the Code. The panel considered that the following sections of the Code were engaged in this case:

***'19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice. To achieve this, you must:***

...

*19.3 keep to and promote recommended practice in relation to controlling and preventing infection*

....

***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*

....

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

...

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

...

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

...

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

In determining whether Miss Evans' actions amounted to misconduct individually in relation to charge 1 the panel considered that Miss Evans had used her position as a registered nurse and as stated on Twitter '*Respiratory/ Chronic disease Specialist*' in an attempt to make members of the public follow her advice and by doing so potentially placed themselves at a real risk of harm. The panel considered that Miss Evans' advice was contrary to the government advice implemented to protect people and save lives and that she continued to share this advice over a sustained period of time.

The panel had regard to the Article 10 of the ECHR and considered Miss Evans' right to freedom of expression and noted that it was a qualified right. Taking all of the evidence into consideration, the panel was of the view that Miss Evans' actions in the charge did engage Article 10.1, in that her actions affected public safety and the protection of health.

The panel was of the view that Miss Evans' actions in charge 1 fell far below the professional standards expected of a registered nurse and would be regarded as deplorable by her fellow colleagues and members of the public. The panel therefore determined that Miss Evans' actions in charge 1 breached the Code and were sufficiently serious to amount to misconduct.

In determining whether Miss Evans' actions amounted to misconduct individually in relation to charge 2a) and 2b). The panel considered the tweet that stated Miss Evans' personal opinion on the BLM movement. The panel considered that the language used in the tweet was inappropriate, in that it referred to BLM is '*a terrorist organisation*'. The panel was of the view that Miss Evans' tweet was factually incorrect and maybe

considered offensive to some members of the public it also considered that this tweet was in breach of 20.7 of the Code. However, the panel had regard to Article 10 of the relating to Miss Evans' right to freedom of expression. It noted that this right to freedom was not an absolute right and is qualified by 10.1. The panel considered 10.2 but were not satisfied that this qualifying section was engaged because Miss Evans' tweets did not affect public safety or protection of health. In all the circumstances, therefore the panel concluded that the breach of the Code was not serious enough to find this tweet amounted to misconduct.

In determining whether Miss Evans' action amounted to misconduct individually in relation to charge 3a), the panel considered that her action was dangerous, in that her tweet encouraged members of the public to remove their masks. The panel considered that Miss Evans' advice was contrary to public health advice at the time and that masks aided protection against Covid and prevented the spread of the disease. The panel was of the view that Miss Evans' action in charge 3a) fell far below the professional standards expected of a registered nurse and would be regarded as deplorable by her fellow colleagues and members of the public. The panel therefore determined that Miss Evans' action in charge 3a) breached the Code and was sufficiently serious to amount to misconduct.

In determining whether Miss Evans' action amounted to misconduct individually in relation to charge 3b), the panel considered that Miss Evans' tweet encouraged mistrust in the NHS. The panel was of the view that if people did adopt this belief, it could place people at a real risk of significant harm as people may be reluctant to access NHS services if they needed to. The panel was of the view that Miss Evans' action in charge 3b) fell far below the professional standards expected of a registered nurse and would be regarded as deplorable by her fellow colleagues and members of the public. The panel therefore determined that Miss Evans' action in charge 3b) breached the Code and was sufficiently serious to amount to misconduct.

In determining whether Miss Evans' action amounted to misconduct individually in relation to charge 3c), the panel considered that Miss Evans' tweet was contrary to the purpose of

the NHS Track and Trace that advised people to isolate to prevent the spread of infection. It also considered that discouraging people to use NHS Track and Trace system, could have caused the disease to spread further and would subsequently lead to more Covid related deaths. The panel was of the view that Miss Evans' action in charge 3c) fell far below the professional standards expected of a registered nurse and would be regarded as deplorable by her fellow colleagues and members of the public. The panel therefore determined that Miss Evans' action in charge 3c) breached the Code and were sufficiently serious to amount to misconduct.

In determining whether Miss Evans' action amounted to misconduct individually in relation to charge 3d), the panel considered that Miss Evans' tweet encouraged people to lose confidence in the NHS and subsequently, people may not have sought important health advice. The panel was of the view that the tweet was damaging, in that it could have led people to not engage with the NHS at a time where public engagement with health advice was crucial in saving lives. The panel was of the view that Miss Evans' action in charge 3d) fell far below the professional standards expected of a registered nurse and would be regarded as deplorable by her fellow colleagues and members of the public. The panel therefore determined that Miss Evans' action in charge 3d) breached the Code and was sufficiently serious to amount to misconduct.

In determining whether Miss Evans' action amounted to misconduct individually in relation to charge 3e), the panel considered that this tweet was an attempt to encourage fear amongst members of the public by creating uncertainty in the medical profession, particularly at a time where members of the public were reliant on the advice and the lifesaving treatment of doctors. The panel was of the view that Miss Evans' action in charge 3e) fell far below the professional standards expected of a registered nurse and would be regarded as deplorable by her fellow colleagues and members of the public. The panel therefore determined that Miss Evans' action in charge 3e) breached the Code and was sufficiently serious to amount to misconduct.

In determining whether Miss Evans' action amounted to misconduct individually in relation to charge 3f), the panel considered that vulnerable people would have been particularly



affected by this Facebook post. It considered that it could place those that had a respiratory illness such as COPD, at a real risk of significant harm if they did ignore government advice or not seek medical help as a result of Miss Evans' Facebook post. The panel was of the view that Miss Evans' action in charge 3f) fell far below the professional standards expected of a registered nurse and would be regarded as deplorable by her fellow colleagues and members of the public. The panel therefore determined that Miss Evans' action in charge 3f) breached the Code and was sufficiently serious to amount to misconduct.

In determining whether Miss Evans' action amounted to misconduct individually in relation to charge 3g), the panel considered that Miss Evans' Facebook post implied that members of the nursing profession during the pandemic, were not acting professionally and had been neglecting patients. The panel was of the view that this statement had serious potential to undermine the trust and confidence in the nursing profession, particularly during a time where nurses were working to save lives. The panel was of the view that Miss Evans' action in charge 3g) fell far below the professional standards expected of a registered nurse and would be regarded as deplorable by her fellow colleagues and members of the public. The panel therefore determined that Miss Evans' action in charge 3g) breached the Code and was sufficiently serious to amount to misconduct.

In determining whether Miss Evans' action amounted to misconduct individually in relation to charge 3h). The panel was of the view that for the most vulnerable members of the public the vaccine could be lifesaving. The panel considered that Miss Evans' Facebook post was contrary to public health advice and if her views were adopted by others this could place them at a real risk of significant harm. The panel was of the view that Miss Evans' action in charge 3h) fell far below the professional standards expected of a registered nurse and would be regarded as deplorable by her fellow colleagues and members of the public. The panel therefore determined that Miss Evans' action in charge 3h) breached the Code and was sufficiently serious to amount to misconduct.

In determining whether Miss Evans' action amounted to misconduct individually in relation to charge 3i), the panel considered that Miss Evans' Facebook post went against

government advice and for the reasons as set out for charge 3a), the panel was of the view that Miss Evans' action in charge 3i) fell far below the professional standards expected of a registered nurse and would be regarded as deplorable by her fellow colleagues and members of the public. The panel therefore determined that Miss Evans' action in charge 3i) breached the Code and was sufficiently serious to amount to misconduct.

In determining whether Miss Evans' action amounted to misconduct individually in relation to charge 3j), the panel considered that it undermined the advice of the government to use PCR tests to help control the spread of the virus as it assisted people in identifying when they had Covid, enabling them to isolate. The panel considered that this post was an attempt to create uncertainty in the PCR test. The panel was of the view that if members of the public had adopted this view, this could have caused the spread of the disease further as members of the public may choose to ignore a positive test result. The panel was of the view that Miss Evans' action in charge 3j) fell far below the professional standards expected of a registered nurse and would be regarded as deplorable by her fellow colleagues and by members of the public. The panel therefore determined that Miss Evans' action in charge 3j) breached the Code and was sufficiently serious to amount to misconduct.

The panel also had regard to the Article 10.1 and 10.2 of the ECHR in respect of charge 3 in its entirety, and it considered Miss Evans' right to freedom of expression and noted that it was a qualified right. Taking all of the above into consideration, the panel determined that Miss Evans' actions in charge 3 did engage Article 10.1 and 10.2, in that her actions affected public safety and protection of health.

### **Decision and reasons on impairment**

The panel next went on to decide if, as a result of this misconduct, Miss Evans' fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession. In this regard the panel considered the judgement of Mrs Justice Cox in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) in reaching its decision. In paragraph 74 she said:

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

Mrs Justice Cox went on to say in Paragraph 76:

*“I would also add the following observations in this case having heard submissions, principally from Ms McDonald, as to the helpful and comprehensive approach to determining this issue formulated by Dame Janet Smith in her Fifth Report from Shipman, referred to above. At paragraph 25.67 she identified the following as an appropriate test for panels considering impairment of a doctor’s fitness to practise, but in my view the test would be equally applicable to other practitioners governed by different regulatory schemes.*

*Do our findings of fact in respect of the doctor’s misconduct, deficient professional performance, adverse health, conviction, caution or*

*determination show that his/her fitness to practise is impaired in the sense that s/he:*

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

The panel considered that limbs a, b and c of the above test were engaged by Miss Evans' past actions.

The panel considered that Miss Evans' inappropriate use of social media created mistrust and uncertainty in the NHS and the medical professions. The panel considered that the provision of safe and effective care is something members of the public are reliant on the NHS for and particularly in the context of the pandemic. The panel considered that Miss Evans' actions placed members of the public at risk of significant harm in that she had used social media to share statements contrary to government health advice at the time.

The panel had regard to the case of *Cohen* and considered that Miss Evans' actions were remediable. The panel went on to consider whether Miss Evans' remained liable to act in a way to put patients at risk of harm, to bring the profession into disrepute and to breach fundamental tenets of the profession in the future. In doing so, the panel considered whether there was any evidence of insight and remediation.

The panel carefully considered the documentation contained within Miss Evans' bundle and it was of the view that there was nothing within the bundle that indicated any evidence of insight or remediation. In light of this, the panel considered that Miss Evans had not remediated her actions.

The panel also considered that Miss Evans had shared her views over a sustained period of time and across two social media platforms. The panel particularly noted that on one of Miss Evans' tweets, she had 146 retweets and 545 favourites.

*'We have no virus...we have no pandemic we have a bunch of lying corrupt fake fucking cunts leading us'*

The panel considered the reach the social media platforms enabled Miss Evans to have. It also considered that if these views had been adopted by members of public, how many people could have been placed at a risk of harm as a result. It was of the view that this was concerning, and it was mindful that her audience could have been in excess of the numbers shown.

The panel therefore considered that a risk of repetition remained, and that Miss Evans remained liable to act in a way which could place patients at risk of harm, bring the profession into disrepute and breach fundamental tenets of the profession in the future. The panel therefore determined that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health, safety and wellbeing of the public and patients, and to uphold and protect the wider public interest, which includes promoting and maintaining public confidence in the nursing profession and upholding the proper professional standards for members of the profession. Having regard to Miss Evans' actions in this case, the panel considered that members of the public would be shocked to learn of a registered nurse sharing such views and subsequently endangering members of the public. The panel

therefore determined that a finding of impairment is also necessary on public interest grounds.

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

## **Sanction**

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

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

## **Submissions on sanction**

Ms Ferns outlined the aggravating factors and submitted that there are no mitigating factors in this case. Ms Ferns informed the panel that in the Notice of Hearing, dated 20 October 2022, the NMC had advised Miss Evans that it would seek the imposition of a striking-off order if it found Miss Evans' fitness to practise is currently impaired.

Ms Ferns informed the panel that Miss Evans had previously been subject to a suspension order for a period of 12 months from 3 February 2010 to 3 February 2011 case reference 021647/2008.

Ms Ferns submitted that taking no further action would not address the seriousness of the concerns and that it would be neither proportionate nor in the public interest to take no further action. She submitted that this sanction would not secure the trust of the public.

Ms Ferns submitted that a caution order would not restrict Miss Evans' practice and is only used to address concerns at the lower end of the spectrum. She submitted that a Caution Order is not appropriate in the circumstances.

Ms Ferns submitted that a conditions of practice order would not be appropriate in the circumstances as this is usually put in to place to address specific concerns where clinical skills need to improve and therefore is not appropriate here.

Ms Ferns submitted that a suspension order would not be appropriate as Miss Evans has not fully engaged with the process and has not provided any evidence of insight, remorse, reflection, or remediation.

Ms Ferns submitted that a striking-off order would be the proportionate sanction in this case. She submitted that the regulatory concern raises fundamental questions about Miss Evans' professionalism and that she has breached fundamental tenants of the Code in relation to upholding the reputation of the profession.

Ms Ferns submitted that Miss Evans' behaviour does not relate to one single incident and is serious misconduct was repeated on several occasions across different social media platforms which would have reached a wider audience. She submitted that there is clear evidence of deep-seated attitudinal concerns of which there is no evidence that Miss Evans has rectified.

Ms Ferns submitted that the Sanction Guidelines ("SG") with regards to Strike Off orders is that this sanction is likely to be appropriate when what the *'nurse, midwife or nursing associate has done is fundamentally incompatible with being a registered professional.'* The guidance refers to key considerations to be taken into account and she submitted that the regulatory concerns about Miss Evans do raise fundamental questions about her professionalism.

Ms Ferns submitted that public confidence in nurses, midwives and nursing associates would not be maintained if Ms Evans is not removed from the register. She submitted that a striking-off order is the only sanction which will be sufficient to maintain professional standards.

Ms Ferns referred to the case of *Iqbal v Solicitors Regulation Authority* (2012) EWHC 3251 (Admin) and submitted that public confidence would be undermined if a striking-off order is not made.

The panel also took into consideration the bundle provided by Miss Evans.

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

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

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

The panel took into account what it considered to be aggravating features:

- Lack of insight into failings.
- A pattern of misconduct over a period of time through a global pandemic.
- Conduct which put patients at risk of suffering harm.

[PRIVATE].



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

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

The panel next considered whether placing conditions of practice on Miss Evans' registration would be a sufficient and appropriate response. The panel was mindful that any conditions imposed must be proportionate, measurable and workable, it also considered that the misconduct in this case did not involve concerns about Miss Evans' clinical practice. The panel was of the view that there are no practical or workable conditions that could be formulated, given the nature of the misconduct in this case. Furthermore, the panel considered that a conditions of practice order would not mark the seriousness of Miss Evans' misconduct. The panel concluded that the placing of conditions on Miss Evans' registration would not adequately address the seriousness of this case and would not protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction and considered the SG. The panel considered that there was evidence of deep-seated attitudinal problems and that there was no evidence before it to demonstrate that Miss Evans had any insight into her misconduct. The panel considered that Miss Evans did pose a risk of repeating the behaviour.

Taking all of this into account, given the serious level of misconduct in this case, which the panel had determined to be at the higher end of the spectrum of seriousness, and the lack of any compelling evidence of insight, the panel did not consider that a period of suspension would be sufficient to protect patients and public confidence in nurses and to maintain professional standards.

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Miss Evans' actions is fundamentally incompatible with Miss Evans remaining on the register.

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

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

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

The panel determined that Miss Evans' actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Miss Evans' actions were serious and to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

The panel considered that Miss Evans' behaviour did raise fundamental questions about her professionalism. Given the lack of evidence of insight and remediation and the risk of repetition shown by Miss Evans the panel considered that public confidence in nurses would not be maintained by a suspension order.

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 Miss Evans' actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of this would be sufficient in this case. It considered that a striking-off order is the only sanction sufficient to protect patients and members of the public and to maintain professional standards.

The panel determined 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.

### **Interim order**

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Miss Evans' own interests until the striking-off sanction takes effect.

### **Submissions on interim order**

The panel took account of the submissions made by Ms Ferns, she invited the panel to impose an interim suspension order for a period of 18 months to cover the appeal period on the same grounds as the panel found Miss Evans' fitness to practise impaired.

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

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

Having regard to the findings in this case, the panel did consider that an interim order is necessary to protect the public and is otherwise in the public interest. Having regard to the seriousness of the facts found proved, which amounted to misconduct, and the reasoning for its decision to impose a striking-off order, the panel considered that to not impose an interim order would be incompatible with its previous findings.

Having regard to its previous findings, and the decision to impose a striking-off order, the panel determined that an interim conditions of practice order would not be appropriate, proportionate or workable. The panel therefore determined to impose an interim suspension order. The period of this order is for 18 months to allow for the possibility of an appeal to be made and determined.

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

That concludes this determination.

This will be confirmed to Miss Evans in writing.