

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

**Substantive Meeting
Wednesday, 27 November 2024 – Thursday, 28 November 2024**

Nursing and Midwifery Council
10 George Street, Edinburgh, EH2 2PF

Name of Registrant:	Rebecca Steward	
NMC PIN	18E0617E	
Part(s) of the register:	Nurses part of the register Sub part 1 RNA: Adult nurse, level 1 (14 September 2018)	
Relevant Location:	Cornwall	
Type of case:	Misconduct	
Panel members:	Paul O'Connor Linda Holloway Kamaljit Sandhu	(Chair, Lay member) (Registrant member) (Lay member)
Legal Assessor:	Michael Bell	
Hearings Coordinator:	John Kennedy	
Facts proved:	Charges 1a, 1b, 1c, 1d,1e, 2, and 3	
Fitness to practise:	Impaired	
Sanction:	Striking-off order	
Interim order:	Interim suspension order (18 months)	

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that that the Notice of Meeting had been sent to Miss Steward's registered email address by secure email on 23 October 2024.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, dates and venue of the meeting.

In the light of all of the information available, the panel was satisfied that Miss Steward has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Details of charge

That you a Registered Nurse:

1. On 9 August 2022 at The King Doniert Public House in Liskeard:
 - a) said words to the effect of 'cunt' to a member of the public
 - b) said words to the effect of 'yeah, get your woman to control you, you miserable cunt!'
 - c) said words to the effect of 'because they are black I'm getting thrown out, I'm a regular!'
 - d) said words to the effect of 'because of the colour of your skin you are being treated differently'
 - e) said words to the effect of 'your lot always get away with stuff'
2. The language used in charges 1(a) – (e) is racist and/or discriminatory and/or offensive.
3. The language used in charges 1(a)-(e) was intended to cause offense.

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

Background

The charges arose whilst Miss Steward was employed as a registered nurse by Cornwall Partnership NHS Foundation Trust (the Trust). While Miss Steward was off duty at a public house it is alleged that she made a number of abusive and racially offensive comments towards a member of the public who then made a complaint to the Trust.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the documentary evidence in this case together with the representations made by the NMC and from Miss Steward.

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 had regard to the written statements of the following witness on behalf of the NMC:

- Witness 1: Member of the public who made the allegation

The panel also had regard to written representations from Miss Steward.

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

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

Charge 1 in entirety

“1. On 9 August 2022 at The King Doniert Public House in Liskeard:

- a) said words to the effect of ‘cunt’ to a member of the public
- b) said words to the effect of ‘yeah, get your woman to control you, you miserable cunt!’
- c) said words to the effect of ‘because they are black I’m getting thrown out, I’m a regular!’
- d) said words to the effect of ‘because of the colour of your skin you are being treated differently’
- e) said words to the effect of ‘your lot always get away with stuff’

This charge is found proved

The panel considered charge 1 in its entirety as the statements enumerated were all said at the same time and were reported by the same witness.

The panel noted that the only witness to these incidents is the member of the public who was out at the public house with their partner and the words were said towards them on the evening on 9 August 2022. While some of the statements are reported by the witness’ partner, from whom there is no direct statement, the panel considered that as they were consistent in tone and content to words heard directly by the witness and were reported to the witness immediately it is reasonable to accept the account given in the witness statement.

Witness 1 reports that all of the statements were said to them and their partner by Miss Steward. The panel considered that while there is no corroboration there is reasonable grounds to accept the testimony of the witness. Firstly Witness 1 is a member of the public who was so shocked by the events that they went to some personal difficulty to identify Miss Steward and her employer and then report the incident to the Trust. Witness 1 has

since given a statement to the NMC. The panel noted that the statement given to the Trust one month after the incident, is consistent with the later statement given to the NMC. The panel also considered that the NMC witness statement is very honest, not attempting to disguise the fact that the witness said the following to Miss Steward during the interaction:

'I am not the one and to shut her fucking mouth and go away'

The panel considered that by admitting they also used what some might consider offensive language gives more weight to the statement and therefore makes it more likely than not that all the statements were said as reported.

The panel considered that in her statement Miss Steward states that she was intoxicated at the time of the incident and unable to accurately recall what was said, other than a denial that she would have used the word '*cunt*' and that she would not make racist comments. However, as there was no further information or alternative suggested by Miss Steward, who admitted to being under the influence of alcohol at the time and unable to clearly recall the incident the panel decided that the statement of Witness 1 is more preferable as an account of what happened.

Therefore the panel found the whole of charge 1 to be proved.

Charge 2

"The language used in charges 1(a) – (e) is racist and/or discriminatory and/or offensive."

This charge is found proved.

In reaching a decision on this charge the panel considered each sub charge of 1 and if it was racist, discriminatory, or offensive.

Regards charges 1a and 1b the panel considered that the use of the term '*cunt*' is both discriminatory and offensive. The panel considered that the term is often used in a sexist manner to refer to the female sexual organs in a derogatory manner and is therefore discriminatory. Further the panel considered that most reasonable people would find the

word to be offensive. In addition, in charge 1b the panel also noted the sexist implications of *'get your woman to control you'* to be both gender discriminatory and offensive.

Regarding charges 1c, 1d, and 1e the panel considered these to be racist, discriminatory, and offensive. The panel noted that these terms make reference to the race of the person being spoken to and use the colour of their skin as a way to make them appear 'other' than Miss Steward and to make a difference between her and the person being spoken to. The panel considered that this is inherently racist. Since the words were being used in a racist way the panel concluded that it is also discriminatory, as the terms used rely on race to discriminate against the other person. Further the panel concluded that this way of using language is offensive.

Therefore the panel found this charge proved.

Charge 3

'The language used in charges 1(a)-(e) was intended to cause offense.'

This charge is found proved.

In reaching this decision the panel noted in its findings above that all statements were found to have been offensive. In light of this finding the panel considered that as they were offensive terms used in an offensive and discriminatory context it is highly likely that there is a *mens rea* to have caused offense, or at least that Miss Steward would have been aware of the likelihood of these terms causing offense.

Therefore this charge is found 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 Miss Steward's fitness to practise is currently impaired. There is no statutory definition of fitness

to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

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

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

Representations on misconduct and impairment

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

The NMC 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.

The NMC identified the specific, relevant standards where Miss Steward's actions amounted to misconduct and serious breaches of the Code in multiple places.

The NMC requires the panel to bear in mind its overarching objective to protect 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. The panel has referred to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

The NMC invited the panel to find Miss Steward's fitness to practise impaired on the grounds that the misconduct is indicative of deep-seated attitudinal issues which are not easily remediable. Further Miss Steward has limited insight and her actions are likely to have brought the profession into serious disrepute.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council (No 2)* [2000] 1 A.C. 311, and *Calhaem, R (on the application of) v GMC* [2007] EWHC 2606.

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

'1. Treat people as individuals and uphold their dignity.

To achieve this you must:

1.1 treat people with kindness, respect and compassion

1.5 respect and uphold people's human rights

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. However, the panel was of the view that given the discriminatory, racist, and offensive language used and the multiple breaches of the Code the actions in this case do amount to serious misconduct.

The panel found that Miss Steward's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

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

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

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

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

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

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. 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/their fitness to practise is impaired in the sense that S/He/They:

- 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) ...'*

While this incident occurred outside of Miss Steward's clinical practice and workplace the seriousness of the attitudinal issues identified are not of the standard expected of a registered nurse. The panel finds that while there was no physical harm to patients or the wider public, there is the potential of significant emotional harm. Witness 1 stated:

'I would not want her looking after any of my family members or anybody of colour with that attitude.'

The panel noted that this demonstrates potential emotional harm having been caused to the witness.

The panel considered that the witness was significantly distressed to have taken time out of their usual day to research the appropriate Trust and method to raise a complaint against Miss Steward. Further the panel considered that as the misconduct in this case is indicative of deep-seated attitudinal concerns and racist views it is not possible to completely rule out these attitudes having an impact on Miss Steward's clinical practice in the future which would cause harm to patients. Miss Steward's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to discrimination and racism extremely serious.

Regarding insight, the panel considered that while Miss Steward was experiencing significant personal difficulties at the time of the incident, there has been extremely limited insight into the language used. The panel noted that within the two statements provided by Miss Steward there are conflicting accounts of the reasons she used the language and therefore finds that her insight is inconsistent and therefore limited. Miss Steward showed some regret at the language she used in her initial reflection on 11 May 2023; however, in her email of 20 August 2024 she contradicts her original recollection of events and does not demonstrate any remorse or learning from the events. The panel noted that there has been no information that Miss Steward has attempted to undertake remedial action to understand why her use of language was offensive or to challenge the racist comments.

The panel is of the view that there is a risk of repetition as Miss Steward has shown very limited insight over the two years since the incident. The panel therefore decided 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; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public

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

The panel determined that a finding of impairment on public interest grounds is required because a member of the public would be extremely concerned if a registered nurse using such language was able to practice without restriction, and in this case a member of the public was actually concerned enough to raise a complaint.

In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Miss Steward's fitness to practise impaired on the grounds of public interest.

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

Sanction

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

Representations on sanction

The panel noted that in the Notice of Meeting, dated 23 October 2024, the NMC had advised Miss Steward that it would seek the imposition of a striking-off order if it found Miss Steward's fitness to practise currently impaired.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Comments displaying racist views that were discriminatory against the protected characteristic of race
- Contradictory responses to concerns made
- Limited insight, and in some ways insight that has regressed since the local investigation

The panel also took into account the following mitigating features:

- Exceptionally difficult personal circumstances at the time of the incident.

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 Steward's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Miss Steward's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

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

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

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

The panel found that none of these factors are present in this case.

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 Steward's actions is fundamentally incompatible with Miss Steward 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?*

Miss Steward's 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 Steward's actions were serious and to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

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 matters it identified, in particular the effect of Miss Steward's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves, the panel has concluded that nothing short of this would be sufficient in this case.

The panel 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 Miss Steward 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 Miss Steward's own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Representations on interim order

The panel took account of the representations made by the NMC that an interim suspension order of 18 months is necessary to cover any appeal period made against the substantive order.

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 provide cover during any potential appeal period.

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

That concludes this determination.