Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Wednesday, 8 January 2025 – Friday, 17 January 2025

Virtual Hearing

Name of Registrant:	**Angelo Jr Geremias**
NMC PIN	18H0035O
Part(s) of the register:	Nurses part of the register Sub part 1 RN1: Adult nurse, level 1 (3 August 2018)
Relevant Location:	London
Type of case:	Misconduct
Panel members:	Sophie Lomas (Chair, Lay member) Shorai Dzirambe (Registrant member) Alex Forsyth (Lay member)
Legal Assessor:	Sean Hammond
Hearings Coordinator:	John Kennedy
Nursing and Midwifery Council:	Represented by Olivia Rawlings, Case Presenter
Mr Geremias:	Present and represented by Chris Pataky
Facts proved by admission:	Charges 1a, 1b, 2, 3, 4, 5b, 7a, and 7b
Facts found proved:	Charges 5a, 6, and 8a
Offer no evidence:	Charge 5c
No Case to answer:	Charge 8b
Fitness to practise:	Impaired
Sanction:	**Suspension order (3 months)**
Interim order:	**No order**

Decision and reasons on application to amend the charge

The panel heard an application made by Ms Rawlings, on behalf of the Nursing and Midwifery Council (NMC), to amend the wording of charges 5a, and 5b.

The proposed amendment was to change the wording of two of the translated posts. In relation to 5b to more accurately reflect the translation provided by the linguist and in relation to 5a to reflect your representations as to the accuracy of the translation. It was submitted by Ms Rawlings that it would be fair to allow the proposed amendments as they would not change the nature or gravity of the charges and that they could be made without injustice.

5) On or around 13 June 2020;
a) '*Black livrs [sic] matter, but whatever* ***and/or I don't know***.'
b) '*14 Patients. 8 are sickle cell patients.* ~~*Fuck*~~ ***Bitch***.'

The panel heard submissions from Mr Pataky, on your behalf, that with regard to the proposed change to 5a this is objected to; but that the proposed amendment to 5b is not opposed.

Mr Pataky submitted that the proposed amendment to 5a expands the scope and gravamen of the charge beyond what was posed to you in the notice of hearing and furthermore the proposed amendment does not currently reflect the evidence supplied and relied upon by the NMC. He submitted that the charge is not admitted because of a disagreement on the accuracy of the translation and that placing it in the alternative as proposed in this amendment, would be unfair and has the effect of giving the NMC multiple chances for the panel to find the charge proved.

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

The panel was of the view that in regards to the amendment to charge 5b, it is in the interests of justice because the proposed amendment better reflects the evidence before it. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to accurately reflect the evidence presented in the bundles.

The panel considered that the amendment to 5a, is not in the interests of justice and that it should be rejected. The panel was satisfied that the wording of the charge as originally drafted in the notice of hearing more accurately reflects the evidence presented in the bundles and therefore it would not be fair to amend the wording at this time.

Detail of charge

That you, a registered nurse, whilst employed at King's College Hospital NHS Foundation Trust, posted on your 'Twitter' account words/pictures to the effect;

1) On 31 March 2020;
   a) '*Sickle cell patients are the fucking worst!' Are you beautiful, girl? Are you good looking?*'
   b) '*But noy [sic], I just realised, i'll probably choose them over demented and ETOH patients*.'

2) On 14 February 2020, 'I *love it when my patients are bitching towards me. At least I don't have to pretend I'm a nice person. You need me I don't need you. Bye Felicia!*'

3) On 16 December 2019, '*Nigga was ready to use the im-the-victim-because-im-black card. Lol. Disgusting piece of shit'*

4) On 5 November 2019, '*I really don't like looking after these types of people. Weren't you taught in school how to say please and thank you? Or how to be*

patient and speak in a calm civil tone? My god! Just please go back to wherever uncivilized area you came from, you annoying people.'

5) On or around 13 June 2020;
   a) '*Black livrs [sic] matter, but whatever*.'
   b) '*14 Patients. 8 are sickle cell patients. Bitch*.'
   c) '*I can hear the call bell every 5 minutes*.'

6) Your actions in one or more of charges 1 a), 1 b), 3, 4, 5 a) & 5 b) above were racially motivated.

7) On 1 December 2019 you posted on 'Twitter',
   a) '*Went to see my patient at 5am and saw this on her bedside floor. Please don't do this*.'
   b) A picture of items that appear to belong to a Patient A.

8) Your conduct in charge 7a) & 7 b) had the purpose or effect of;
   a) Violating Patient A's dignity, and/or;
   b) Creating an intimidating, hostile, degrading, humiliating or offensive environment for Patient A.

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

Decision and reasons on application to offer no evidence

The panel considered an application from Ms Rawlings to offer no evidence in respect of charge 5c. This application was made in accordance with the NMC Guidance DMA-3.

In relation to this application, Ms Rawlings told the panel that there was an unredacted version of screenshot evidence presented in the registrant's bundle that had been served on the first day of the hearing. She acknowledged the Twitter post referenced in charge 5c was made by a different person not you. Therefore, in light of this, there is no realistic

prospect of finding this charge proved. In these circumstances, it was submitted that this charge should not be allowed to remain before the panel.

Mr Pataky did not oppose the application.

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

In reaching its decision, the panel has made an initial assessment of all the evidence that had been presented to it at this stage. The panel was solely considering whether sufficient evidence had been presented, such that it could find the facts proved and whether you had a case to answer.

The panel was of the view that, taking account of all the evidence before it, there was not a realistic prospect that it would find the facts of charge 5c. proved. The panel had regard to the new evidence produced on the first day of the hearing and agreed that in light of this there is no prospect of the charge being found proved. Therefore, the panel accepted the application and allowed the NMC to offer no evidence in respect of charge 5c.

Background

The charges arose whilst you were employed as a registered nurse in the Haematology Department at King's College Hospital NHS Foundation trust (the Trust) since June 2018.

It is alleged that between November 2019 and June 2020 you made a number of posts on social media that are allegedly racially motivated and that one of the posts violated the dignity of a patient under your care.

Decision and reasons on application of no case to answer

The panel considered an application from Mr Pataky that there is no case to answer in respect of charges 8a, and 8b. This application was made under Rule 24(7).

In relation to this application, Mr Pataky submitted that there has been no evidence presented in support of charges 8a and 8b and therefore they should not be allowed to remain before the panel. He submitted that there is no evidence, either as a witness statement, an oral testimony, or as hearsay evidence from Patient A which would be able to describe how the post may have violated their dignity or have otherwise created the type of environment enumerated in charge 8b. He submitted that there is indeed no evidence that the patient was even aware of the posts and therefore it would not have been possible for the circumstances charged to arise at all. In light of this lack of evidence, he submitted that this charge should not be allowed to remain before the panel. He further submitted that if the panel determined that there was some evidence to support these charges then taken at its highest it was not sufficient to establish a case to answer.

Ms Rawlings submitted that these charges should remain before the panel as there was sufficient evidence to support a case to answer in respect of each. She submitted that the posts were made on a public social media platform that could have been seen by anyone and that it is obvious you were speaking about a patient in negative manner, complaining about them. She submitted that the issues raised by charges 8a and 8b are ones on which the panel is required to use its professional judgement in assessing the purpose and/or effect of the posts, which you have admitted to making. She therefore submitted that there is a reasonable expectation that the panel may find both charges proved and that they should remain before the panel.

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

In reaching its decision, the panel has made an initial assessment of all the evidence that had been presented to it at this stage. The panel was solely considering whether sufficient evidence had been presented, such that it could find the facts proved and whether you had a case to answer on each charge.

The panel noted the charges are worded in the alternative, namely that the post either had the purpose or effect specified. It noted that the purpose of these posts had not been discussed with you in the local disciplinary investigation and that it therefore had no direct evidence of your purpose. The panel went on to consider whether there is sufficient evidence which, if taken at its highest, it could be used to infer purpose and it determined there is not sufficient evidence for this.

The panel next considered whether there was sufficient evidence to support a case to answer on the effect that the post may have on a patient. The panel noted that there is no direct evidence from Patient A as to the effect the post had but determined that on the evidence available it was possible to infer the potential effect. In reaching this decision the panel was of the view that violating dignity means not treating the patient with appropriate respect. Specifically taking a photograph of a patient's private property in a clinical setting without consent and subsequently posting it on social media breached the patient's right to privacy and could amount to treating them with a lack of respect and a violation of their dignity; this would be the case even if the patient had no knowledge of the post. Therefore the panel was of the view that there does remain a realistic prospect of finding charge 8a proved and that it should remain before the panel.

The panel considered that the list of enumerated effects in 8b are more difficult to ascertain when taken at its highest. The panel noted that the wording of creating an environment suggests that in some way the patient, or their family, were impacted by the posts in a more direct way than merely seeing it in a public forum. While violating the patient's dignity could be considered degrading or humiliating, the precise wording of charge 8b would require it to go further in effect or purpose than the documentary evidence suggests it does. Since the panel has not been able to hear from Patient A it is unable to draw any further inference as to the effect the post had on their environment and how they felt receiving care from you after making the post. Therefore the panel was of the view that, taking account of all the evidence before it there was insufficient evidence to support a finding of a case to answer, and charge 8b should not be allowed to remain before the panel.

Decisions and reasons on application to be held in private

During your oral evidence, Mr Pataky made an application under Rule 19 that part of the hearing be conducted in private [PRIVATE]

Ms Rawlings indicated the application is supported.

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

The panel agreed that those parts of the hearing [PRIVATE] heard in private.

Decision and reasons on facts

At the outset of the hearing, the panel heard from Mr Pataky who informed the panel that you made full admissions to charges 1a, 1b, 2, 3, 4, 5b, 7a, and 7b.

The panel therefore finds charges 1a, 1b, 2, 3, 4, 5b, 7a, and 7b proved in their entirety, by way of your admissions.

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

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

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

- Witness 1: Professional Linguist to translate Twitter posts from Hiligaynon to English

The panel also heard evidence from you under affirmation.

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

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

Charge 5a

5) "On or around 13 June 2020;
    a) '*Black livrs [sic] matter, but whatever*.'

This charge is found PROVED

In reaching this decision, the panel took into account that the disputed aspect of this charge is the translation of *"bara pero ambot na lang"* to "*but whatever"*, and that you have accepted you made the post on the date charged and the first clause of the wording.

The panel heard from you that as a native speaker of Hiligaynon, which this post was written in, your preferred translation would have been *"but I don't know"*. You stated in evidence that this would have been a more accurate translation of the words and a more literal 'word-for-word' translation into English.

The panel heard from Witness 1, who is a native Hiligaynon speaker working as a professional translator of Hiligaynon into English. They stated in evidence that while the words could be translated either way the version that they provided (*"but whatever"*) is a more accurate translation. He explained that when translating it is important to look at the

overall context of a conversation or phrase rather than each individual word. He stated that this properly covers the nuances of the Hiligaynon that would be lost in a fully literal word-for-word translation, he noted that this approach is common among professional translation services as it helps better preserve the sense of what is meant when text is translated.

The panel considered both submissions, along with various screenshots provided by you from Google Translate. The panel preferred the account of Witness 1, as they are an outside party whose involvement is professional to simply provide the best translation. The panel noted that their translation is significantly more preferable to online translations which lack the ability to translate the nuances of language that a human translator is able to do. Therefore having found the translation provided by Witness 1 to be more preferable, the panel found this charge proved.

Charge 6

6) Your actions in one or more of charges 1 a), 1 b), 3, 4, 5 a) & 5 b) above were racially motivated.

This charge is found PROVED

In considering this charge, the panel noted that the wording alleges that your actions were ‘racially motivated’, as opposed to alleging that the words used in the Twitter posts were ‘racist’. In the panel’s view, this is significant because the latter would simply require the panel to objectively assess the meaning of the words, whereas a charge alleging that your actions were racially motivated requires it to consider your state of mind and the purpose behind your actions.

The panel therefore applied the test for *‘racially motivated’* actions provided by Fordham J in the case of *Lambert-Simpson v HCPC* [2023] EWHC 481 (Admin), namely:

‘(i) That the act in question (here the posting of content) had a purpose behind it which at least in significant part, was referrable to race; and
(ii) That the act was done in a way showing hostility or a discriminatory attitude to the relevant racial group’.

In reaching its decision, the panel also took into account the NMC Guidance PRE-2e. It noted that the guidance includes:

“If we are considering actions or behaviour that includes words, we may first need to assess whether what was said was in fact racist in nature. It is important that when we assess the meaning of words we do so from an objective perspective. This means that we consider what the reasonable person, with all the information in front of them, would conclude. This part of the assessment of what was said does not include taking into consideration what the professional intended when they said it. If the professional said multiple things, then it is important that we consider cumulatively what was said, and not necessarily just focus on individual words or phrases in isolation.”

The panel therefore considered whether it should consider your actions in charges 1 a), 1 b), 3, 4, 5 a) & 5 b) individually or cumulatively when deciding if your actions were racially motivated. The panel noted that the NMC guidance is derived from the judgment in the case of *PSA v GPhC and Ali* [2021] 1692 (Admin). The panel noted that in the case of *Ali*, the comments made by the registrant were all made on the same day, whereas, in this case the posts were made by you over several months between November 2019 and June 2020. The panel further noted that in the case of *Ali*, the Court was considering the objective meaning of the registrant’s words, whereas in this case the panel must consider whether your actions on each occasion were racially motivated. Given the significant differences between the case of *Ali* and your case, the panel determined that it would be unfair for it to consider your actions cumulatively.

The panel therefore approached charge 6 by considering your actions in each of charges 1 a), 1 b), 3, and 4 individually. It further determined that it should consider your actions in

charges 5 a) and 5 b) cumulatively as the two posts were made by you on the same day as part of the same thread.

Charge 1a and 1b

The panel considered that while these posts do make reference to patients with sickle cell there is no other identifying information that pertains to race. While the panel noted that those with medical knowledge would know that sickle cell is more common in the UK among persons of African-Caribbean decent and therefore might infer that these comments are made against people based on race; there is no explicit reference to race that would be widely known solely from the posted message. Further the panel noted that in 1b the other conditions mentioned, dementia and ETOH (referring to ethyl alcohol addiction treatment), do not share a predominance effect by race.

Therefore, the panel considered that the posts in 1a and 1b are not racially motivated.

Charge 3

The panel noted that at the time of making the posts you had only been living in the UK for approximately 18 months, and that you stated in evidence at the time you did not know that the phrase *"nigga*" had derogatory and racist overtones. However, the panel considered that you had worked as a nurse in the Philippines, obtaining a degree from university, that you stated English was one of the three languages you speak fluently, and that you had been living in London for around 18 months by the time of making this post, and were working at a very diverse NHS Trust. The panel therefore considered that it is highly improbable that you were unaware of the context and implications of this word.

The panel therefore finds it highly unlikely that you would not have been aware of the extremely offensive and racist meaning behind the word *"nigga*" and the way it is used worldwide to be derogatory to people based on their race.

The panel determined the use of the word "*nigga"* and the phrase *"im-the-victim-because-im-black*" show that the purpose behind posting the tweet was clearly referable to race. Turning to the second element of the test, the panel is satisfied on the balance of probabilities the use of such a derogatory term itself shows hostility towards that racial group. The panel considered that when the post was read in full it showed an extremely hostile and discriminatory attitude towards a particular racial group. The panel concluded that this word is so grossly offensive and targeted people of a specific race that it is unable to find any other reason for its use in this post other than to have been racially motivated.

Therefore the panel found the post in charge 3 to have been racially motivated.

Charge 4

The panel heard in evidence from you that this post was written in frustration at the working conditions in the ward, and how you felt annoyed when patients would interrupt you asking for assistance with things you thought they should be able to do themselves, and not always saying *'please'* or '*thank you*'. The panel considered that within the post there was no explicit reference to any particular race or that the comment is directed explicitly towards people of a different race.

The panel noted that in certain circumstances the phrase *"just please go back to wherever uncivilized area you came from…"* can be used in a racially motivated way. However, in the specific context of this tweet where no particular ethnic group is mentioned and the complaint appeared to be directed generally at people who you perceived to be impolite the panel could not be satisfied to the required standard that the purpose of your post was racially motivated.

Therefore the panel decided that this post was not racially motivated.

Charge 5a and 5b

The panel noted that the comment in post *b* was made before the comment in post *a* and that they both appear in the same thread.

The panel heard evidence from you that you were frustrated at the staffing levels in the ward that day as sickle cell patients are a high intensity patient group to care for and having eight out of 14 total patients to care for was unusually high. The panel noted its earlier findings about sickle cell, and concluded that it is not clear to be an explicit reference to race; however, in respect of this particular charge you accepted in your evidence that the eight patients you were referring to were all black. The panel was therefore satisfied that this post had a purpose behind it which was referable to race.

In charge *5a* you make reference to the black lives matter movement, which is concerned about addressing racial inequality and institutional racism, you followed this with the word *"but whatever".* The panel was therefore satisfied that this post was also referable to race.

The panel next considered whether the posting of these messages when considered together was done in a way that showed a discriminatory attitude towards that racial group. The panel determined that by putting *"but whatever"* this showed a flippant disregard to the black lives matter movement and racial group, and therefore showed a discriminatory attitude towards a particular racial group. In reaching this decision, the panel considered your evidence that you were expressing frustration towards the management of sickle cell patients on the ward. The panel found no evidence within the post that this was your concern at the time and no evidence that you had escalated concerns about patient care management in any way. Therefore the panel found this charge to be racially motivated on the balance of probabilities.

Summary

The panel concluded that charges 1a, 1b, and 4 were not racially motivated; and that charges 3, 5a, and 5b were racially motivated. Therefore having found at least one of the enumerated charges to be racially motivated the panel found charge 6 proved.

Charge 8a

8) “Your conduct in charge 7a) & 7 b) had the purpose or effect of;
a) Violating Patient A’s dignity, and/or;”

This charge is found PROVED

The panel noted its earlier findings that it is reasonable to understand the dignity of a person to be the same as treating them with and showing them respect.

The panel considered that the act of making a public post on social media about a patient, which was accompanied by a picture of their belongings, without having the patient’s specific consent grossly violates their expectation of confidentiality and has the effect of not treating them with dignity or respect. The panel considered that it is reasonable for any patient in hospital to have the belief that they will not be commented on in a public forum and that especially pictures of them, or their personal property, will not be posted. The panel therefore found that this post had the effect of violating their dignity and does not treat Patient A with the appropriate respect.

Therefore the panel found this charge to be proved.

Fitness to practise

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

Submissions on misconduct

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council (No. 2)* [2000] 1 AC 311 which defines misconduct as a *'word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.'*

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

Ms Rawlings identified the specific, relevant standards where your actions amounted to misconduct. She submitted that these breaches of the Code occurred over a prolonged period of months and that they amounted to serious misconduct.

Mr Pataky stated that you acknowledge your actions amounted to serious misconduct.

Submissions on impairment

Ms Rawlings moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the cases of *Council for*

Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant [2011] EWHC 927 (Admin) and *Cohen v GMC* [2008] EWHC 581 (Admin).

Ms Rawlings submitted that you have demonstrated limited insight and that you have constantly refused to acknowledge any reference to race within the posts you made. She submitted that this does not meet the standards set out for nurses within the NMC guidance on remediating issues of discrimination, and that there has been limited insight or a change of practice such as would limit the risk of repetition. She submitted that by not acknowledging the racial element in the posts there remains a risk of repetition, especially if the stressful circumstances you were faced with when making the posts return. Therefore she submitted that given the risk of repetition and the risk of potential harm to the public should these posts be repeated that a finding of impairment is necessary on the grounds of public protection.

Ms Rawlings submitted that the posts which contained racially motivated languages and discrimination, and the posting of an image of a patient's belongings, are instances which would cause serious concern to a member of the public and significantly damage the reputation of the nursing profession. Therefore, she submitted, a finding of impairment is necessary on the grounds of public interest.

Mr Pataky stated that with regards to impairment on the grounds of public interest, you acknowledge that you are currently impaired on this ground.

Mr Pataky submitted that regarding public protection you are not currently impaired and have demonstrated full insight and remediation. He strongly rejected the submissions made by Ms Rawlings to the effect that denial of some of the charges equated to a lack of insight. He submitted that by making early admissions to the charges, apart from the translation dispute, you have demonstrated a full understanding of how the posts were wrong to make and that you would not make similar posts now. He submitted that the posts were made over a short period of time after you had only been living and working in the UK for 18 months, during which [PRIVATE]. He submitted that this [PRIVATE] led to you using social media as a way to vent frustrations. He submitted that you have since

stopped using social media, that there has been no repetition of these posts since 2020, and that you have [PRIVATE].

Mr Pataky further submitted that in the years since the incident you have demonstrated a prolonged commitment to remediate the concerns raised. He submitted that you have attended multiple Equality and Diversity training courses to improve your understanding of racism and how to identify and combat racial biases in healthcare. He submitted that you have remained in practice and are still employed at the Trust and have been promoted to a Band 6 role within the same department you were working in. He referred the panel to a number of positive character references, including one from the Head of Nursing at the Trust who conducted the local investigation in 2020.

In conclusion Mr Pataky submitted that you have demonstrated full insight and remediated the concerns and there is no risk of repetition or harm to the public, and that you should not be found impaired on the ground of public protection.

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; *General Medical Council v Meadow* [2007] QB 462 (Admin); *Spencer v General Osteopathic Council* [2013] 1 WLR 1307; *R (on the application of Remedy UK Ltd) v GMC* [2010] EWHC 1245 (Admin); *Sayer v General Osteopathic Council* [2021] EWHC 370 (Admin); *Sawati v GMC* [2022] EWHC 283 (Admin); *Towuaghantse v GMC* [2021] EWHC 681 (Admin); *Cohen*; and *Grant.*

Decision and reasons on misconduct

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

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

'1. treat people as individuals and uphold their dignity

1.1 treat people with kindness, respect and compassion

1.5 respect and uphold people's human rights

5 respect people's right to privacy and confidentiality

5.1 respect a person's right to privacy in all aspects of their care

8.2 maintain effective communication with colleagues

20 uphold the reputation of your profession at all times

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 to people in an inappropriate way

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

The panel also had reference to the NMC Guidance on Social Media and to the NMC Guidance FTP-3 on *'Discrimination, bully, harassment and victimisation'* which states:

'We've made clear that no form of discrimination including, for example, racism, should be tolerated within healthcare. *Discriminatory behaviours of any kind can negatively impact public protection and the trust and confidence the public places in nurses, midwives, and nursing associates. We therefore take concerns of this nature seriously regardless of whether they occur in or out of the workplace.*

These concerns may suggest a deep-seated problem with the nurse, midwife or nursing associate's attitude, even when there's only one reported complaint.

When a professional on the register engages in these types of behaviours, the possible consequences are far-reaching. Members of the public may experience less favourable treatment, or they may feel reluctant to access health and care services in the first place. We know that experiences of discrimination can have a profound effect on those who experience it and that fair treatment of staff is linked to better care for people.

Where a professional on our register displays discriminatory views and behaviours, this usually amounts to a serious departure from the NMC's professional standards. In such cases where displaying discriminatory views and behaviours is proved, some level of sanction will likely be necessary unless there's been insight at the most fundamental level and the earliest stage. However, if a nurse, midwife or nursing associate denies the problem or fails to engage with the fitness to practise process, it's more likely that a significant sanction, such as removal from the register, will be necessary to maintain public trust and confidence.'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, given your own admissions, the findings of the panel, and the above quoted guidance the panel found that your actions did amount to serious misconduct.

Given the panel's findings in relation to charge 6 it first considered whether your posts in charges 1, 2, and 4 (which it did not find to be racially motivated) amounted to misconduct. The panel considered each of the posts separately and determined that the content of each was highly inappropriate and displayed a hostile attitude towards patients under your care. The panel therefore determined that each of these amounted to serious misconduct.

The panel next considered whether your posts in charges 3, and 5 (which it did find to be racially motivated) did amount to misconduct. The panel noted that your post in charge 3

did not relate to your work as a registered nursed; however, in the panel's view this amounted to serious misconduct because it amounted to conduct that is deplorable and capable of bringing the nursing profession into disrepute. In relation to charge 5, the panel determined that there is no place for discriminatory behaviour in a caring profession, such as nursing, and was satisfied that this amounted to serious misconduct.

Finally the panel considered whether your posts in charge 7, which it found had the effect of violating Patient A's dignity, amounted to misconduct. The panel determined that patients are entitled to have their privacy respected and a breach of this seriously undermines public trust and confidence in the nursing profession.

The panel found that your 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, your fitness to practise is currently impaired.

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

> *'The question that will help decide whether a professional's fitness to practise is impaired is:*
> *"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"*
> *If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.'*

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. 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 and fairness

at all times. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

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

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

> *'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/ fitness to practise is impaired in the sense that S/He:*
>
> *a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
>
> *b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
>
> *c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
>
> *d) ...'*

The panel finds that there was a risk that patients could be put at harm by your misconduct, although there is no direct evidence that there was actual harm caused in these instances. The panel noted that during your oral evidence you agreed that a member of the public might be put off seeking medical help if they were aware of your posts and that this could cause significant harm. This included both the racially motivated posts and the comments about a patient under your care, which may put people off seeking care if they are concerned about being commented on while in a vulnerable situation.

Your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to discrimination and violating the dignity of a patient extremely serious. The panel therefore found limbs a, b, and c of the *Grant* test were engaged in relation to your past conduct.

The panel considered whether the misconduct in this case was capable of remediation. It noted that allegations concerning racial discrimination are serious and difficult to put right as they suggest an attitudinal issue. However, in the particular circumstances of this case the panel was satisfied that you have remediated your misconduct for the following reasons.

Regarding insight, the panel carefully considered the submissions made as to whether your denial of some of the charges suggested a lack of insight. On the evidence available to it the panel rejected these submissions. On the contrary the panel considered that you have demonstrated a fully developed insight into the misconduct identified. The panel noted that you have fully engaged with both the local investigation and the NMC process and that you made early admissions to having made all of the posts in question. The panel noted that while you have denied any racial motivation for the posts you have acknowledged that they may have a significant impact on members of the public who read them. Further, you were able to articulate in evidence, as a result of the learning and training you have undertaken, the impact such posts would have on public confidence and the reputation of the nursing profession.

The panel considered that during the nearly five years since the incident there has been no repetition or similar concerns raised about you. The panel found that the significant period of time, working in a variety of different clinical areas, without concern or repetition of the misconduct was a clear indication that the risk of repetition in this case was extremely low. Further the panel noted that you have completed a number of online courses into Equality and Diversity during this time to learn more about how to address racism within healthcare. You had also undertaken further training to better understand the needs of specific patient groups, including sickle cell patients.

The panel noted the letter dated 27 December 2024 from the Head of Nursing for Haematology at the Trust, who conducted the local Disciplinary Hearing in 2020, which stated:

> *'To my knowledge there were no further similar allegations against you during your time in Haematology. There have been no complaints regarding your care of behaviour by patients or staff. You were successful in achieving a B6 senior staff nurse position in [the Ward] followed by a career development move to the Apheresis unity. I am aware that for both interviews you voluntarily shared the experience of the investigation and hearing, demonstrating honesty and transparency.*
>
> *…*
>
> *You have also completed a 3 month online course for Equality & Diversity. This was your personal choice, which demonstrates to me your desire to learn and understand how we can deliver a high standard of care to patients and families from diverse backgrounds.*
>
> *I personally have observed you in the clinical area with patients and colleagues. I have not witnessed any behaviour or attitude, which would cause me concern especially that linked to the original complaint.*

I would have no hesitation in welcoming you back to Haematology. I believe you acknowledge and understand how wrong your actions were, and have taken steps to improve your knowledge of other cultures.'

The panel concluded that this demonstrated you have worked to address the concerns raised and displayed a full insight within your practise. The panel noted that you had provided a reflective account which details how you changed and improved your practice following the incidents that gave rise to the charges. Taking all of this evidence into account, the panel was satisfied that the misconduct in this case is capable of being addressed, and that it cannot identify any further areas where you are lacking insight or remediation.

The panel therefore decided that a finding of impairment is not 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. Firstly, the panel acknowledged and accepted your admission that you are currently impaired on public interest grounds. The panel further concluded that, with reference to the above quoted guidance, instances of discrimination are evidence of attitudinal issues, and that racism will not be tolerated within healthcare. The panel noted that public confidence in the profession would be significantly undermined if a finding of impairment were not made in this case.

The panel also considered that the posting of comments and images of a patient's belongings without their consent is a significant departure from the standards expected of

a nurse. It concluded that a member of the public would be seriously concerned if a nurse who acted in such a way was not found impaired.

Therefore the panel finds your fitness to practise impaired on the grounds of public interest.

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

Sanction

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

In reaching this decision, the panel 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. The panel had regard to the case of *Bolton v Law Society* [1994] 1 WLR 512 CA (Civ Div) which stated:

> *"The reputation of the profession is more important that the fortunes of any individual member. Membership of a profession brings many benefits, but that is a part of the price."*

The panel had regard to the NMC guidance on sanctions, particularly SAN-2 which states:

> *'We may need to take restrictive regulatory action against nurses, midwives or nursing associates who've been found to display discriminatory views and behaviours and haven't demonstrated comprehensive insight, remorse and strengthened practice, which addresses the concerns from an early stage.*

If a nurse, midwife or nursing associate denies the problem or fails to engage with the fitness to practise process, it's more likely that a significant sanction, such as removal from the register, will be necessary to maintain public trust and confidence.'

However, the panel had regard to its earlier findings regarding insight and remediation. It found that whilst you did deny that your posts were racially motivated, as was your right, you also demonstrated complete insight into the concerns during your oral evidence and through extensive retraining and remediation. and that you have constantly denied that any of the posts were racially motivated. It also noted that you admitted making the posts at a very early stage and have fully engaged with the process. Therefore, the panel decided that in this case it can be satisfied that you have demonstrated comprehensive insight and strengthened practice.

Submissions on sanction

Ms Rawlings informed the panel that in the Notice of Hearing, dated 4 December 2024, the NMC had advised you that it would seek the imposition of a striking-off order if it found your fitness to practise currently impaired. The panel considered the written submissions Ms Rawlings provided.

The panel also bore in mind Mr Pataky's submissions that given the panel's earlier findings on the grounds of impairment, the prolonged time since the incidents without repetition, and the insight you have demonstrated any sanction should be at the lower end. He submitted that the panel should consider a caution order of between three and five years as most appropriate in the circumstances of this case. Alternatively he submitted that a suspension order of three months, to mark the seriousness of the case, while not being unduly punitive should be considered.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Pattern of misconduct over a period of time
- Risk of potential harm
- Misconduct linked directly to your position as a registered nurse

The panel also took into account the following mitigating features:

- You have demonstrated full insight
- Completed relevant training courses as remediation
- Made early admissions to some of the charges
- No repetition since the incident – over a period of four years
- Positive testimonials and character references
- [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, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where '*the case is at the lower end of the spectrum of impaired fitness to practise and the*

panel wishes to mark that the behaviour was unacceptable and must not happen again.' While the panel noted that there has been a long period of time without repetition since the misconduct occurred, and that you have demonstrated full insight and remediation, as set out above, the panel concluded that the misconduct was not at the lower end of the spectrum. The panel considered that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel 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 and the extensive remediation and retraining already undertaken.

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

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

The panel carefully considered the submissions of Ms Rawlings in relation to the sanction that the NMC was seeking in this case. However, the panel considered that given the time that has passed since the misconduct in this case without repetition, and that you are still employed at the same Trust, along with its findings regarding insight and remediation, a suspension order is appropriate. While the posts made were over a significant period time

the panel considered that they should be considered a single course of similar misconduct. The panel noted that since you were notified about the concerns there were no further posts, and that you have taken steps to remove the posts from social media, and that you have completed relevant training courses to address the attitudinal concerns raised. Therefore, the panel determined that in this case it is not a deep seated attitudinal concern and that, as evidenced in the testimonials, you have remediated the concern. Further the panel noted it's earlier finding that there are no public protection concerns identified in this instance and that therefore the order is being made only on the grounds of public interest and that a suspension would properly mark this. The panel considered that there is also a public interest in maintaining a nurse on the register who has taken time to strengthen their practise and remediate concerns, which it considered you have done.

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

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

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

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

The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.
The panel determined that a suspension order for a period of three months was appropriate in this case to mark the seriousness of the misconduct.

Having found that your fitness to practise is currently impaired, the panel bore in mind that it determined there were no public protection concerns arising from its decision. In this respect it found your fitness to practise impaired on the grounds of public interest.

In accordance with Article 29 (8A) of the Order the panel may exercise its discretionary power and determine that a review of the substantive order is not necessary.

The panel determined that it made the substantive order having found your fitness to practise currently impaired in the public interest. The panel was satisfied that the substantive order will satisfy the public interest in this case and will maintain public confidence in the profession(s) as well as the NMC as the regulator. Further, the substantive order will declare and uphold proper professional standards. Accordingly, the current substantive order will expire, without review, at the end of 17 April 2025.

This will be confirmed to you in writing.

That concludes this determination.