

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

**Substantive Hearing  
15-24 November 2021**

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

**Name of registrant:** Jacqueline Diane Rodgers

**NMC PIN:** 74E0606E

**Part(s) of the register:** Nursing sub part 2  
RN2 Registered Nurse - Adult (Level 2) (8 July 1976)  
Nursing sub part 1  
RN1 Registered Nurse – Adult (3 November 1997)

**Area of registered address:** North Yorkshire

**Type of case:** Misconduct

**Panel members:** Gregory Hammond (Chair, lay member)  
Carla Hartnell (Registrant member)  
Jan Bilton (Lay member)

**Legal Assessor:** Nigel Ingram

**Panel Secretary:** Max Buadi

**Nursing and Midwifery Council:** Represented by Victoria Shehadeh, Case Presenter

**Mrs Rodgers:** Not present and not represented in absence

**Facts proved:** Charges 1a, 1e, 1f, 1g, 2a, 2b, 2c and 2d

**Facts not proved:** Charges 1b, 1c, 1d, and 1h

<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	Striking off order
<b>Interim order:</b>	Interim Suspension Order (18 months)

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

The panel was informed at the start of this hearing that Mrs Rodgers was not in attendance, nor was she represented in her absence. Notice of this hearing had been sent via email to an email address held on the NMC register on 5 October 2021.

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

Ms Shehadeh, 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.

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

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

The panel next considered whether it should proceed in the absence of Mrs Rodgers. It had regard to Rule 21 and heard the submissions of Ms Shehadeh. She drew the panel's attention to the Case Management Form (CMF). Under the heading "If we schedule a hearing for this case", there are two questions asking Mrs Rodgers "Will you go?" and "Will you have a representative for the hearing?" Ms Shehadeh highlighted to the panel that Mrs Rodgers has selected "No" for both questions.

Ms Shehadeh also drew the panel's attention to various correspondence between Mrs Rodgers and the NMC. Ms Shehadeh noted that in an email dated, 11 November 2020, Mrs Rodgers stated that she is content for her son to act as her representative. Ms Shehadeh also noted that in an email dated 15 October 2020, Mrs Rodgers' son stated:

*"...I can confirm we are happy for the panel to proceed without representation...this case has gone on long enough - far too long in fact - so we do not want to delay..."*

Ms Shehadeh submitted that these emails, and Mrs Rodgers' response to the charges in her CMF, illustrate that there has been meaningful participation from Mrs Rodgers with this hearing and is content for it to proceed without her.

Ms Shehadeh submitted that proceeding in the absence of Mrs Rodgers would not be unfair to her as she wants the panel to proceed and wants finality to these proceedings. She submitted that there is a public interest in an expeditious disposal of this hearing. She also submitted that proceeding would uphold the NMC's statutory purpose to protect the public and maintain proper standards in the nursing profession.

Ms Shehadeh submitted that there has been no application made for an adjournment today and doing so would serve no purpose as Mrs Rodgers' has not suggested that she would be available on a different date.

Ms Shehadeh invited the panel to continue in the absence of Mrs Rodgers.

The panel accepted the advice of the legal assessor.

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

The panel has decided to proceed in the absence of Mrs Rodgers. In reaching this decision, the panel has considered the submissions of Ms Shehadeh, the representations made on Mrs Rodgers' behalf, and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mrs Rodgers;
- Mrs Rodgers has informed the NMC that she has received the Notice of Hearing and confirmed she is content for the hearing to proceed in her absence with no further delay;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- One witness is expected to give evidence today and others are due to attend;
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mrs Rodgers 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. It also had the benefit of her detailed responses to the charges in her CMF.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Mrs Rodgers. The panel will draw no adverse inference from her absence in its findings of fact.

The panel also asked the panel secretary to contact Mrs Rodgers and inform her that it is still open to her to provide the panel with evidence by the expected close of the NMC's case on facts. It also informed her that this evidence does not have to be presented in person and can be give over the phone or via video link. Mrs Rodgers declined this opportunity.

### **Details of charge**

That you a registered nurse:

1. Between 29 October 2013 and 27 January 2016, in relation to Resident A, failed to ensure on one or more occasion:
  - a. that you acknowledged Resident A while providing personal care;
  - b. that Resident A did not remain in bed all day without having the ability to call for assistance;
  - c. that Resident A was provided with adequate fluids;
  - d. that Resident A was provided with adequate meals;
  - e. that you treated Resident A with dignity and/or respect;
  - f. that Resident A was moved and handled correctly;
  - g. that Resident A infections were prevented and controlled;
  - h. that you reduced health risks;
  
2. On or about 13 December 2015 whilst attending on Resident A you
  - a. demonstrated a lack of compassion;
  - b. treated her as an object and/or ignored her;
  - c. were rough and/or pushed her;
  - d. you did not wear gloves when changing the sheets and moving Resident A;

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

## Background

On 11 November 2016, the NMC received a referral from the Care Quality Commission (CQC), who raised a concern regarding Mrs Rodgers' fitness to practise. At the time of the concern raised, Mrs Rodgers was working as a registered nurse at Rambla Nursing Home (the Rambla) in Scarborough, North Yorkshire. The Rambla was one of a number of homes owned by 'Complete Care'. She was employed by Complete Care from 29 October 2013 to 10 November 2016, but suspended from duty at the Rambla on 27 January 2016.

Mrs Rodgers faces charges in respect of her treatment of Resident A who was a resident at the Rambla from 2012 to June 2016. Resident A was an elderly woman who required full assistance with all aspects of her personal care. She was described in a personal care plan as 'frail' and unable to get out of bed.

Resident A was said to have had epilepsy, dementia, hypertension, arthritis and a contracted leg. She had undergone a left hip replacement. Her moving and handling care plan stated that two persons should assist in repositioning her, and a glide sheet was to be used for all repositioning. Her left leg was not to be used while moving her as this could cause her pain. She was doubly incontinent and wore a pad at all times in addition she required assistance with feeding and fluids.

Her daughter, Ms 1, over a lengthy period of time became increasingly concerned about the quality of care that her mother was receiving. She visited her mother on most days, and thus was able to observe closely and over a lengthy period of time, the standard of care that her mother was receiving. She raised a number of her concerns with the staff at the Rambla, with the local authority safeguarding team and others.

As she perceived that the Rambla staff were not responding to her concerns in a satisfactory manner, she installed a motion activated camera in her mother's room in November 2015. The purpose of this was to see for herself the level and quality of care

that her mother was receiving, and to provide concrete evidence of any shortcomings. It is alleged that there are parts of this footage which show the Registrant delivering unsatisfactory care to Resident A.

Mrs Rodgers has been identified in the footage by her former colleague, Ms 2. Mrs Rodgers has also been provided with the footage, and does not dispute identification. She accepts the footage shows her, but argues that it does not prove the charges. She does, however, accept that one of the clips shows 'rough' handling of Resident A.

Ms 1 complained to the Police and the CQC about the care her mother had received at the Rambla.

On 27 January 2016, Mrs Rodgers was suspended from the Rambla. On 12 October 2016, an internal investigation by the Rambla resulted in a phased return to work at Pinfold Lodge (another home operated by 'Complete Care'). On 10th November 2016, Mrs Rodgers resigned from 'Complete Care'.

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

During the course of Ms Shehadeh's Rule 31 application, she made a request that part of the application be made in private as she was about to make reference to the health of Ms 1. The application was made pursuant to Rule 19 of '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 will be reference to the health of Ms 1, the panel determined to hold those parts of the hearing in private.

## **Decision and reasons on application to admit video link evidence for Ms 1**

The panel heard an application made by Ms Shehadeh under Rule 31 to allow Ms 1 to give her evidence over video link. Ms Shehadeh submitted that the application is based on information obtained from correspondence between Ms 1 and the NMC. She drew the panel's attention to an email, dated 22 September 2021, where she stated:

*“...I have 2 rescue dogs, who are both on medication and injured pigeons one of which needs hand feeding so am finding it difficult to find someone to live in who has the skills and knowledge to care for them and is unfamiliar with them – and them with her/him.*

*Living in Scarborough with no direct line to London would require both coming down a day earlier and leaving the following day after giving evidence making the situation more difficult as it would necessitate my leaving them for 3-4 days which I am very concerned about given their individual needs and temperaments.*

Ms Shehadeh submitted that, given the circumstances, it would not be practicable for Ms 1 to travel for half a day, stay at a hotel potentially for two days to give evidence, and then spend half a day returning to Scarborough. The email continues:

*I am sorry to ask this but would be very grateful if you would consider my request as I would find it very distressing to leave them, which in addition to the stress of giving evidence may prove more than I can cope with at this time.”*

Ms Shehadeh submitted that the tone of Ms 1's witness statement and documentary evidence appear to demonstrate this distress. She further submitted that requiring Ms 1 to give live evidence in the circumstances set out in Ms 1's email, would add to that distress and damage the quality of her evidence.

Ms Shehadeh also referred to an email dated 29 September 2021 sent to the NMC by Ms 1. Within this email she made reference to her health condition and stated that as a result it would be sensible for her not to travel.

Ms Shehadeh submitted that it is fair for Ms 1 to provide evidence in this format as she will still be asked questions and her reactions can be seen. She also reminded the panel that Mrs Rodgers, in an email dated 19 October 2021, stated that she has no objection with Ms 1 giving evidence via video link. She submitted that there is no unfairness as Mrs Rodgers has no intention of cross-examining Ms 1.

Regarding relevance, Ms Shehadeh submitted that the evidence of Ms 1 is clearly relevant. She reminded the panel that Ms 1 is the daughter of Resident A and provides background evidence in her witness statement and a first-hand account of what she observed regarding the care of her mother. However, Ms Shehadeh submitted that Ms 1 had no personal interaction with Mrs Rodgers.

Ms Shehadeh referred the panel to the case of *Polanski v Conde Nast* [2005] UKHL 10. It was stated that “...*The court is to be trusted to evaluate the weight of the relevant evidence for itself. The evidence is to be given in the most efficient and economical way consistent with the object of doing justice between the parties. New technology such as video conferencing is not a revolutionary departure from the norm to be kept strictly in check but simply another tool for securing effective access to justice for everyone...*”

The panel heard and accepted the legal assessor’s advice on the issues it should take into consideration in respect of this application. This included that Rule 31 provides that, so far as it is ‘fair and relevant’, a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings.

The panel gave the application in regard to Ms 1 serious consideration. The panel noted that Ms 1’s statement had been prepared in anticipation of being used in these proceedings and contained the paragraph, ‘*This statement ... is true to the best of my*

*information, knowledge and belief* and signed by her. It also determined that her evidence is clearly relevant.

The panel considered whether Mrs Rodgers would be disadvantaged by Ms 1 giving evidence via video link.

The panel reminded itself that Mrs Rodgers is content with Ms 1 giving evidence via video link. It also bore in mind the personal issues referenced in Ms 1's emails and accepted the submissions of Ms Shehedah that it may impair on Ms 1's ability to give her best evidence. It was of the view that it would be practicable, given the circumstances for Ms 1 to give evidence in this way.

The panel also noted that, in light of the coronavirus pandemic, the majority of the NMC proceedings have been taking place via video link. As a result, the panel are well accustomed to conducting hearings in this way.

In these circumstances, the panel came to the view that it would be fair and relevant to allow Ms 1 to give evidence remotely via the video link, particularly as Mrs Rodgers is not present and consequently she would not be cross-examined. The panel would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

### **Decision and reasons on application to admit video link evidence for Ms 2**

The panel heard an application made by Ms Shehadeh under Rule 31 to allow Ms 2 to give her evidence over video link. Ms Shehadeh submitted that the application is based on a similar basis as her application made for Ms 1. She informed the panel that Ms 2 was the General Manager of Complete Care Homes and identifies Mrs Rodgers in a number of video clips.

Ms Shehadeh informed the panel that Ms 2 lives in Yorkshire. She submitted that it would be an unnecessary expense for the NMC to pay for her travel considering Ms 2 will only be needed for a relatively short period of time. Further, it would be disproportionate for Ms 2 to appear in person when she is not going to be cross examined. Ms Shehadeh also submitted that Ms 2 would be able to see the video evidence via video link.

Ms Shehadeh submitted that it is becoming common practice for NMC proceedings to be held entirely remotely with no parties attending.

Ms Shehadeh also reminded the panel that Mrs Rodgers, in an email dated 19 October 2021, stated that she has no objection with Ms 2 giving evidence via video link. She submitted that there is no unfairness as Mrs Rodgers has no intention of cross-examining Ms 1.

Ms Shehadeh referred the panel to the case of *Polanski v Conde Nast* [2005] UKHL 10.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 provides that, so far as it is 'fair and relevant', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings.

The panel gave the application in regard to Ms 2 serious consideration. The panel noted that Ms 2's statement had been prepared in anticipation of being used in these proceedings and contained the paragraph, '*This statement ... is true to the best of my information, knowledge and belief*' and signed by her. It also determined that her evidence is clearly relevant.

The panel considered whether Mrs Rodgers would be disadvantaged by Ms 2 giving evidence via video link.

The panel reminded itself that Mrs Rodgers is content with Ms 2 giving evidence via video link. It accepted Ms Shehadeh's submission that the application is proportional and

practicable. It also accepts that Ms 2's evidence is relevant and it is fair to the NMC to not put them through the expense of bringing Ms 2 to the hearing for a short session.

The panel also noted that, in light of the coronavirus pandemic, the majority of the NMC proceedings have been taking place via video link. As a result, the panel are well accustomed to conducting hearings in this way.

In these circumstances, the panel came to the view that it would be fair and relevant to allow Ms 2 to give evidence remotely via the video link, particularly as Mrs Rodgers is not present and consequently she would not be cross-examined. The panel would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

### **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 Shehedah on behalf of the NMC. The panel also took account the written responses made by Mrs Rodgers to the NMC.

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

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: Daughter of Resident A;

- Ms 2: At the relevant time, General Manager of Complete Care Homes dealing with the complaint of Ms 1 in November 2016;
- Ms 3 Registered Nurse and Expert Witness for the NMC.

The panel also had regard to the agreed witness statement from Ms 4 who, before Ms 2, was the General Manager of Complete Care Homes and who exhibits relevant documents.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. He explained the key elements in the case of *R (Dutta) v GMC [2020] EHCW 1974 (Admin)*. He said that, in any approach to the fact finding stage, care must be taken to avoid considering each part of the evidence in isolation. Consider the reliability of the evidence as a global picture and not in isolation. Witness evidence is one part of the evidence and it is rare when it is the only element. Objective evidence, for example contemporaneous documents, should be considered first. The confident delivery and demeanour of a witness' evidence is not a reliable guide to whether it is the truth. So, the important question is whether the witness is reliable, not whether they are credible.

It considered the witness and documentary evidence provided by both the NMC and Mrs Rodgers. With regards to the video evidence provided by Ms 1, it was of the view that at times the quality of the video made it difficult for the panel to see Resident A and hear her responses while Mrs Rodgers was providing care.

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

## Charge 1a

1. Between 29 October 2013 and 27 January 2016, in relation to Resident A, failed to ensure on one or more occasion:
  - a. that you acknowledged Resident A while providing personal care;

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

In reaching this decision, the panel took into account the evidence of Ms 3 and the video evidence provided by Ms 1.

The panel took account of the expert report of Ms 3. She stated:

*“...Having reviewed all the clips, I identified three of the malignant processes were regularly demonstrated. These were objectification, ignoring...Objectification occurs when a person with dementia is treated as if they have no feeling or opinion, or as if they were a lump of dead matter. Ignoring describes caring carrying on in conversations or actions in the presence of a person as if they are not there ...”*

During the course of Ms 3’s oral evidence, she provided the panel with her interpretation of the video evidence provided by Ms 1. While Ms 3 watched video “0791”, she commented that Mrs Rodgers, while changing Resident A’s bedsheet, was standing behind Resident A’s bed and pulling her up without providing any reassurance. She stated that she continued to treat Resident A as an object, her attention appeared to be diverted by the television in Resident A’s room and completely ignores Resident A during care. She also stated that while providing care to Resident A, Mrs Rodgers was not communicating to Resident A.

Upon looking at the video evidence, the panel accepted the interpretation provided by Ms 3. It was clear to the panel that in the video evidence provided, Mrs Rodgers provided

personal care to Resident A. The panel noted that on occasions, the 12 video clips provided demonstrate Mrs Rodgers greeting Resident A while providing personal care. This was also acknowledged by Ms 3. However, the panel noted several instances where Mrs Rodgers did not greet Resident A upon entering her room. It also noted that there were elements of objectification whereby Mrs Rodgers would not explain the care she was about to provide Resident A. It noted that there was an instance where Mrs Rodgers entered Resident A's room and just started cleaning her face without greeting her or telling her what she was about to do.

The panel did not accept that Mrs Rodgers was consistently more interested in the TV than providing care to Resident A. Upon looking at various video clips, it was the view that Mrs Rodgers would either be glancing at the TV, adjusting the TV or turning it on. However, it considered that, notwithstanding that, Mrs Rodgers ought to have communicated to Resident A while doing this.

The panel was of the view that as a registered nurse, Mrs Rodgers would have known that she had a duty to communicate with the patient when engaging in personal care. The panel accepted that it had sight of several examples, in the video evidence, where Mrs Rodgers was objectifying and ignoring Resident A while providing personal care.

Turning to the stem of the charge, the panel was satisfied that it had seen several examples whereby Mrs Rodgers failed to ensure that she acknowledged Resident A while providing personal care.

Therefore, this sub-charge is found proved.

### **Charge 1b**

1. Between 29 October 2013 and 27 January 2016, in relation to Resident A, failed to ensure on one or more occasion:

- b. that Resident A did not remain in bed all day without having the ability to call for assistance;

**This sub-charge is found not proved.**

In reaching this decision, the panel took into account of the evidence of Ms 3, the evidence of Mrs Rodgers and the video evidence provided by Ms 1.

When considering this charge, the panel was of the view that there were two separate issues here. It first considered whether Mrs Rodgers should have ensured that Resident A was not in bed all day.

The panel took account of Mrs Rodgers' response to this charge in her CMF. The representative on her behalf stated:

*“There is no evidence to support this charge during the period specified - 29 October 2013 to 27 January 2016...Resident A was bed bound and Mrs Rodgers had only ever known Resident A to be in bed...”*

In response to this, Ms 3, in her oral evidence, felt nurses should question and/or challenge assessments even if the said assessments were by another practitioner. She saw no evidence of this challenge in the patient notes.

The panel bore in mind that Resident A was admitted to the Rambla in 2012. This was before Mrs Rodgers commenced her employment at the Rambla. The panel also bore in mind that it asked Ms 2 if any assessment had been undertaken when Resident A was admitted to the Rambla. There was a suggestion that Resident A may have seen a physio and a report regarding Resident A's positioning in bed which appears to be an expert opinion. However, the panel has seen no evidence of this.

The panel noted that it had seen a risk assessment dated 2015 which determined that it was unsafe for Resident A to be out of bed. This risk assessment detailed that Resident A could not be hoisted due to the contracted leg. However, the panel saw no formal assessment that came to this conclusion.

The panel accepted that Mrs Rodgers, as a registered nurse, had a professional responsibility to consider whether this decision was the correct one. However, it bore in mind that Mrs Rodgers worked, predominately, night shifts. This is when Resident A would have been in bed. It considered whether she had the same responsibility as a day nurse who would have been providing personal care to Resident A when she would have been expected to be out of bed based on the time of day.

The panel noted that it appeared that the decision for Resident A to be bed bound was made before Mrs Rodgers started her employment at the Rambla. The panel have no documentary evidence to demonstrate that an assessment was undertaken to determine this. Further, it had no information before it that would implicate a failing by Mrs Rodgers in this regard.

This appears to be indicative of an institutional failing within the Rambla, failings which occurred before Mrs Rodgers started working at the Rambla and continued during her tenure there.

The panel turned its attention to the issue of Resident A's ability to use the call bell. In the CMF, relating to this aspect of the charge, the representative of Mrs Rodgers stated

*"...Mrs Rodgers has never known Resident A to call a nurse or use her buzzer. Resident A could not move her hands well and did not have the strength to press the buzzer. Consequently, it was standard practice to check Resident A regularly..."*

In her oral evidence Ms 1 stated the contact sheets were evidence that Resident A was not checked on. She further stated that Resident A was capable of using the call bell

evidenced by the video clip that showed Resident A holding onto the arm of Mrs Rodgers. She stated that the call bell was out of Resident A's reach as it was wrapped around the headboard of Resident A's bed. She further stated that Resident A was never shown what the bell was for or where it was. Additionally, she said that Resident A could have been trained to use the call bell.

The panel considered Ms 1's assertion that Resident A had the strength to use the call bell. Upon looking at the video evidence, the panel's interpretation of Resident A grabbing Mrs Rodgers' arm was that it was an involuntary action.

Pressing the call bell means that you require assistance and the panel considered this to be a meaningful action that required cognitive thought. It was of the view that pressing the call bell in this context is more a demonstration of cognitive abilities rather than physical strength.

Ms 3 in her oral evidence stated that she had seen no clinical assessment to demonstrate that Resident A was not able to use the call bell. She was taken to an evaluation document that had stated that the Rambla was evaluating communication, but the panel had not been provided with an actual assessment of Resident A's ability to use the bell.

The panel noted that it did not have any evidence of an assessment of Resident A's cognitive abilities that would demonstrate to the panel that she had the ability to use the call bell. It also bore in mind that there is also no clinical assessment before the panel that she did not have the ability to use the call bell.

Ms 3, in her oral evidence stated that in the absence of an ability to use the call bell, Resident A should have been checked on every 15 to 30 minutes and this responsibility is not negated by Mrs Rodgers being the night nurse. Ms 3 stated that she would expect the night nurse to take the lead to ensure regular checks in view of the call bell not being used.

The panel noted that it did not have any evidence in the form of a chart or the contact sheets described by Ms 1 to determine whether Resident A was visited on a regular basis by Mrs Rodgers. Additionally, the panel had no evidence before it that she did or did not challenge the assessments made by the Rambla in relation to Resident A's inability to use the call bell.

The panel noted that it had been provided with a very selective picture of the Rambla in terms of the duties, responsibilities, documentation and actions of the nurses and management. This has made it very difficult for the panel to contextualise this sub-charge. Further, it has presented the panel with a challenge in determining the personal responsibility on Mrs Rodgers in the context of apparent institutional failures at the Rambla.

In light of this, the panel reminded itself that it is for the NMC to prove the charge. It noted that the NMC has not provided the panel with any assessments or records that allowed the conclusion to be made that Resident A was bed bound. Further, the NMC had not provided the contact sheets referenced by Ms 1 or any contemporaneous documentary evidence to demonstrate how regularly Resident A was checked on. It reminded itself that the NMC relied solely on the evidence of Ms 1 and the expert opinion of Ms 3. The panel does not believe that either was trying to mislead the panel. However, the panel noted that the NMC had not provided the panel with information that shows that Mrs Rodgers was solely responsible for not ensuring that Resident A did not remain in bed all day without having the ability to call for assistance. This charge is not supported by any other documentation before the panel.

Therefore, the panel finds this sub-charge not proved.

## Charge 1c and Charge 1d

1. Between 29 October 2013 and 27 January 2016, in relation to Resident A, failed to ensure on one or more occasion:
  - c. that Resident A was provided with adequate fluids;
  - d. that Resident A was provided with adequate meals;

### **These sub-charges are found not proved.**

The panel considered each of these sub-charges separately but as the evidence in relation to each is similar it has dealt with them under one heading. In reaching this decision, the panel took account of the evidence of Ms 1 and the evidence of Ms 3.

The panel took account of the witness statement of Ms 1. She stated:

*“...Over the course of 2013 and 2014, on persistent occasions I raised concerns with staff at the Home and latterly with local authority safeguarding team, to the effect that my mother was left isolated without stimulation, was not receiving adequate food and drink...”*

During her oral evidence, Ms 1 told the panel that Resident A experienced dramatic weight loss after she was admitted to the Rambla. In May 2013, after admission, Resident A weighed 10 stone, in September 2013 she weighed 8 stone and by November 2013 Resident A weighed 7 stone. Ms 1 also told the panel that when she raised this with the Rambla, she was told that the contact sheets would document food and drink offered to Resident A. Upon viewing this contact sheet, Ms 1 learned that if Resident A was asleep, she would be offered food and drink later in the day. However, she noted on one day she had nothing to eat or drink. When she complained about this, the Rambla removed the contact sheets citing that they were not being completed properly, but she did not believe

this. Ms 1 stated that these contact sheets were not present during the entirety of Resident A's stay at the Rambla.

During Ms 3's oral evidence, she stated that even though Mrs Rodgers was a night nurse, she would have expected her to note what Resident A consumed during the day. Upon learning this, Ms 3 would have expected Mrs Rodgers to have considered if any additional food or fluid should have been administered in the evening to achieve the target amount for Resident A. Ms 3 also stated that there was no process in place to ensure that the target amount of food and fluid were provided to Resident A. Additionally there was no analysis or calculation performed at the end of the day. However, both Ms Shehedah and Ms 3 acknowledged that the food and fluid chart provided are outside of the charge period when Mrs Rodgers was employed at the Rambla.

The panel took account of Mrs Rodgers' response to this charge in her CMF. It is clear that Mrs Rodgers does not accept these sub-charges. The panel took into account Ms 1's evidence that much of the extreme weight loss had occurred prior to Mrs Rodgers commencing her employment at the Rambla. In relation to both sub-charges, the representative on her behalf stated:

*"...There is no evidence to support this charge during the period specified - 29 October 2013 to 27 January 2016..."*

In the CMF, relating to charge 1c, the representative of Mrs Rodgers stated:

*a. "...CCTV R9/0013 shows Mrs Rodgers asking Resident A if she would like a drink. Resident A responds "No".*

*b. No Position or Fluid Charts during the time that Mrs Rodgers was responsible for Resident A are provided. None are provided with Mrs Rodgers initials.*

*c. The Position Charts provided are not signed by Mrs Rodgers and the dates shown are during the period that Mrs Rodgers was suspended from The Rambla. The Position Charts start from March 2016. Mrs Rodgers was suspended from The Rambla January 2016.*

The panel had sight of the aforementioned video evidence and noted that Mrs Rodgers did indeed offer Resident A a drink and she declined. In the CMF, relating to charge 1d, the representative of Mrs Rodgers stated:

*“...a. The food charts provided in the Draft exhibit bundle show nature and quantity of food provided. However, none of these charts are from the period when Mrs Rodgers was responsible for the care of Resident A, noting that Mrs Rodgers was not solely responsible for Resident A...”*

The panel was of the view that a registered nurse has a responsibility to ensure that all her patients are nourished and hydrated. The panel bore in mind that Mrs Rodgers worked night shifts. While it considered that it may be feasible for fluids to be offered at times during the night, it was of the view that as a night nurse she would not be expected to offer Resident A food in normal circumstances.

The panel considered that it did not have any contemporaneous documentation that would demonstrate to the panel that either food or fluid was offered and subsequently recorded in a food or fluid chart at the relevant time. The panel noted that it had sight of a document which stated “It appears some people are still not adhering to the nutrition care plan for Resident A”. However, it also noted that this did not particularise Mrs Rodgers.

The panel noted that it had been provided with a very selective picture of the Rambla in respect of the duties, responsibilities and actions of the nurses and management at the Rambla. The panel had been told by Ms 1 that Mrs Rodgers worked predominantly night shifts as she never saw her during the day. This appeared to be accepted by the NMC. However, in this instance, the panel had no documentation to determine the work pattern

or timetable to verify if Mrs Rodgers worked night shifts at the time or if she worked day shifts and if her responsibilities concerned the care of Resident A.

As with its consideration of the previous charge, the panel noted that it had been provided with a very selective picture of the Rambla in terms of the duties, responsibilities, documentation and actions of the nurses and management. This has made it very difficult for the panel to contextualise these sub-charges. Further, it has presented the panel with a challenge in determining the personal responsibility on Mrs Rodgers in the context of apparent institutional failures at the Rambla.

In light of this, the panel reminded itself that it is for the NMC to prove the charge. It noted that the NMC has not provided the panel with contemporaneous documentary evidence to demonstrate the food and fluid intake of Resident A at the relevant time. It reminded itself that the NMC relied solely on the evidence of Ms 1 and the expert opinion of Ms 3. The panel does not believe that either was trying to mislead the panel. However, the panel noted that the NMC had not provided the panel with the contact sheets, relative to the charge period, that Ms 1 had seen to demonstrate that Resident A had not been offered food or drink. Additionally, Ms 3's conclusions were based on Fluid Charts that are dated after Mrs Rodgers had been suspended by the Rambla. This charge is not supported by any other documentation before the panel.

In light of this the panel found both sub-charges not proved.

### **Charge 1e**

1. Between 29 October 2013 and 27 January 2016, in relation to Resident A, failed to ensure on one or more occasion:
  - e. that you treated Resident A with dignity and/or respect;

**This charge is found proved.**

In reaching this decision, the panel took account of the evidence of Ms 3, the video evidence provided by Ms 1 and the evidence from Mrs Rodgers.

In the CMF, relating to this sub-charge, the representative of Mrs Rodgers stated:

*“...Mrs Rodgers did treat Resident A and indeed all other Residents with dignity and respect. The CCTV footage shows Mrs Rodgers saying “hello, lets have a look at you” and “what have you been doing”. Mrs Rodgers had a good rapport with Resident A, occasionally calling her ‘Daisy May’, which Resident A used to laugh at. Mrs Rodgers was also aware of Resident A’s interests and knew that Resident A liked to watch Heartbeat on TV, and would ensure the programme was on for her at the appropriate time...”*

The panel took account of the expert report of Ms 3. She stated:

*“...Having reviewed all the clips, I identified three of the malignant processes were regularly demonstrated. These were objectification, ignoring and infantilisation. Objectification occurs when a person with dementia is treated as if they have no feeling or opinion, or as if they were a lump of dead matter. Ignoring describes caring carrying on in conversations or actions in the presence of a person as if they are not there. Infantilisation describes treating the person patronizingly as an insensitive parent might treat a very young child...”*

During the course of Ms 3’s oral evidence, she provided the panel with her interpretation of the video evidence provided by Ms 1. While providing commentary, she noted that at times when providing care, Mrs Rodgers would roll Resident A over without warning her, she was not being polite to her or greeting her. Ms 3 noted in clip 005, Mrs Rodgers appeared to be leaving the bathroom in Resident A’s room and then just left without saying goodbye. Ms 3 said that, out of basic politeness, she would have expected Mrs Rodgers to let Resident A know she had finished what she was doing and that she was leaving. Ms 3 stated that is what we as people do in everyday life and treating each other

as fellow human beings. She also stated that when Mrs Rodgers's referred to Resident A using the word "Naughty" this was an example of infantilisation.

When watching clip 0012, the panel noted that the door to Resident A's room was open whilst Mrs Rodgers was providing care to her. When this was brought to Ms 3's attention, she stated that this was another example of Mrs Rodgers not treating Resident A correctly. Additionally, in clip 0791, the panel noted that Mrs Rodgers appears to treat Resident A like an object as she is dragged and rolled over.

Regarding infantilization, the panel noted that at times Mrs Rodgers would use the word "Naughty" in a kindly voice. However, it accepted Ms 3's view that using that word is not what you would expect a registered nurse to use when providing care and considered it to be disrespectful.

The panel noted that, on occasions, the video evidence would demonstrate Mrs Rodgers greeting Resident A while providing personal care. Mrs Rodgers would also, on occasions, explain to Resident A the personal care she was about to provide. This was also acknowledged by Ms 3. However, it reminded itself that it only needed to find one occasion where Mrs Rodgers failed to treat Resident A with dignity and/or respect. It accepted that it had sight of several examples, in the video evidence, where Resident A was not treated with respect and her dignity was compromised while Mrs Rodgers was providing personal care.

Turning to the stem of the charge, the panel was satisfied that it had seen several examples whereby Mrs Rodgers failed to treat Resident A with dignity and/or respect.

Therefore, this sub-charge is found proved.

## Charge 1f

1. Between 29 October 2013 and 27 January 2016, in relation to Resident A, failed to ensure on one or more occasion:

- f. that Resident A was moved and handled correctly;

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

In reaching this decision, the panel took account of the video evidence of Ms 1, the evidence of Ms 3, the evidence provided by Ms 2 and the evidence of Mrs Rodgers.

The panel took account of the witness statement of Ms 1 where she stated:

*“...When I viewed the footage and saw how my mother was being mishandled, it caused me a great deal of shock and concern. I had been repeatedly told by staff at the Home that my mother's extensive bruising had been caused by herself. Having seen the footage, I was concerned that this explanation appeared untrue and that in fact the bruising was more likely to have been caused by how my mother was mishandled by staff including Ms Rodgers, as the camera footage revealed...”*

During the course of Ms 3's oral evidence, she provided the panel with her interpretation of the video evidence provided by Ms 1. While providing commentary, she explained to the panel what should would have expected Mrs Rodgers to do, what would have been appropriate and where Mrs Rodgers strayed in this regard. During clip 0791, Mrs Rodgers was changing Resident A's bedsheet. Ms 3 described Mrs Rodgers pulling Resident A up by her bedsheet, rolling her over on one arm and using Resident A's contracted leg to manoeuvre her. Ms 3 stated that this would be potentially painful and frightening for Resident A and the risk of harm to Resident A was significant in terms of both physical and psychological stress caused.

Ms 3 stated that she would have expected a glide sheet to be used when changing Resident A's bedsheet.

The panel preferred Ms 3's interpretation of the video evidence. The panel noted that Mrs Rodgers was rough with Resident A and saw that her contracted leg was mishandled. The panel also bore in mind that there was a care plan for Resident A which gave clear direction that she was to be provided care by two carers at all times. The panel took account of the internal investigation report, dated 12 August 2016. Mrs Rodgers responded to the care plan of Resident A where she stated:

*"...[Mrs Rodgers] said that you eventually get to know the residents and what you can and cannot do regarding their care. [Mrs Rodgers] said that most of the residents have a care plan in place that requires their care to be delivered by two carers and that even though she wouldn't make a judgement on whether she would deviate from this plan, for certain residents she would not make this judgement call at all, but strictly adhere to the plan. [Mrs Rodgers] gave an example of such being...a stroke victim who she would not care for on her own regardless of the condition she presented in at the time that her care was required..."*

The panel did not accept this response from Mrs Rodgers. It noted that in several video clips, Mrs Rodgers was acting independently, which was against the care plan. It also noted that there was a Manual Handling policy in place at the Rambla and Mrs Rodgers completed Manual Handling training in 2014. In addition, the panel consider that being able to move a patient the correct way is fundamental nursing care. It would also expect a registered nurse to adhere to a care plan.

The panel noted that Mrs Rodgers appeared to accept the charge in part. In the CMF, relating to this sub-charge, the representative of Mrs Rodgers stated:

*"...Mrs Rodgers accepts that Resident A was handled incorrectly and that by doing so she breached an element of the care plan in that two nurses were required to*

*change Resident A. Mrs Rodgers also accepts that the manner in which she handles Resident A on the CCTV footage to be rough and undignified.*

*Mrs Rodgers was not acting to deliberately harm and/or be disrespectful to Resident A. Resident A was soiled and needed to be changed to prevent infection and to make Resident A comfortable. Mrs Rodgers was acting in Resident A's best interest, although Mrs Rodgers accepts the care she provided in this instance was not acceptable..."*

The panel reminded itself that it only needed to find one occasion where Mrs Rodgers failed to ensure that Resident A was moved and handled incorrectly. It accepted that it had sight of several examples, in the video evidence, where Resident A was not moved and handled correctly while Mrs Rodgers was providing personal care.

Turning to the stem of the charge, the panel was satisfied that it had seen several examples whereby Mrs Rodgers failed to ensure that Resident A was moved and handled correctly.

Therefore, this sub-charge is found proved.

### **Charge 1g**

1. Between 29 October 2013 and 27 January 2016, in relation to Resident A, failed to ensure on one or more occasion:

g. that Resident A infections were prevented and controlled;

**This charge is found proved.**

In reaching this decision, the panel took into account the video evidence of Ms 1, the evidence of Ms 3 and the evidence of Mrs Rodgers.

The panel was concerned about the wording of this particular sub-charge where it states that “Resident A infections were prevented and controlled”. The panel noted that it had no information regarding an infection that Resident A had. This is also reflected in the response from Mrs Rodgers in her CMF form. Her representative stated:

*“...1. Resident A did not have any infections during the time that Mrs Rodgers was employed at The Rambla...”*

The panel was of the view that the following wording would provide clarity and is a better reflection of the evidence before the panel:

1. Between 29 October 2013 and 27 January 2016, in relation to Resident A, failed to ensure on one or more occasion:
  - g. that infection prevention and control practices were not adhered to in respect of Resident A;

The panel was satisfied that this was its understanding of what it is considering in relation to this sub-charge.

During the course of Ms 3’s oral evidence, she provided the panel with her interpretation of the video evidence provided by Ms 1. In various clips Mrs Rodgers is cleaning Resident A. Ms 3 noted that at times Mrs Rodgers was wandering around with a pad likely to be contaminated with faeces. She also noted that Mrs Rodgers was not wearing an apron, and she would either be wearing one glove or none at all. Ms 3 said that Mrs Rodgers was using two hands to clean Resident A. But by only using only one glove, there was a risk that she would potentially touch urine or faeces with the hand that has no glove. She also noted that Mrs Rodgers appeared to have no system of discarding soiled wipes in one place as she wandered around the room with them.

Additionally, Mrs Rodgers continued to clean Resident A, and she would place the contaminated wipes on the floor and a surface nearby which means that there was a risk of faeces bacteria landing on or around Resident A while providing personal care.

Ms 3 stated that Mrs Rodgers appeared to be disorganised and there was no process. Regarding the practical aspects of infection control and procedure, she said she would expect someone to be ready and prepared before they started. This would reduce the time it would take to clean and prevent something going wrong. Ms 3 said that she would expect a student nurse to be able adhere to proper infection and prevention control processes.

In the CMF, relating to charge 1g, the representative of Mrs Rodgers stated

*“...2. Mrs Rodgers noted Resident A had good skin, which was one of the reasons why Mrs Rodgers wanted to change her out of her spoiled [sic] bed and avoid an infection.*

*3. Mrs Rodgers acknowledged that she wore one glove on one hand while changing Resident A and that she washed her hands before entering the room. Mrs Rodgers explained this was so that she could tell that Resident A’s skin was dry after Mrs Rodgers had washed and changed Resident A, as it is not possible to tell if the skin is dry with a gloved hand. Mrs Rodgers handled the soiled bedding and pad with the gloved hand...”*

The panel bore in mind that Ms 3 did not find Mrs Rodgers’ explanation in this regard acceptable and had never heard of such a process. The panel preferred Ms 3’s interpretation of the video evidence and considered Mrs Rodgers’ handling of soiled sheets to be a departure from the basic principles of infection control.

The panel reminded itself that it only needed to find one occasion where Mrs Rodgers failed to ensure that potential infections were prevented and controlled in respect of

Resident A. It accepted that it had sight of several examples, in the video evidence, where infection prevention and control practices were not adhered to in respect of Resident A.

Turning to the stem of the charge, the panel was satisfied that it had seen several examples whereby Mrs Rodgers failed to ensure that potential infections were prevented and controlled in respect of Resident A.

Therefore, this sub-charge is found proved.

### **Charge 1h**

1. Between 29 October 2013 and 27 January 2016, in relation to Resident A, failed to ensure on one or more occasion:
  - h. that you reduced health risks;

**This charge is found not proved.**

In reaching this decision, the panel took account of the evidence of Ms 3.

The panel took account of the Ms 3's expert report. It noted that she had a heading named "Health Risks Identified". These consisted of "Risk of sun stroke", "Spreading Conjunctivitis", "Paint Fumes", "Risk of Choking due to Poor Sitting Position" and "Opinion in respect of health risks".

The panel bore in mind that Ms 3 accepted that Mrs Rodgers had no responsibility to reduce risk of sun stroke as she worked at night. The panel noted there is no evidence that connects Mrs Rodgers with the spread of conjunctivitis. There is no evidence before the panel that the incident relating to paint fumes occurred while Mrs Rodgers was on duty. In fact, this incident happened during the day and the panel had heard evidence that suggested that Mrs Rodgers worked predominantly at night. The panel also noted that the

care plan that addresses the risk of choking due to poor sitting position is dated February 2016. This was when Mrs Rodgers had been suspended from the Rambla.

In light of this, the panel reminded itself that it is for the NMC to prove the charge. It noted that the NMC has not provided the panel with any documentary evidence to support the risks identified by Ms 3 in her expert report. It reminded itself that the NMC relied solely on the expert report of Ms 3. The panel does not believe she was trying to mislead the panel. However, this charge is not supported by any other documentation before the panel.

Therefore, this sub-charge is found not proved.

### **Charge 2a, 2b, 2c and 2d**

2. On or about 13 December 2015 whilst attending on Resident A you
  - a. demonstrated a lack of compassion;
  - b. treated her as an object and/or ignored her;
  - c. were rough and/or pushed her;
  - d. you did not wear gloves when changing the sheets and moving Resident A;

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

The panel considered each of these sub-charges separately but as the evidence in relation to each is from a single video clip, it has dealt with them under one heading. In reaching this decision, the panel took account of the video evidence of this particular day, the evidence of Ms 1, Ms 3 and Mrs Rodgers.

The panel noted that this particular charge is evidentially significantly different to charge 1. This charge has been specified to a particular date, and to a specific video clip that the panel has seen. It also noted that this charge does not suggest a failing on behalf of Mrs Rodgers, rather it asks the panel factually if Mrs Rodgers, on or about 13 December 2015, whilst attending Resident A, demonstrated a lack of compassion; treated her as an object

and/or ignored her; were rough and/or pushed her and; you did not wear gloves when changing the sheets and moving Resident A. Upon viewing the video evidence, the panel is satisfied that, as a matter of fact, this charge is proved as a whole.

Ms 3 in her expert report stated:

*“...The single most concerning clip is Clip [008]. [Mrs Rodgers] demonstrated a complete lack of care and compassion and treats Resident A as an object and ignores her. She was rough and pushes her and appears to drop her which could be considered assault. Notwithstanding the other clips and failures of care that are demonstrated, this clip demonstrated a significant neglectful, and abusive practice...”*

Ms 3 in her oral evidence reiterated this. In the CMF, relating to this charge as a whole, the representative of Mrs Rodgers stated:

*“...1. Mrs Rodgers acknowledges she was firm in her handling of Resident A but does not accept there was a lack of compassion towards Resident A. Mrs Rodgers explained that she took her time when changing Resident A; she was careful and diligent in her role in seeing that Resident A was comfortable and did not remain in a soiled bed.*

*2. Resident A needed changing. Resident A could not have remained in a soiled bed without risking her health. There were insufficient staff to change Resident A together. Mrs Rodgers therefore chose to make the change by herself, to make Resident A more comfortable.*

*3. Mrs Rodgers was acting in a caring and compassionate manner. Mrs Rodgers can be heard communicating with Resident A in a kind manner in several CCTV clips and was not ignoring Resident A...”*

Having viewed the footage, the panel rejected Mrs Rodgers' assertion, as set out above, that there was no lack of compassion. The panel noted that while changing Resident A's bedsheet, Mrs Rodgers pulls and pushes Resident A at which point she can be heard saying "Oh no". It preferred the interpretation of Ms 3 who highlighted to the panel that Mrs Rodgers does not appear to react to Resident A saying "Oh no". Additionally, Mrs Rodgers does not stop to check on her. This, according to Ms 3, demonstrated a lack of compassion from Mrs Rodgers.

With regards to Mrs Rodgers treating Resident A as an object and/or ignoring her, upon viewing the footage the panel preferred the interpretation of Ms 3. The panel reminded itself of Ms 3's definition of objectification, within her expert report, in charge 1e. In her oral evidence, Ms 3 stated that Mrs Rodgers treated Resident A as a task to be completed rather than a person. In addition to ignoring Resident A when she said "Oh no", Ms 3 also stated that Mrs Rodgers ignored her when she was waving her arms to get her attention. She also appeared to be more focused on the TV than Resident A.

While it did not appear to the panel that Mrs Rodgers focused on the TV rather than Resident A, it did accept the interpretation of Ms 3 with regards to this sub-charge.

With regards to Mrs Rodgers being rough and/or pushing Resident A, the panel noted that Mrs Rodgers appears to accept this in her aforementioned CMF. Ms 3, in her interpretation of the footage, did not consider Mrs Rodgers to deliberately try to be harmful. However, it is clear she deviated from the care plan which requires two people when providing care to Resident A. Ms 3 stated that two people are needed to assist with supporting Resident A's body when moving her, especially in light of her contracted leg, in order to mitigate the pain. It is apparent to the panel when viewing the footage that Mrs Rodgers pulls and pushes Resident A, as described by Ms 3, when changing the sheets.

The panel noted that Ms 3 referred to this action as abuse. It bore in mind that Ms 3 based this interpretation on the definition found within the Care Act 2014. The panel did not accept this, and chose to look at this from the perspective of what a fellow professional

would think of Mrs Rodgers' conduct in this particular incident. The panel also did not accept Ms 3's assertion that Mrs Rodgers "dropped" Resident A when changing her bedsheet as stated in her expert report. However, the panel was of the view that it was an unacceptably brisk manoeuvre whilst moving Resident A's head onto a pillow.

The panel also saw that Mrs Rodgers was not wearing any gloves when changing the sheets and moving Resident A.

In light of the above, the panel therefore found the entirety of charge 2 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 Mrs Rodgers' 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.

## **Submissions on misconduct**

Ms Shehadeh referred the panel 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.*' She also referred the panel to the case of *Nandi v General Medical Council [2004] EWHC 2317 (Admin)*.

Ms Shehadeh invited the panel to take the view that the facts found proved amount to misconduct as Mrs Rodgers' actions fell below the standards expected of a registered nurse. These include treating a vulnerable elderly patient with a lack of dignity and compassion while providing personal care. Additionally, Mrs Rodgers departed from the care plan pertaining to moving and handling of Resident A, and did not adhere to the basic fundamental principles of nursing regarding infection prevention and control, and manual handling. Ms Shehadeh submitted that Mrs Rodgers fell far below the standards expected of a registered nurse, especially a nurse with over 40 years of experience.

Ms Shehadeh directed the panel to specific paragraphs within 'The code: Standards of conduct, performance and ethics for nurses and midwives 2008' to cover part of the period

in charge 1 and The Code: Professional standards of practice and behaviour for nurses and midwives 2015' to cover the other time period of charge 1 and charge 2. She identified where, in the NMC's view, Mrs Rodgers' actions amounted to misconduct.

### **Submissions on impairment**

Ms Shehadeh 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 General Medical Council* [2008] EWHC 581 (Admin). She reminded the panel of the Dame Janet Smith test from the Fifth Shipman report and submitted that limbs a, b and c should be considered.

Ms Shehadeh submitted that the charges found proved raised safety issues. Resident A had a number of conditions and a care plan in place. There was also a risk of psychological harm due to her being treated like an object and Ms Shehadeh reminded the panel that this occurred over a period of time. She submitted that this raises public protection questions.

Ms Shehadeh submitted that this is not a registrant that did not know what to do. She submitted that Mrs Rodgers had a training certificate for manual handling.

Ms Shehadeh drew the panel's attention to the references Mrs Rodgers has provided. She submitted that it is clear Mrs Rodgers has sought work as a nurse in another healthcare setting after the charge period. However, she informed the panel that Mrs Rodgers has ceased working as a nurse.

Ms Shehadeh referred the panel to the reflective statement Mrs Rodgers made available to the panel during the hearing, on 16 November 2021. She submitted that Mrs Rodgers

apologises for any distress caused and there appears to be some level of acceptance that her level of practice was not acceptable at the time.

Ms Shehadeh referred the panel to Mrs Rodgers' CMF. She submitted that Mrs Rodgers does not accept criticism beyond the concerns regarding handling Resident A without another carer was in contravention of the care plan and that she was rough with Resident A on one occasion.

Ms Shehadeh submitted that while Mrs Rodgers said she would never return to nursing, this does not mean that there is no risk of repetition. She invited the panel to consider that there remains a risk as she could return to practice even if it is not likely.

Ms Shehadeh submitted that there is a capacity for Mrs Rodgers to remediate but she has not remediated. She submitted that Mrs Rodgers has shown no desire to remediate and has not expressed a desire to undergo further training. Further, Mrs Rodgers has not addressed the issue of how she interacted with Resident A, nor has she addressed infection prevention or patient dignity issues. As a result, there is a risk of repetition.

Ms Shehadeh invited the panel to find that her fitness to practise is impaired on both public protection and public interest grounds.

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, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *Calhaem v GMC* [2007] EWHC 2606 (Admin).

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

## **Decision and reasons on misconduct**

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

The panel was of the view that Mrs Rodgers' actions did fall significantly short of the standards expected of a registered nurse, and that her actions amounted to a breach of the Code. With regards to the 2008 code, the panel identified the following breaches:

### **The people in your care must be able to trust you with their health and wellbeing**

#### **To justify that trust, you must:**

- make the care of people your first concern, treating them as individuals and respecting their dignity
- work with others to protect and promote the health and wellbeing of those in your care, their families and carers, and the wider community
- provide a high standard of practice and care at all times
- ...

### **Make the care of people your first concern, treating them as individuals and respecting their dignity**

#### **Treat people as individuals**

1 You must treat people as individuals and respect their dignity.

3 You must treat people kindly and considerately.

#### **Provide a high standard of practice and care at all times**

## **Use the best available evidence**

35 You must deliver care based on the best available evidence or best practice.

With regards to the 2015 code, the panel identified the following breaches:

### **Prioritise People**

You put the interests of people using or needing nursing...services first. You make their care and safety your main concern and make sure that their dignity is preserved and their needs are recognised, assessed and responded to...

#### **1 Treat people as individuals and uphold their dignity**

To achieve this, you must:

1.1 treat people with kindness, respect and compassion

1.2 make sure you deliver the fundamentals of care effectively

The fundamentals of care include, but are not limited to ...physical handling and making sure that those receiving care are kept in clean and hygienic conditions...

2.6 recognise when people are anxious or in distress and respond compassionately and politely

#### **3 Make sure that people's physical, social and psychological needs are assessed and responded to**

To achieve this, you must:

3.1 pay special attention to promoting wellbeing, preventing ill-health and meeting the changing health and care needs of people during all life stages

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

## **7 Communicate clearly**

### **19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice**

To achieve this, you must:

19.1 take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place

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

19.4 take all reasonable personal precautions necessary to avoid any potential health risks to colleagues, people receiving care and the public

### **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

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 the charges found proved in this case did fall significantly and unacceptably short of the conduct and standards expected of a nurse and amounted to misconduct.

The panel noted that it had viewed 12 video clips (with two of the clips being continuations). Of the 10 separate incidents seen, the panel determined that it saw a significant departure from what one would expect from a registered nurse, on some occasions. It bore in mind that Resident A was a seriously vulnerable patient who was dependent on others for all aspects of her daily living. It decided that Mrs Rodgers failed to deliver appropriate standards of manual handling and infection prevention and control. Underpinning this was Mrs Rodgers' failure to adhere to the basic fundamentals of nursing which is delivering care with compassion and kindness at all times.

The panel also noted that Mrs Rodgers knowingly departed from the care plan which provided a clear direction that Resident A was to be cared for by two carers at all times. It bore in mind that Mrs Rodgers cited a lack of staff as a factor in her inability to provide care effectively. However, in the panel's judgement, a registered nurse does not need, nor would rely, on an abundance of staff to deliver care with compassion and kindness.

In judging the seriousness of Mrs Rodgers' failures and shortcomings as a primarily night nurse at the Rambla, the panel was conscious that it had only limited information before it in respect of the overall failings at the Home. The panel had heard something of these from Ms 3 as well as having seen reference to a subsequent negative CQC inspection report.

However, notwithstanding this, the panel decided that Mrs Rodgers' misconduct sat in the upper half of the spectrum. While it did not consider that Mrs Rodgers went out of her way

to harm Resident A, it bore in mind that the at times poor level of care she provided appeared to be a pattern of behaviour that occurred over a period of time.

In light of all this, the panel concluded that Mrs Rodgers' actions did fall seriously short of the conduct and standards expected of a nurse and amounted to serious misconduct.

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

The panel next went on to decide if as a result of the misconduct, Mrs Rodgers' 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. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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) *....'*

Having carefully reflected on the facts and circumstances of the charges found proved the panel determined that parts a, b and c are engaged.

The panel concluded that Mrs Rodgers had in the past acted so as to put Resident A at unwarranted risk of psychological and physical harm. It also determined that her failings breached fundamental tenets of nursing practice by not providing care with kindness and compassion. It also considered that Mrs Rodgers' misconduct is liable to bring the nursing profession into disrepute as her misconduct was witnessed by Ms 1, the daughter of Resident A, on the video footage.

In the panel's judgement, the public do not expect a nurse to act as Mrs Rodgers did, as they require nurses to adhere at all times to the appropriate professional standards and to act to safeguard the health and wellbeing of patients.

The panel recognised that it had to make a current assessment of Mrs Rodgers' fitness to practise, which involved not only taking account of past misconduct but also what has happened since the misconduct came to light. It had regard to the case of *Cohen* and therefore considered whether the concerns identified in Mrs Rodgers' nursing practice were capable of remediation, whether they have been remedied and whether there was a risk of repetition of a similar kind at some point in the future. In considering those issues the panel had regard to the nature and extent of the misconduct and considered whether Mrs Rodgers had provided evidence of insight and remorse.

The panel noted that Mrs Rodgers, in her CMF, admitted to charge 1f and charge 2d. It also noted that she voiced some remorse regarding her treatment of Resident A. In her reflective statement dated 16 November 2021, Mrs Rodgers stated:

*“I am very sorry for the distress caused by my actions. I should have acted much more carefully and conscientiously...”*

The panel took account of Mrs Rodgers’ CMF. She was asked if she was able to provide evidence or reassurance to assist the NMC about the areas of concern identified. It noted that part of her response was:

*“...The public don’t need to be worried about me, its me and my colleagues that are worried about what the public can do to us.”*

The panel considered this response to be concerning. It appeared to the panel that the focus of Mrs Rodgers’ response related to the impact public response to the incident would have on her and her colleagues, as opposed to how she contributed to the poor personal care she provided to Resident A.

The panel bore in mind that Mrs Rodgers accepted she was rough when handling Resident A. However, it also appeared to the panel that Mrs Rodgers stood by certain aspects of her practice. It reminded itself in its consideration of charge 1g that Mrs Rodgers, in her CMF, stated that she only used one glove when changing Resident A’s bedsheet as it was not possible to tell if skin was dry using gloved hands. The panel also reminded itself that Ms 3, the expert witness, had never heard of such practice.

The panel noted that Mrs Rodgers’ reflective piece does not speak to all the regulatory concerns raised in this case. It does not provide an explanation as to why she did what she did and what she would do differently in the future, nor the effect of her actions on the reputation of the profession or Resident A. It therefore had no reason to believe that the pattern of behaviour identified would not be repeated.

The panel bore in mind that it had provided Mrs Rodgers with an opportunity to speak to the panel and she chose not to. While it is not holding this against her, the panel has not

been provided with anything significant that addresses the past or current regulatory concerns.

The panel concluded that, overall, Mrs Rodgers showed limited insight, and failed to fully recognise the actual and potential harm that was caused to Resident A.

In relation to the concerns identified regarding manual handling, infection prevention and control, and providing care with compassion and kindness, the panel considered that, in principle, those concerns were capable of remediation. The panel noted that Mrs Rodgers in her reflective statement stated:

*“...Following the charges raised against me, and further to my return to work having successfully completed manual handling training...”*

However, the panel noted that it did not have evidence of Mrs Rodgers' completion of manual handling training before it, nor did it have any evidence of training to address the other regulatory concerns identified.

The panel bore in mind Mrs Rodgers' current stated intention to leave the nursing profession. As a result, it was of the view that Mrs Rodgers has not given herself the opportunity to allay the panel's concerns that she currently poses a risk to patient safety. The panel noted that it did have some references from Mrs Rodgers relating to work undertaken after the charge period. It is not clear whether all the authors of the testimonials were aware of the full circumstances of the misconduct. In these circumstances the panel could only place limited weight on the testimonial evidence presented to it as they do not address the substance of the facts found proved.

The panel had no evidence of remediation addressing any of the identified areas of concern. While there is some evidence of remorse, Mrs Rodgers has demonstrated very little insight into her clinical failings. The panel acknowledge that there appear to have been institutional failings at the Rambla that contributed to the failures in the standard of

care provided to Resident A. However, there is only limited acknowledgment from Mrs Rodgers as to how she contributed to these failures.

In light of the above, the panel considered that there is a real risk of similar conduct being repeated. The panel therefore determined that a finding of impairment is necessary on public protection grounds.

Further, the panel had regard to 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.'*

The panel was satisfied that, having regard to the nature of the misconduct in this case, "the need to uphold proper professional standards and public confidence in the profession would be undermined" if a finding of current impairment were not made. For all the above reasons the panel decided that Mrs Rodgers' fitness to practise is currently impaired by reason of misconduct on both public protection and public interest grounds.

## **Sanction**

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Mrs Rodgers off the register. The effect of this order is that the NMC register will show that she 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 Shehadeh informed the panel that in the Notice of Hearing, dated 5 October 2021, the NMC had advised Mrs Rodgers that it would seek the imposition of a striking-off order if it found her fitness to practise currently impaired. This remains the case at this stage.

Ms Shehadeh took the panel through the aggravating and mitigating factors she considered to be applicable in this case.

Ms Shehadeh submitted that taking no action or the imposition of a caution order is not appropriate in this case where the panel has found impairment on public protection and public interest grounds. She submitted it would not be appropriate in light of the panel's finding of no remediation.

Ms Shehadeh also submitted that the imposition of a conditions of practice order is not sufficient to address the concerns identified. She submitted that Mrs Rodgers has not articulated a willingness to undergo training. Further, a conditions of practice order would not address the lack of insight shown by Mrs Rodgers. Ms Shehadeh submitted that when looking at this from a public interest perspective, conditions of practice is not a sufficient and robust message about what is, and what is not, acceptable.

Ms Shehadeh submitted that a period of suspension would not result in a better level of insight or address Mrs Rodgers' shortcoming in her practice. She submitted that a suspension order would protect the public but only for a short time.

Ms Shehadeh submitted that a striking-off order would send a strong message to the public and Mrs Rodgers that treating vulnerable care home residents in this manner is unacceptable. It would also protect the public as Mrs Rodgers would no longer be able to practise as a nurse.

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

Having found Mrs Rodgers' 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:

- There was a real risk of psychological and physical harm to Resident A who was wholly dependent on others for all aspects of her daily living;
- A pattern of behaviour over a significant period of time;
- The failings involved the fundamental basics of nursing care, including a lack of kindness, compassion and respect, by a very experienced nurse;
- Her failure as an experienced registered nurse to act as a positive role model for junior and less experienced staff;
- A lack of insight into the totality of her failings and the underlying issues.

The panel also took into account the following mitigating features:

- Partial and early admissions to some of the charges in Mrs Rodgers' CMF;
- No regulatory concerns prior or subsequent to the incident, over a long career;
- Mrs Rodgers has expressed some remorse, in particular an apology for the distress caused to Resident A;
- There were some examples of good practice in the video evidence before the panel;
- Evidence of Mrs Rodgers undertaking moving and handling training since the incidents.

During the panel's consideration on sanction, it bore in mind the difficult contextual factors that appeared to exist at the Rambla, which contributed to failures in the standard of care provided to Resident A. It noted that institutional shortcomings at the Home, including being understaffed, presented challenges to Mrs Rodgers. However, taking all those factors into account it bore in mind that, as a registered nurse, Mrs Rodgers is accountable for her own actions and omissions, and her standard of clinical practice.

With regards to its consideration of seriousness, the panel reminded itself of the NMC guidance titled, "Serious concerns which could result in harm to patients if not put right". Under the sub title "Prioritise people" it stated:

*The evidence shows that the nurse, midwife or nursing associate has failed to:*

- *uphold people's dignity, treat them with kindness, respect and compassion, deliver treatment care or assistance without undue delay, or deliver the fundamentals of care (including hydration, nutrition, bladder and bowel care and ensuring people receiving care are kept in clean and hygienic conditions).*
- *make sure the physical, social and psychological needs of patients are responded to.*
- *respect people's right to privacy and confidentiality.*

Keeping all of the factors above at the forefront of the panel's mind, it determined the following.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case and the public protection and public interest concerns identified. The panel decided that it would be neither proportionate nor in the public interest to take no further action because the public would not be protected.

It then considered the imposition of a caution order but again determined that, due to the public protection issues identified and the fact that Mrs Rodgers has only demonstrated limited insight, an order that does not restrict her practice would not be appropriate in the circumstances. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order, and the public would not be protected.

The panel next considered whether placing conditions of practice on Mrs Rodgers' registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. Whilst conditions of practice could be formulated to address the clinical failings identified, the panel noted that Mrs Rodgers has not demonstrated a willingness to undergo re-training to address these failings and her written submissions indicate that she has "retired". Additionally, the panel found that Mrs Rodgers had limited insight as she has not addressed most of the regulatory concerns in her responses.

The panel has no evidence before it of Mrs Rodgers' willingness to undertake training or comply with conditions of practice. Therefore, there are no practicable or workable conditions that could be formulated in these circumstances. Furthermore, the panel concluded that the placing of conditions on Mrs Rodgers' 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 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;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel bore in mind that the imposition of a suspension order would protect the public, but only until the first review. However, it was not convinced that such an order would satisfy the public interest. It determined that a member of the public, looking at the video evidence in particular, would not accept an order that has the potential to allow a registered nurse to return to practice.

The panel noted that Mrs Rodgers' conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. It noted that this was not a single instance. Based on some of the responses from Mrs Rodgers, the panel was of the view that she has limited insight and there was some evidence of attitudinal problems, albeit not deep-seated.

The panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction to mark the seriousness of Mrs Rodgers' misconduct, particularly in light of the aggravating features it had identified.

The panel noted that, while it had no evidence of repetition of behaviour since the incidents, Mrs Rodgers continues to express her intention to retire from the nursing profession. However, her currently stated intentions cannot be a guarantee of her future actions. As a result, the panel determined that there is a real risk of repetition, if she were to return to nursing at some point in the future, as she has not addressed most of

regulatory concerns. The panel had no evidence before it that this would not happen again and considered that public confidence in the profession could not be maintained if Mrs Rodgers was not removed from the register.

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

Finally, in considering 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?*

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the seriousness of the misconduct identified, in particular Mrs Rodgers' failure to adhere to the basic fundamentals of nursing, which includes delivering care with compassion and kindness to a very vulnerable resident, raised fundamental questions about her professionalism. In addition, Mrs Rodgers knowingly failed to adhere to Resident A's care plan by providing care independently, and at times treated Resident A like an object. It also bore in mind that this appeared to be a pattern of behaviour that occurred on more than one occasion in the video evidence.

The panel determined that Mrs Rodgers' conduct is fundamentally incompatible with her remaining on the register, and to allow her to continue practising would not protect the public, would undermine public confidence in the profession and in the NMC as a regulatory body, and would not uphold proper standards of conduct and behaviour.

The panel therefore determined that a striking off order is the only appropriate sanction in the circumstances of this case.

Having regard to the effect of Mrs Rodgers' 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 sanction 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 Mrs Rodgers 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 Mrs Rodgers' own interest until the striking-off order takes effect.

## **Submissions on interim order**

The panel took account of the submissions made by Ms Shehadeh. She submitted that an interim order should be made in order to allow for the possibility of an appeal to be made and determined. She submitted that an interim suspension order for a period of 18 months should be made on the grounds that it is necessary for the protection of the public and is otherwise in the public interest.

The panel accepted the advice of the legal assessor.

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

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

The panel considered an interim conditions of practice order but determined that in light of the panel's earlier findings and the circumstances of case, it concluded that this would be inappropriate.

The panel determined that an interim suspension 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 therefore imposed an interim suspension order for a period of 18 months. To do otherwise would be incompatible with its earlier findings.

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

That concludes this determination.