

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

**Substantive Hearing
Monday, 5 August 2024 – Thursday 14 August 2024**

Virtual Hearing

Name of Registrant: **Mark Dennis Nopia**

NMC PIN 17F0075O

Part(s) of the register: Nurses part of the register Sub Part 1
RN1: Adult nurse, level 1 (9 June 2017)

Relevant Location: Norfolk

Type of case: Misconduct

Panel members: Judith Webb (Chair, lay member)
Helen Chrystal (Registrant member)
Robert Marshall (Lay member)

Legal Assessor: Michael Hosford-Tanner

Hearings Coordinator: Audrey Chikosha

Nursing and Midwifery Council: Represented by Shaun McPhee

Mr Nopia: Not Present and not represented at the hearing

Facts proved: Charges 1a, 1b, 2a, 2b, 3a, 3b, 3c(i),3c(ii) 4a, 4b

Fitness to practise: Impaired

Sanction: Strike-off

Interim order: **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 Mr Nopia was not in attendance and that the Notice of Hearing letter had been sent to Mr Nopia's email address by secure email on 4 July 2024.

Mr McPhee, 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). He submitted that Mr Nopia's registered email address was no longer useable and referred the panel to an email dated 27 June 2024 informing the sender that the recipient's inbox was full. He then referred the panel to an email dated 13 February 2024 from Mr Nopia's former representatives advising a new email address to use to contact Mr Nopia. Mr McPhee submitted that this is the email address used to serve the Notice of Hearing on 4 July 2024 and invited the panel to find that service has been effected in accordance with the rules.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mr Nopia's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In the light of all of the information available, the panel was satisfied that Mr Nopia 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 Mr Nopia

The panel next considered whether it should proceed in the absence of Mr Nopia. It had regard to Rule 21 and heard the submissions of Mr McPhee who invited the panel to

continue in the absence of Mr Nopia. He submitted that Mr Nopia had effectively voluntarily absented himself.

Mr McPhee submitted that there had been no engagement at all by Mr Nopia with the NMC in relation to these proceedings since February 2024 and, as a consequence, there was no reason to believe that an adjournment would secure his attendance on some future occasion.

Mr McPhee referred the panel to an email dated 8 May 2024 from Thompsons' Solicitors advising the NMC that they are no longer instructed by Mr Nopia. He submitted that from that date all correspondence has been sent directly to Mr Nopia including the Notice of Hearing. He submitted that no response was received from Mr Nopia regarding the hearing.

Furthermore, Mr McPhee referred the panel to a letter dated 17 July 2024 from Vilcol, a tracing agency, who were instructed by the NMC to locate Mr Nopia which reads as follows:

'Further to your instructions to trace the above named; we must advise that our in-house trace agent team have been unable to source and confirm a current address for your subject'

and;

'We can advise that he was able to associate your subject to 'The Medical City', in manila'

Mr McPhee submitted that all reasonable attempts have been made by the NMC to secure Mr Nopia's attendance at the hearing today. He submitted that it would therefore not be of any unfairness to Mr Nopia to proceed in his absence especially in light of the seriousness and nature of the charges. In addition, multiple witnesses have been called and scheduled to attend this hearing to give evidence and it would be unfair on them to not proceed with the hearing as scheduled.

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 decided to proceed in the absence of Mr Nopia. In reaching this decision, the panel considered the submissions of Mr McPhee and the advice of the legal assessor. It 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 and Mr Nopia in particular. It noted that:

- No application for an adjournment has been made by Mr Nopia;
- Mr Nopia has not engaged with the NMC and has not responded to any of the letters sent to him about this hearing;
- Mr Nopia has not provided the NMC with details of how he may be contacted other than his registered address or the email address provided by his former solicitors.
- There is no reason to suppose that adjourning would secure his attendance at some future date;
- The NMC has made considerable efforts to try and secure Mr Nopia's attendance;
- A number of witnesses have been scheduled give live evidence, one of which is a doctor waiting to give evidence today
- Not proceeding may inconvenience the witnesses, their employers and, for those involved in clinical practice, the clients who need their professional services;
- The charges are serious in nature and relate to a referral received in 2022

- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mr Nopia in proceeding in his absence, although the evidence upon which the NMC relies will have been sent to him at his registered address and the email address notified by his then solicitors. He has not provided any evidence in these proceedings to respond to the allegations. He will not be able to challenge the evidence relied upon by the NMC and will not be able to give evidence on his own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Mr Nopia's decisions to absent himself from the hearing, waive his rights to attend, and/or be represented, and to not provide evidence or make submissions on his own behalf.

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

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

Mr McPhee made a request that this case be held partially in private on the basis that proper exploration of Mr Nopia's case involves hearing witness evidence from three vulnerable witnesses. He submitted that the charges are very serious and deal with sensitive matters in relation to sexual misconduct to which three witnesses are alleged victims. Mr McPhee submitted that to ensure the confidentiality and privacy of the witnesses, the panel should hear their evidence in private. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

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

The panel determined that due to the nature of the charges and the vulnerability of the witnesses it is justified in these circumstances, to go into private session to hear the evidence of Patient A, Patient B and Person C.

Details of charge

That you, a registered nurse:

1. On 24 October 2021 inappropriately touched Patient A in that you:
 - a. touched Patient A's penis on one or more occasion;
 - b. placed Patient A's palm against your chest.
2. On 11 December 2021 inappropriately touched Patient B in that you:
 - a. placed your hand on Patient B's crotch;
 - b. rubbed your thumb up and down whilst your hand was placed on Patient B's crotch.
3. In relation to Person C:
 - a. on one or more unknown dates after September 2019, you attempted to grab Person C's crotch;
 - b. on an unknown date after September 2019 inappropriately asked Person C how big his penis was or words to that effect;
 - c. on an unknown date in September 2020:
 - i. grabbed hold of Person C's penis with your hand;
 - ii. said to Person C "get hard for me" or words to that effect.
4. Your conduct as charges 1 and/or 2 and/or 3 was:

- a. sexually motivated;
- b. a breach of professional boundaries.

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

Decision and reasons on application to admit the written statement of Ms 1 as hearsay evidence

The panel heard an application made by Mr McPhee under Rule 31 to allow the written statement of Ms 1 into evidence. Ms 1 was not present at this hearing and, whilst the NMC had made sufficient efforts to ensure that this witness was present, she has disengaged from the process and has not responded to any contact from the NMC. Mr McPhee referred the panel to emails dated 19 February, 28 May and 8 July 2024 as well as recorded letters dated 11 June and 4 July 2024. He submitted that these are all attempts made to contact Ms 1 by the NMC requesting her attendance at today's hearing.

Furthermore, he submitted that a tracing agent was instructed to locate Ms 1 who provided a home address for her on 23 July 2024. He then referred the panel to a letter dated 25 July 2024 addressed to Ms 1 to be delivered to the address provided by the tracing agent with a witness summons issued by the High Court. He submitted that this summons was returned as undelivered by reason that it was refused by a person at the address.

Mr McPhee submitted that the NMC has made all reasonable efforts to try and secure Ms 1's attendance at the hearing. He submitted that her statement is not the sole and decisive evidence in support of charge 1 and may indeed assist Mr Nopia. He submitted that the witness does not offer direct evidence concerning Mr Nopia's alleged inappropriate actions and that Patient A himself will give live evidence.

In the preparation of this hearing, the NMC has provided Mr Nopia with Ms 1's witness statement. Despite knowledge of the nature of the evidence to be given by Ms 1, Mr Nopia

made the decision not to attend this hearing. On this basis Mr McPhee advanced the argument that there was no lack of fairness to Mr Nopia in allowing Ms 1's written statement into evidence.

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

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.

The panel considered whether Mr Nopia would be disadvantaged by the change in the NMC's position of moving from reliance upon the live testimony of Ms 1 to that of allowing hearsay testimony into evidence. The panel noted that multiple attempts have been made to secure her attendance including obtaining a High Court summons. The panel noted that her statement speaks more towards the general procedure of cannulation and would not be the sole and decisive evidence in relation to charge 1.

The panel considered that as Mr Nopia had been provided with a copy of Ms 1's statement and, as the panel had already determined that Mr Nopia had chosen voluntarily to absent himself from these proceedings, he would not be in a position to cross-examine this witness in any case. There was also public interest in the issues being explored fully which supported the admission of this evidence into the proceedings. The panel considered that the unfairness in this regard worked both ways in that the NMC was deprived, as was the panel, from reliance upon the live evidence of Ms 1 and the opportunity of questioning and probing that testimony.

In these circumstances, the panel came to the view that it would be fair and relevant to accept into evidence the written statement of Ms 1 but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

Decision and reasons on application to admit the written statement of Ms 2 as hearsay evidence

The panel heard an application made by Mr McPhee under Rule 31 to allow the written statement of Ms 2 into evidence. Ms 2 was not present at this hearing although the NMC had made sufficient efforts to ensure that this witness was present.

Mr McPhee referred the panel to various email correspondence between the NMC and Ms 2 trying to facilitate her attendance at the hearing. Mr McPhee submitted that Ms 2 has said she is unable to attend due to the dates of the hearing overlapping with her annual leave and she will therefore be abroad for some of the listed dates, and suggested she may be jet lagged on the remaining dates.

Mr McPhee submitted that reasonable efforts have been made to try and secure her attendance later in the week as this hearing is listed for 9 days, however Ms 2 has since stopped engaging with the NMC. Mr McPhee submitted that Ms 2's statement is relevant in that it speaks to Patient A's distress and contemporaneous comments made by him which may be tested against his evidence. Mr McPhee also submitted that the statement includes reference to comments made by Patient A regarding Mr Nopia's sexuality which are comments that may have been raised by Mr Nopia in his defence were he in attendance or represented.

Mr McPhee therefore submitted that admitting this statement as hearsay evidence would indeed be fair to Mr Nopia and should be taken into consideration by the panel when reaching its decision.

In the preparation of this hearing, the NMC has provided Mr Nopia with Ms 2's witness statement. Despite knowledge of the nature of the evidence to be given by Ms 2, Mr Nopia made the decision not to attend this hearing. On this basis Mr McPhee advanced the argument that there was no lack of fairness to Mr Nopia in allowing Ms 2's written statement into evidence.

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

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.

The panel considered whether Mr Nopia would be disadvantaged by the change in the NMC's position of moving from reliance upon the live testimony of Ms 1 to that of allowing hearsay testimony into evidence.

The panel considered that as Mr Nopia had been provided with a copy of Ms 2's statement and, as the panel had already determined that Mr Nopia had chosen voluntarily to absent himself from these proceedings, he would not be in a position to cross-examine this witness in any case. There was also public interest in the issues being explored fully which supported the admission of this evidence into the proceedings. The panel considered that the unfairness in this regard worked both ways in that the NMC was deprived, as was the panel, from reliance upon the live evidence of Ms 2 and the opportunity of questioning and probing that testimony. Furthermore, Ms 2's statement provides contemporaneous statements made by Patient A and would be relevant in the panel's deliberation. The panel was of the view that this statement provides further background to the events and does not allege that the witness observed any inappropriate actions by Mr Nopia. Further it is not the sole and decisive evidence in relation to the charges.

In these circumstances, the panel came to the view that it would be fair and relevant to accept into evidence the hearsay evidence of Ms 2 but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

Oral Evidence of Ms 2

After the panel having admitted the evidence of Ms 2 as Hearsay, she was able to make adjustments and attended the hearing on Friday 9 August 2024 to give live oral evidence.

Decision and reasons on application to admit written statement of Mr 1 as hearsay evidence.

The panel heard an application made by Mr McPhee under Rule 31 to allow the written statement of Mr 1 into evidence. Mr 1 was not listed to attend this hearing to provide oral evidence. Mr McPhee submitted that Mr 1's statement provides general background with regards to the agency that Mr Nopia was employed with at the time. Mr McPhee submitted that the governance issues raised in Mr 1's statement and how they relate to the local investigation of the allegations against Mr Nopia would be fair for the panel to consider.

Mr McPhee submitted that this is not the sole and decisive evidence in relation to the charges and submitted that there is no unfairness to Mr Nopia in admitting this statement into evidence.

Mr McPhee therefore invited the panel to admit Mr 1's statement as hearsay evidence.

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

The panel gave the application in regard to Mr 1 serious consideration. The panel noted that Mr 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 him.

The panel considered whether Mr Nopia would be disadvantaged should this statement be admitted into evidence. The panel accepted Mr McPhee's submission that this is not the sole and decisive evidence in relation to the charges and that it provides useful background information to assist the panel in its consideration of the facts. The panel noted that this witness was never called to give live evidence, but his statement was

served upon Mr Nopia who has made no objection. Furthermore, this statement makes reference to not only Patient A but also Patient B, both of whom the panel has been informed will be attending to give live evidence.

In these circumstances, the panel came to the view that it would be fair and relevant to accept into evidence the evidence the hearsay evidence of Mr 1 but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

Decision and reasons on application to admit written statement of Ms 3 as hearsay evidence.

The panel heard an application made by Mr McPhee under Rule 31 to allow the written statement of Ms 3 into evidence. The NMC had no intention to call Ms 3 to give live evidence at this hearing.

Mr McPhee submitted that he does not intend to rely on her statement as evidence of the charges but as background information to give the panel further information regarding Mr Nopia and his time at the NHS Trust. Ms 3 chaired Mr Nopia's misconduct hearing at the Trust in February 2023 and therefore her statement also includes Mr Nopia's responses to the allegations. Mr McPhee submitted that this would be fair and relevant for the panel to consider despite not having the opportunity to test the evidence in cross examination.

The panel gave the application in regard to Ms 3 serious consideration. The panel noted that Ms 3's statement had been prepared in anticipation of being used in these proceedings and contained the paragraph, 'This statement ... is true to the best of my information, knowledge and belief' and signed by her.

The panel considered whether Mr Nopia would be disadvantaged by the admission of Ms 3's statement into evidence. The panel noted that this statement is not the sole and decisive evidence in relation to the charges and again, provides useful additional

background to this case. The panel accepted Mr McPhee's submission that he does not seek to rely on this statement as decisive evidence and noted that the statement provides Mr Nopia's responses which, in his absence, may be useful and fair to him to admit as evidence.

In these circumstances, the panel came to the view that it would be fair and relevant to accept into evidence the hearsay evidence of Ms 3 but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

In considering the admissibility of all of the hearsay evidence the panel has taken account of Mr McPhee's description of the charges as 'exceptionally serious'. It therefore considered the admissibility of any hearsay evidence very carefully as the potential adverse impact on Mr Nopia would be significant should the charges be found proven in light of the evidence. However, the panel, in balancing fairness to Mr Nopia and the seriousness of the allegations determined that the admission of the above hearsay evidence would not be unfair to Mr Nopia.

Background

Incident 1

It is alleged that on 24 October 2021, Mr Nopia was working a shift in the Endoscopy Clinic at Addenbrookes Hospital (Hospital A) as a subcontractor for the hospital's in-sourcing provider, Endoscopy Group. This is where Mr Nopia encountered Patient A. It is alleged that while trying to cannulate Patient A on this shift, Mr Nopia brushed his hand and/or forearm over Patient A's penis multiple times. It is also alleged that Mr Nopia took Patient A's hand and pushed it palm down against Mr Nopia's left breast.

Patient A made a complaint to Cambridge University Hospitals NHS Foundation Trust ("CUH") who suspended Mr Nopia from working at Addenbrookes Hospital and Endoscopy

Group and Cambridge Constabulary were informed of the incident. On 24 August 2022, Cambridge Constabulary confirmed to the NMC that they were closing the case due to insufficient evidence

Incident 2

It is also alleged that on 11 December 2021, while Mr Nopia was working a shift in the Endoscopy Clinic at James Paget University Hospital (“JPAGET”), he placed his hand on Patient B’s crotch and proceeded to rub his thumb up and down. Patient B was only 17 years old at the time and was visiting JPAGET for a colonoscopy procedure. Patient B told his father about the incident and Patient B’s mother subsequently reported it to JPAGET.

JPAGET informed Endoscopy Group and escalated the incident to safeguarding who then referred the matter to the Local Authority Designated Officer (“LADO”) on 14 December 2021. LADO subsequently reported the matter to Suffolk Constabulary. On 11 April 2023, Suffolk Constabulary confirmed to the NMC that the case did not proceed as Patient B did not support, or withdrew support for, police action.

Endoscopy Group informed Mr Nopia’s substantive employer, Norfolk and Norwich University Hospitals NHS Foundation Trust (“NNUH”), of the incidents and NNUH subsequently suspended Mr Nopia pending a disciplinary investigation into the incidents. as well as the additional incidents, referred to below, which had allegedly occurred at his substantive place of employment, the Cardiology Cath Lab at Norfolk and Norwich University Hospital (“Cath Lab”).

Incident 3

It is alleged that in September 2020, when Mr Nopia was working at the Cardiology Cath Lab at Norfolk and Norwich University Hospital (“Cath Lab”) at Norfolk and Norwich University Hospitals NHS Foundation Trust (“NNUH”), Person C reported incidents of alleged sexual misconduct in relation to Mr Nopia. It is alleged that whilst Person C was in

the Cath Lab changing room wearing only his underwear, Mr Nopia came up behind Person C, grabbed Person C's penis with his hand and said, "*get hard for me*". Person C also reported that Mr Nopia had previously said inappropriate things of a sexual nature to Person C at work such as trying to guess the length of Person C's penis and had reached out and tried to touch Person C's crotch on numerous occasions during shifts.

At the time, NNUH dealt with this incident by Fast Track Misconduct, which meant formal disciplinary proceedings were not initiated. Mr Nopia was issued with a formal warning and was required to write an apology letter to Person C, having made some admissions.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr McPhee on behalf of the NMC.

The panel has drawn no adverse inference from the non-attendance of Mr Nopia.

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:

- Witness 1: Dr 1. He was the doctor due to complete Patient A's endoscopy. He gave evidence in relation to Charge 1.
- Witness 2: Patient B. In relation to Charge 2.

- Witness 3: Patient C. In relation to Charge 3.
- Witness 4: Ms 2. Admitted Patient A for his procedure. She gave evidence in relation to Charge 1.
- Witness 5: Patient A. In relation to Charge 1.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by the NMC, including the hearsay evidence admitted by the panel. The panel took account of the letter of apology written by Mr Nopia to Person C in October 2020 and the reflective piece provided by Mr Nopia in the local Trust investigation in 2022.

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

Charge 1a

“That you, a registered nurse:

5. On 24 October 2021 inappropriately touched Patient A in that you:
 - a. touched Patient A’s penis on one or more occasion;”

This charge is found proved.

In reaching this decision, the panel took into account the oral and written evidence of Patient A, Dr 1 and Ms 2. It also had sight of the witness statement of Ms 1.

The panel considered that Patient A's evidence was consistent and clear. His account of the incident has remained the same since his contemporaneous complaint which enhanced his credibility as a witness. The panel heard from Patient A that [PRIVATE].

The panel also heard from Ms 2 who admitted Patient A for his procedure on the day in question. Patient A reported the incident to her immediately after it occurred, and she told the panel in her oral evidence that Patient A looked visibly distressed like he had a '*surge of adrenaline*'. The panel was of the view that Ms 2's evidence corroborates Patient A's account and provides insight into Patient A's contemporaneous reaction following the alleged inappropriate touching.

The panel then considered the evidence of Dr 1. It noted that Dr 1 described Patient A as a '*difficult patient*' to cannulate however he did not see anything inappropriate occur between Mr Nopia and Patient A. Dr 1 told the panel that he was focussed on inputting Patient A's details on the computer and thus did not see anything. Furthermore, the panel noted that while he did not see anything, his evidence does not obviously contradict Patient A.

Similarly, in considering the hearsay statement evidence of Ms 1, the panel noted that while she was in the room and reports not seeing anything, Ms 1 also stated that she does not remember Patient A, Mr Nopia or the incident at all.

The panel accepted the account in the witness evidence of Patient A and Ms 2 in particular, and the panel determined that on the balance of probabilities, this charge is found proved.

Charge 1b)

"That you, a registered nurse:

1. On 24 October 2021 inappropriately touched Patient A in that you:

- a. ...
- b. placed Patient A's palm against your chest."

This charge is found proved.

In reaching this decision, the panel took into account the oral and written evidence of Patient A, Dr 1 and Ms 2. It also had sight of the witness statement of Ms 1

Dr 1 told the panel that Patient A was difficult to cannulate. Patient A also informed the panel [PRIVATE]. The panel was told that sometimes a nurse may crouch down to be eyelevel with a Patient's arm to assist with cannulation. However, in Dr 1's oral evidence and Ms 1's written evidence, it was stated that placing a patient's hand on your chest would not be normal and not the proper procedure.

The panel bore in mind that both Dr 1 and Ms 1 do not recall seeing this occur but for the reasons stated previously, the panel did not attach much weight to this. Furthermore, Patient A was consistent and clear in his account. He had reported the overall incident to Ms 2 on the day and refused to have his scheduled procedure that day as a result of the inappropriate touching. Patient A also said that in light of that experience, it had put him off going to the hospital for about a year and what happened to him will be imprinted on his mind forever.

The panel determined that the placing of Patient A's palm against Mr Nopia's chest was not for a clinical purpose and was therefore inappropriate. The panel accepted the evidence of Patient A, whom it had found to be credible and clear in his account and it therefore found that this charge is proved.

Charge 2a and 2b

"That you, a registered nurse:

2. On 11 December 2021 inappropriately touched Patient B in that you:
 - a. placed your hand on Patient B's crotch;
 - b. rubbed your thumb up and down whilst your hand was placed on Patient B's crotch."

This charge is found proved.

The panel noted that the subsections of this charge relate to one incident. It therefore determined to consider them together as it will be relying on the same set of evidence.

In reaching this decision, the panel took into account Patient B's oral and written evidence. [PRIVATE].

This account is consistent with his written statement and the panel therefore considered Patient B to be a credible and reliable witness. Furthermore, the panel noted that Patient B told his father on leaving the hospital post procedure about what had happened, and his mother reported it to JPAGET.

The panel noted that Patient B was pleased and said that his mother had done the right thing by reporting the incident. Patient B was also contacted by the police to provide a statement. Although Patient B did not follow through with the police investigation, the panel took into account the actions Patient B took immediately after the incident in reporting the matter.

In light of this evidence, the panel found that this charge is proved on the balance of probabilities.

Charge 3a

"In relation to Person C:

- a. on one or more unknown dates after September 2019, you attempted to grab Person C's crotch;"

This charge is found proved.

In reaching this decision, the panel took into account the oral and written evidence of Person C, the local investigation interview notes, Mr Nopia's reflective statement and his letter of apology dated 29 October 2020.

The panel heard from Person C that [PRIVATE]. The panel considered his evidence to be credible and reliable and not exaggerated or embellished. The panel also noted that it was consistent with his statements, where he had made a supplementary statement to correct some details in his first NMC witness statement.

The panel also bore in mind Mr Nopia's letter of apology dated 29 October 2020 which reads:

"I apologize if that my words and actions made you feel uncomfortable and distressed. I was made aware of these and thus, I am taking responsibility and owning up to it"

The panel noted that this a partial admission as it does not describe any of the specifics in the charge, however, he admits inappropriate conduct and remarks were made towards Person C.

The panel therefore determined that on the balance of probabilities, this charge is found proved.

Charge 3b)

"In relation to Person C:

- b. on an unknown date after September 2019 inappropriately asked Person C how big his penis was or words to that effect;”

This charge is found proved.

In reaching this decision, the panel took into account the oral and written evidence of Person C, the local investigation interview notes, Mr Nopia’s reflective statement and his letter of apology dated 29 October 2020.

The panel heard from Person C that [PRIVATE].

The panel noted the admissions in Mr Nopia’s letter of apology for the use of inappropriate language and comments made towards Person C. Furthermore, it had regard to Mr Nopia’s reflective statement in which Mr Nopia explains that he has realised there are ‘*cultural differences*’ and that he has discussed proper communication in the workplace and understanding other people’s reactions to ‘*certain banter*’.

The panel did not accept that Mr Nopia’s comments were as a result of cultural differences nor were his comments in jest or simply ‘banter’. The panel was of the view that these were inappropriate comments made in the workplace, as alleged by Person C, and thus found this charge proved.

Charge 3c(i) and 3c(ii)

“In relation to Person C

- c. on an unknown date in September 2020:
 - i. grabbed hold of Person C’s penis with your hand;
 - ii. said to Person C “get hard for me” or words to that effect.”

This charge is found proved.

In reaching this decision, the panel took into account the oral and written evidence of Person C, the local investigation interview notes, Mr Nopia's reflective statement and his letter of apology dated 29 October 2020.

The panel noted that the subsections in this charge relate to the same incident and has therefore determined to consider them together.

The panel heard Person C's account of the incident in oral evidence and noted that it was consistent with his witness statement. The panel noted that in the interview notes when questioned in October 2022 during the Trust local investigation about making the comment '*get me hard*' Mr Nopia did not deny that he made that comment. He also accepted that it is a sexual comment in nature however stated that he meant it in a joking way. Mr Nopia also admitted that '*I grabbed him from behind. I hugged him from behind*' and the panel took account of the fact that this happened in the changing room at work and that Person C was in his underwear at the time. The panel considered that this incident was wholly inappropriate.

The panel accepted the evidence of Person C concerning the details of the incident and in particular, that Mr Nopia [PRIVATE] uttered the words charged at the same time.

Furthermore, the panel noted the impact the incident had on Person C. It noted that he started changing in a cubicle because he was very anxious and scared to be around Mr Nopia. The panel accepted Person C's evidence and it was of the view that this reaction is evidence of a traumatic incident having occurred. The panel found that on the balance of probabilities, charges 3c(i) and 3c(ii) are both proved.

Charge 4)

"Your conduct as charges 1 and/or 2 and/or 3 was:

- a. sexually motivated;

b. a breach of professional boundaries.”

This charge is found proved.

In reaching this decision, the panel took into account the charges found proved, the evidence of Patient A, Patient B, Person C, and Ms 3.

Having found Charges 1, 2 and 3 proven, the panel noted that the behaviour was that of inappropriate touching of patients and colleagues. The conduct described at Charges 1 and 2 were of no clinical necessity and were done without the consent of either patient. The panel noted that this behaviour related to touching of a sexual nature in that Mr Nopia touched Patient A and Patient B’s penis. The panel has accepted the evidence of Patient B that Mr Nopia placed his hand Patient B’s crotch for about 20 seconds whilst rubbing his thumb up and down against Patient B’s penis.

The panel therefore determined that in relation to Charges 1 and 2, Mr Nopia’s conduct was sexually motivated. Accordingly, the panel found this to be a breach of the relationship of trust that nurses should have with patients and therefore was a breach of professional boundaries.

In relation to Charge 3, the panel noted that Mr Nopia denied that his comments and actions were sexually motivated. Mr Nopia, in the local interview notes, says that he was joking, and it was a form of banter. However, the panel was of the view that the comments and conduct was highly sexual in nature and thus could not be regarded as simply banter. The panel determined that Mr Nopia’s conduct at Charge 3 was sexually motivated.

Furthermore, Mr Nopia admitted in his letter of apology and his reflective statement that he was unaware that he had breached Person C’s boundaries and accepts full responsibility that his actions and comments were inappropriate.

The panel also reviewed the evidence collectively and noted that there is a clear pattern of behaviour. The panel noted that all three complainants in this case were in one way vulnerable either as a patient with an ongoing health condition in the case of Patient A and Patient B or in the case of Person C, dealing with pressures in his personal life. The panel's view was that Mr Nopia targeted particularly vulnerable people. The panel considered that there was no clinical explanation for his behaviour towards Patient A and Patient B. The panel do not accept that Mr Nopia's actions were driven by cultural differences or in banter with regards to Person C.

Having found that Mr Nopia's actions were sexually motivated, the panel also found that his actions in Charges 1, 2 and 3 were breaches of professional boundaries, both in respect to a registered nurse's dealings with patients and in his dealings with his colleague, Person C.

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 Mr Nopia's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

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

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the

facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Mr Nopia's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

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

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

Mr McPhee submitted that Mr Nopia's conduct fell far short of that expected of a registered nurse. He submitted that in light of the serious charges found proved involving inappropriate, sexually motivated touching of patients and a colleague, Mr Nopia's behaviour amounts to misconduct.

Mr McPhee referred the panel to the NMC Code, specifically section 20. He first addressed the panel on 20.5 which states that nurses should treat people in a way that does not take advantage of their vulnerability or cause them upset or distress. Mr McPhee submitted that Mr Nopia took advantage of the vulnerability of Patient A, Patient B and Person C. He reminded the panel that it heard evidence from the two patients who told the panel that they were anxious about the invasive medical procedures they were due to undergo.

Furthermore, Mr McPhee submitted that Mr Nopia was also in breach of section 20.2 of the code which requires nurses to act with integrity at all times, treating people fairly and without harassment. Mr McPhee submitted that Mr Nopia's conduct towards Person C

amounted to harassment. He submitted that Mr Nopia's conduct in relation to Person C escalated in seriousness resulting in Person C feeling anxious and fearful at work.

Mr McPhee submitted that in light of the panel having found Charge 4 proved, the panel accept that Mr Nopia's conduct was sexually motivated and a breach of professional boundaries and therefore Mr Nopia's conduct is certain to bring the nursing profession into disrepute.

Submissions on impairment

Mr McPhee 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.

Mr McPhee submitted that Mr Nopia engaged in a pattern of serious sexual misconduct. He submitted that Mr Nopia subjected a colleague to a campaign of inappropriate sexual remarks and behaviour for nearly a year and subjected two patients in his care to sexually motivated inappropriate touching.

Mr McPhee submitted that Mr Nopia has displayed no insight into his behaviour and had either denied or dismissed the behaviour as being attributable to cultural difference. Mr McPhee submitted that Mr Nopia's actions have caused real harm and would have the potential to cause further real harm should they be repeated.

Mr McPhee submitted that individually, Mr Nopia's actions are almost incapable of remediation and taken together they demonstrate that Mr Nopia poses a serious and exceptional risk of harm to both the general public, patients and colleagues.

Mr McPhee therefore invited the panel to find Mr Nopia's practise impaired on the ground of public protection.

Mr McPhee next addressed the panel on the public interest. He submitted that nurses are relied upon by the public to care for them at their most vulnerable. It is therefore important that the public remain confident in those placed in that position of exceptional trust. Mr McPhee submitted that Mr Nopia abused this position of trust when he subjected two patients in his care to inappropriate behaviour for his own sexual motivations.

Mr McPhee referred the panel to Patient A's witness statement, which reads:

“[PRIVATE]”

Mr McPhee submitted that Mr Nopia's actions eroded Patient A's trust in nurses and reminded the panel that Patient A said he missed multiple medical appointments following the incident.

Mr McPhee submitted that public confidence in the profession would be undermined if a nurse was to be found fit to practise after having engaged in serious sexual misconduct towards a colleague and two patients, one of which patients was aged 17.

Mr McPhee submitted that Mr Nopia's conduct is wholly unacceptable and invited the panel to find his fitness to practise impaired.

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, *CHRE v NMC and Grant* [2011] EWHC 927 (Admin) and *Johnson and Maggs v NMC* [2013] EWHC 2140 (Admin).

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

'1. Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness respect and compassion.

20. Uphold the reputation of your profession at all times

To achieve this, you must:

20.2 act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment.

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 Mr Nopia's conduct breached fundamental tenets of the nursing profession. The panel was of the view that in light of the facts found proved, colleagues would find his actions deplorable. Mr Nopia caused actual harm to patients and a colleague. Furthermore, the panel determined that due to the nature and seriousness of the charges as they relate to inappropriate sexually motivated touching of patients and a colleague, Mr Nopia has brought the profession into disrepute.

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

Decision and reasons on impairment

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

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

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

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

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

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must act with kindness, compassion and integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

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

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

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/ fitness to practise is impaired in the sense that S/He:

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

The panel determined that the first three limbs of Grant are engaged.

The panel finds that patients and a colleague were put at risk and were caused emotional harm as a result of Mr Nopia's misconduct. Mr Nopia's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to sexual misconduct extremely serious.

Regarding insight, the panel considered that Mr Nopia made some admissions in his letter of apology dated 29 October 2020, however it determined that this did not demonstrate sufficient insight into his actions. The panel noted that Mr Nopia in his letter, reflective piece and local investigation interview in relation to Person C dismissed the impact of his

actions and claimed they were only jokes or banter. He also sought to pass his actions off as due to cultural differences, which the panel rejects, as his misconduct was far too serious to be excused in any culture. The panel was of the view that Mr Nopia has not displayed that he understands what he did was wrong, the extent of his wrongdoing and how his actions have negatively impacted the reputation of the nursing profession and also the impact it has had on those involved. Furthermore, Person C did not accept his apology and therefore it did not remediate the misconduct.

The panel was satisfied that the misconduct in this case is not easily capable of being addressed. The panel considered that there is an evident pattern of behaviour which illustrated serious attitudinal concerns. The panel noted that Mr Nopia has repeated this sexual misconduct with three different individuals over a period of time, two of whom were his patients. The panel had no information before it to suggest that there have been any steps taken by Mr Nopia by way of remediation or to reduce the risk of repetition and future potential harm. The panel considered that there is a real risk of repetition of his misconduct.

The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel bore in mind the NMC Guidance on Impairment (DMA-1) and determined that Mr Nopia's conduct raises fundamental questions about his ability to uphold the values and standards set out in the code. The panel noted that Mr Nopia deliberately caused harm to people in his care and was in serious breach of professional boundaries. The

panel was satisfied that, in line with the guidance, a finding of impairment is necessary to mark the profound seriousness of the misconduct.

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

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

Sanction

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

Mr McPhee invited the panel to impose a substantive striking-off order. He submitted that the panel should consider the following aggravating factors:

- The misconduct persisted over an extended period of time and involved three victims
- Mr Nopia abused his position of trust with two patients in his care
- All three complainants were vulnerable, one of which was 17 years old
- Actual harm was caused to all three individuals

- Mr Nopia has demonstrated no insight into his actions.

In light of the facts found proved and taking into account the above factors, Mr McPhee submitted that no further action, a caution order or a conditions of practice order would not be appropriate or proportionate.

Mr McPhee referred the panel to SG reference SAN-3D in relation to suspension orders. He took the panel through the considerations a panel should bear in mind when imposing a suspension order. He submitted that Mr Nopia's conduct had breached the fundamental tenets of the nursing profession, caused actual harm to two patients and a colleague and as a result, brought the profession into disrepute. Mr McPhee therefore submitted that no lesser sanction than a striking-off order would be appropriate.

Mr McPhee then took the panel through SG reference SAN-3E in relation to striking-off orders. He submitted that Mr Nopia's conduct is towards the most serious end of the spectrum, and should Mr Nopia remain on the register, it would seriously undermine public trust and confidence in nurses.

Mr McPhee submitted that there is a real risk of repetition of Mr Nopia's conduct. He submitted that due to the nature and seriousness of the misconduct the only way to protect patients and the public would be to strike Mr Nopia off the register.

Mr McPhee therefore invited the panel to impose a striking-off order on the grounds of public protection and in the public interest.

Decision and reasons on sanction

Having found Mr Nopia's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful

regard to the SG in particular SAN-2 and bore in mind the reference to the Professional Standards Authority (PSA) 2008 document entitled '*Clear Sexual Boundaries Guidance for Fitness to Practise Panels*'. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Abuse of a position of trust
- Lack of insight into failings and no evidence of any steps to remedy the misconduct, which heightens the risk of repetition
- A pattern of misconduct over a substantial period of time evidencing deep-seated attitudinal problems.
- Conduct which caused actual harm to patients and a colleague.
- Involved three vulnerable individuals
- Not engaged with these proceedings and the NMC since February 2024

The panel also had before it Mr Nopia's letter of apology addressed to Person C dated 29 October 2020. It noted that there were some admissions made in relation to Mr Nopia's inappropriate conduct and remarks however the panel did not accept this letter as a mitigating factor. Firstly, the panel was aware that this apology was not voluntary, and Mr Nopia was instructed to apologise following the local investigation by the Trust. Secondly, the panel heard from Person C that he did not accept the apology and felt it was not sincere or genuine. Finally, the panel also noted that with regards to the admissions Mr Nopia made in the letter, and later in his local reflective piece attributed his actions to cultural differences and banter which the panel rejects.

The panel therefore did not identify any mitigating factors in this case.

The panel first considered whether to take no further action but concluded that this would be inappropriate in view of the seriousness of the case as it relates to sexual misconduct with three vulnerable individuals, two of whom were Mr Nopia's patients. The panel

decided that it would be neither proportionate, protect the public nor be in the public interest to take no further action.

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

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

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

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*

- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel noted that Mr Nopia's misconduct relates to multiple instances of sexual misconduct which evidences a pattern of deep-seated attitudinal problems. Furthermore, the misconduct was repeated with three different individuals including two patients in his care and a colleague over a substantial period of over a year. The panel was also of the view that in the absence of any insight from Mr Nopia and any indication of remedial action having been taken there remained a significant risk of repetition. Indeed, the panel considered that Mr Nopia's letter in October 2020, whilst apparently meant to be an apology to his colleague, Person C, sought to deflect blame onto cultural differences, which the panel has rejected and considered indicated a lack of insight. The panel was therefore not satisfied that a suspension order would be the appropriate or proportionate in all the circumstances.

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

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

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

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*

- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

Mr Nopia's actions were very significant departures from the standards expected of a registered nurse and are fundamentally incompatible with him remaining on the register. The panel noted that the charges found proved are in relation to serious sexual misconduct which indicates that Mr Nopia lacks professionalism. He not only subjected two patients to inappropriate sexually motivated touching but also subjected a colleague to this as well as multiple inappropriate sexual remarks which the panel considered amounted to harassment.

As stated above, there are clear indications that Mr Nopia lacks insight into the seriousness of his misconduct, which was a pattern of misconduct that demonstrated a deep-seated attitudinal problem, which Mr Nopia has not taken steps to remedy. In those circumstances, the panel concluded that there is no realistic prospect of his now remedying his practice to be able to offer safe, kind and professional nursing care.

The panel was of the view that the findings in this particular case demonstrate that Mr Nopia's actions were serious and to allow him to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

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

The panel considered that this order was necessary to mark the importance of protecting the public, 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 Mr Nopia in writing

Submissions on interim order

The panel took account of the submissions made by Mr McPhee. He invited the panel to impose an 18-month interim suspension order. In light of the panel's findings that Mr Nopia's conduct was serious, he submitted that to allow Mr Nopia to continue practising would undermine public confidence in the profession and in the NMC.

Mr McPhee submitted that an interim suspension order is necessary to both protect the public and maintain confidence in the profession. He submitted that although Mr Nopia has not engaged, he may nonetheless exercise his appeal rights and therefore to impose an interim order for 18 months would cover the appeal period.

The panel heard and 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 to maintain confidence in the nursing profession. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

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

suspension order for a period of 18-months to cover the appeal period should Mr Nopia exercise his right to appeal.

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

That concludes this determination.