# Nursing and Midwifery Council
# Fitness to Practise Committee

**Substantive Hearing**
**Monday, 21 October 2024 – Wednesday, 30 October 2024**

Virtual Hearing

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| **Name of Registrant:** | **Paul Philip Millward** |
| **NMC PIN** | 01I3541E |
| **Part(s) of the register:** | Registered Nurse – Sub part 1<br>Mental Health Nursing – 9 October 2004 |
| **Relevant Location:** | Barnsley |
| **Type of case:** | Misconduct |
| **Panel members:** | Anthony Griffin (Chair, lay member)<br>Janet Fitzpatrick (Registrant member)<br>Kiran Bali (Lay member) |
| **Legal Assessor:** | Neil Fielding |
| **Hearings Coordinator:** | Stanley Udealor |
| **Nursing and Midwifery Council:** | Represented by Alex Radley, Case Presenter |
| **Mr Millward:** | Present and represented by Chuba Nwokedi, (instructed by Thompson Solicitors) |
| **Facts proved by admission:** | Charges 1a, 1b, 1c, 1d (in part), 1e, 1g, 4a, 4b, 4c(ii), 4c(iv), 4c(v), 4c(vi), 4d, 4e (in part) |
| **Facts proved:** | Charges 1d, 2, 3, 4c(i), 4c(iii), 4e (in part), 4f(i), 4f(iii), 4f(iv), 4g, 5, 6, 7a, 7b(i), 7b(ii) and 8 |
| **Facts not proved:** | Charge 1f, 4e (Schedule 2b) and 4f(ii) |
| **Fitness to practise:** | Impaired |

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| **Sanction:** | **Striking-off order** |
| **Interim order:** | **Interim suspension order (18 months)** |

**Decision and reasons on application to amend the charge**

The panel heard an application made by Mr Radley on behalf of the Nursing and Midwifery Council (NMC), to amend the wordings of charges 3 and 4c(iv).

Mr Radley submitted that there were some typographical errors in charges 3 and 4c(iv) and the proposed amendments would provide clarity and more accurately reflect the evidence.

The proposed amendments to the charges are as follows:

3. Your actions in charge **1** above were motivated by knowledge of Patient A's vulnerability.

4. Between November 2020 and November 2021 breached professional boundaries with Patient B, on one or more occasions in that you:

   a. …….

   b. ……

   c. invited Patient B to engage in and/or attend social activities outside working hours, when such activities were not part of the therapeutic and/or clinical relationship with Patient B including:

      i. …..
      ii. …..
      iii. …..
      iv. …..
      v. ….
      vi. to your home **or** to [PRIVATE]..

Mr Nwokedi, on your behalf, did not oppose the application.

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

The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

**Details of charge**

That you, a registered nurse:

1. Between 15 July 2022 and 8 September 2022 breached professional boundaries with Patient A, on one or more occasions in that you:

    a. visited Patient A at home and/or their workplace outside working hours, without a clinical reason.

    b. communicated with Patient A by text message and/or social media outside of working hours, when that communication was not part of the therapeutic and/or clinical relationship with Patient A.

    c. consumed alcohol with Patient A.

    d. made inappropriate comments to Patient A as set out in Schedule 1.

    e. attended social outings, that were not part of the therapeutic and/or clinical relationship with Patient A.

f. allowed a kiss between you and Patient A.

g. gave a necklace to Patient A.

2. Your actions in charge 1 above were sexually motivated in that you were pursuing a sexual relationship.

3. Your actions in charge 1 above were motivated by knowledge of Patient A's vulnerability.

4. Between November 2020 and November 2021 breached professional boundaries with Patient B, on one or more occasions in that you:

    a. communicated with Patient B by text message outside of working hours, when that communication was not part of the therapeutic and/or clinical relationship with Patient B

    b. attended Patient B's home and/or workplace uninvited, when such visits were not part of the therapeutic and/or clinical relationship with Patient B

    c. invited Patient B to engage in and/or attend social activities outside working hours, when such activities were not part of the therapeutic and/or clinical relationship with Patient B including:

        i. to a stag do with a hotel stayover.
        ii. to the pub.
        iii. to a Queen tribute night.
        iv. to go consume alcohol.
        v. to the cinema.
        vi. to your home or to [PRIVATE].

d. gave a necklace to Patient B.

e. made inappropriate comments to Patient B as set out in schedule 2.

f. engaged in inappropriate physical contact with Patient B in that you:
   i. tried to cuddle Patient B and/or
   ii. hold Patient B's face and/or
   iii. pull Patient B on top of you and/or
   iv. picked Patient B up.

g. threatened to discharge Patient B from treatment if they did not comply with your requests.

5. Your actions in charge 4 above were sexually motivated in that you were pursuing a sexual relationship.

6. Your actions in charge 4 above were motivated by the knowledge of Patient B's vulnerability.

7. Your actions at all or any of charge 4 above harassed Patient B as:

   a. it was unwanted conduct of a sexual nature.
   b. your actions had the purpose or effect of:
      i. violating Patient b's dignity
      ii. created an intimidating, hostile, degrading, humiliating or offensive environment for Patient B

8. Failed to keep accurate records of all contacts with Patient A and/or Patient B.

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

Schedule 1

a. called Patient A 'a sweet lady'.
b. called Patient A pretty lady.
c. [PRIVATE].
d. told Patient A you had fallen in love with them.

Schedule 2

a. referenced sex.
b. stated you liked Patient B boobs.
c. stated you were uncomfortable down there because you had shaved your genitals.
d. stated you would not be able to control yourself and would have to grab hold of Patient B.
e. said Patient B's dare would be for them to strip for you.
f. said you would love to grab Patient B's curves,
g. [PRIVATE],
h. stated you love to look at naked women online.
i. ask about Patient B's sex life and if they had one-night stands and how many partners they had.
j. [PRIVATE].
k. [PRIVATE].

**Background**

The charges arose whilst you were employed as a Senior Mental Health Practitioner by Southwest Yorkshire Partnership NHS Foundation Trust ('the Trust'). You were referred to the NMC on 10 November 2022 by Witness 2, the Team Manager at the Trust.

It was alleged that between 21 July 2022 and 8 September 2022, you developed and encouraged an inappropriate relationship with Patient A, [PRIVATE].

The alleged inappropriate behaviour includes the following:

- visiting Patient A's home and workplace outside of working hours. inviting Patient A to visit your home.
- engaging in communication with Patient A outside of working hours.
- consuming alcohol with Patient A.
- making inappropriate comments to Patient A.

It was also alleged that you had also developed an inappropriate relationship with Patient B, another service user under your care in 2021. Patient B had reported that for the first year to eighteen months under your care, there was no issue. However, it was alleged that your behaviour towards Patient B became increasingly inappropriate within the last twelve months of her contact with you, from around November 2020 to November 2021.

The alleged inappropriate behaviour includes the following:

- engaging in communication and meeting with Patient B outside of working hours.
- consuming alcohol with Patient B.
- inviting Patient B to visit his home and to a hotel.
- making inappropriate comments to Patient B.

The Trust commenced a fact-finding investigatory process on 28 September 2022, and you were thereafter dismissed from your role.

**Decision and reasons on application to admit hearsay evidence**

The panel heard an application made by Mr Radley under Rule 31 to admit the following documents, contained within the NMC Hearsay Bundle (the Bundle), into evidence:

1. Patient B's accounts of the alleged incidents with respect to charge 4.

2. Witness statement from Colleague 1 and the Notes of Interview with Colleague 1.
3. Witness statement from Colleague 2 and the Notes of Interview with Colleague 2.
4. Notes of Interview with Colleague 3.
5. Local statement of Colleague 4

Mr Radley referred the panel to the case of *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin). He submitted that this case laid out the following factors to be considered in admitting hearsay evidence. Mr Radley proceeded to address each factor respectively:

i. Whether the statements were the sole and decisive evidence in support of the charges:

Mr Radley submitted that the respective documents within the Bundle support the assertions that Patient A made in her witness statement. In relation to Patient B, he submitted that your admissions to some of the charges supports the hearsay evidence contained in the Bundle. Mr Radley therefore submitted that the respective documents in the Bundle are not the sole and decisive evidence in support of the charges.

ii. The nature and extent of the challenge to the contents of the statements:

Mr Radley submitted that you had challenged some of the contents with the Bundle as you denied some of the charges.

iii. Whether there was any suggestion that the witnesses had reasons to fabricate their allegations:

Mr Radley submitted that there is no evidence to suggest that any of the authors of the documents within the Bundle had fabricated their evidence.

iv. The seriousness of the charge, taking into account the impact which adverse findings might have on the registrant’s career:

Mr Radley submitted the allegations are serious and any adverse findings could have serious consequences on your future as a registered nurse.

v. Whether there was a good reason for the non-attendance of the witness:
Mr Radley submitted it was the position of the NMC that it was unnecessary to call the respective authors of the documents contained within the Bundle as witnesses in this case. This is because their evidence is limited as it was derived from the allegations made by Patient A and Patient B. With respect to the non-attendance of Patient B, Mr Radley submitted that there was an unwillingness on her part to engage with these proceedings as a witness. Mr Radley highlighted that Patient B did not also fully engage with the local investigations by the Trust and this may be due to her personal circumstances.

vi. The regulator had taken reasonable steps to secure the witness's attendance:
Mr Radley referred the panel to the NMC letter to Patient B dated 17 May 2023 in which Patient B was invited to provide a witness statement and to give oral evidence at this hearing. He submitted that the letter demonstrated that the NMC had taken reasonable steps to secure the attendance of Patient B. In relation to the respective authors of the documents contained within the Bundle, Mr Radley stated that he could not provide any information as to the steps taken by the NMC to secure their attendance.

vii. Whether the registrant had prior notice that the witness statement would be read:
Mr Radley submitted that although your representative, Mr Nwokedi, had indicated that he had not personally received the Bundle before the commencement of this hearing, the NMC had notified you and your previous representative that it intends to make a hearsay application with respect to the documents contained in the Bundle and the Bundle was sent to you and your previous representative prior to the hearing.

In conclusion, Mr Radley submitted that the test set out in Rule 31 has been satisfied and it is therefore fair and appropriate for the documents contained in the Bundle to be admitted into evidence.

Mr Nwokedi informed the panel that you oppose the NMC hearsay application. He submitted that under the *Thorneycroft* test, one of the main factors to be considered by the panel is whether there is any cogent reason for the non-attendance of witnesses. Mr Nwokedi highlighted that the authors of the documents contained within the Bundle are also nursing professionals under the regulation of the NMC and the NMC had merely stated that it did not deem it necessary to secure their attendance to this hearing. He submitted that there are statements made within the Bundle that seems to make the charges worse than they actually were as it was alleged within the Bundle that previous colleagues had also raised concerns about you. He asserted that such allegations would prejudice you in this case and due to the non-attendance of the authors of those statements, you would not have the opportunity to challenge such allegations. Mr Nwokedi therefore invited the panel to reject the NMC hearsay application with respect to those documents in the Bundle.

In relation to allegations made by Patient B, Mr Nwokedi submitted that you have not had the opportunity to respond to those allegations given that Patient B's engagement has been very limited. He submitted that although you had made admissions to some of the allegations, you will provide proper context to those admissions. Mr Nwokedi submitted that you have not had the opportunity to properly face your accuser and therefore, to admit Patient B's accounts of the alleged incidents into evidence would further prejudice you especially considering the serious nature of the allegations.

In conclusion, Mr Nwokedi invited the panel to reject the NMC hearsay application, however, if the panel is minded to admit the hearsay documents into evidence, limited weight should be attached to such hearsay evidence as you have not had the opportunity to challenge it.

In accordance with Rule 31, the legal assessor advised the panel to disregard any material not relevant to these matters.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application including references to the cases of *NMC v Ogbonna* [2010] EWHC Civ 216, *Thorneycroft v NMC* [2014] EWHC 1565 (Admin) and *El Karout v NMC* [2019] EWHC 28 (Admin). 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 was of the view that the hearsay evidence subject to this application is relevant and in fact, its relevance is not contentious and therefore, the panel went on to consider whether it was fair to admit it in these circumstances.

The panel first considered whether to admit the hearsay account of Patient B in relation to charges 4c(i), 4c(iii), 4e, 4f and 4g into evidence. It had regard to the case of *Thorneycroft* which laid out the factors to be considered in admitting hearsay evidence.

The panel considered whether the hearsay account of Patient B is the sole and decisive evidence in relation to the respective above-mentioned charges.

In relation to charge 4c(i) and 4c(ii) Schedule 1d, the panel took into account that Patient B 's evidence is the sole evidence relating to these matters, but the panel considered that it is not necessarily decisive as there is other evidence of a pattern of similar behaviour. This is based on the admissions you have made in relation to both Patients A and B, and the evidence of Patient A and Patient B of you inviting them to attend social activities at various times, outside working hours, that were not part of your therapeutic and/or clinical duties to them.

In relation to charge 4e and specifically the matter referenced in Schedule 2a, 2b, 2c, 2d, 2e, 2f, 2i and 2j, the panel was of the view that Patient B's evidence is similarly the sole evidence in relation to these matters but is not necessarily decisive. It noted that there is other evidence based on your admissions in relation to Patients A and B of a similar pattern of behaviour and specifically of you making comments that might be considered to

exceed the proper boundaries of a professional relationship. Your position with regards to denying the matter is broadly as set out below. It is noted however that in relation to Schedule 2e, you suggested in your supervisory interview that this incident may have resulted from a misunderstanding regarding a discussion about you shaving your chest.

With regard to charges 4f (i),4f(ii), 4f(iii) and 4f(iv), the panel was of the view that Patient B provides the sole evidence, the evidence of equivalent conduct is more limited, save for the disputed allegation of a kiss between you and Patient A. However, it is not necessarily decisive evidence in the context of the overall case which provides evidence including significant admissions about the potential blurring of professional boundaries. There is some evidence of your potential motivation for seeking an extra-marital relationship (due to issues with your own marital relationship).

With respect to charge 4g, the panel determined that Patient B's account is the sole evidence although not necessarily the decisive evidence as there appears to be a pattern of behaviour relating to blurring of professional boundaries and potential misuse of position of trust.

The panel noted that the NMC had notified you prior to the hearing that the hearsay accounts of Patient B with respect to charges 4c(i), 4c(iii), 4e, 4f and 4g would be tendered into evidence. The panel took into account that you had challenged the hearsay accounts of Patient B with respect to those charges as you had denied the allegations. However, the panel was satisfied that there was no suggestion that Patient B had any reason to fabricate the allegations given the circumstances in which they were revealed as the Trust had contacted Patient B in order to investigate the allegations.

The panel considered the charges to be serious as any adverse finding could have a negative impact on your nursing career. The panel noted that the NMC had, in its letter to Patient B dated 17 May 2023, contacted her to provide a witness statement and attend the hearing as a witness. It also considered that Witness 1 had stated in his witness statement that a statement could not be obtained from Patient B during the Trust's investigations as

she did not want to engage as a witness. He further stated that Patient B felt frightened and more vulnerable for speaking up after the police dropped the case against you. The panel was therefore satisfied that such evidence provided a good reason for the non-attendance of Patient B at this hearing.

The panel took into consideration that the hearsay accounts of Patient B with respect to charges 4c(i), 4c(iii), 4e, 4f and 4g were obtained through a formal fact-finding process by the Trust and several reports and notes were contemporaneously made in the course of the investigation. The panel also considered that you had the opportunity to provide your response to the allegations by Patient B, in a supervisory meeting with Colleague 4. Accordingly, the panel was satisfied that the hearsay accounts of Patient B were obtained through a fair and reliable investigation process.

The panel appreciates that each of these charges are disputed. However, the panel was of the view that the inherent reliability of Patient B's account is supported in part by your own admissions and is also supported by the general pattern of similar behaviour, which is partly accepted. The panel acknowledges the extent to which you will be able to effectively challenge the evidence is clearly lessened, as you will not be able to cross-examine Patient B, though it should be noted that there would always be some difficulty in challenging this evidence directly when significant aspects of Patient B's account are undisputed. You can however, question Witnesses 1 and 2 about the fairness of the investigation process and the accuracy of their recording of the account of Patient B. You will also be able to provide evidence of your own explanation of these events which in the context of this case is likely to be of considerable significance. It will then be a matter for the panel to compare and evaluate the evidence from the NMC and you and attach any weight it may deem fit.

Having considered these factors, the panel determined that it is relevant and fair to admit the hearsay accounts of Patient B with respect to charges 4c(i), 4c(iii), 4e, 4f and 4g and their associated exhibits into evidence.

With respect to the Witness statement from Colleague 1 and the Notes of Interview with Colleague 1, the panel took into account that the Witness statement from Colleague 1 provides the record of the meeting between you and Colleague 1 in which you provided your account of the relationship between you and Patient A. The panel also noted that the details of this meeting were provided to Witness 1 by Colleague 1 during the Trust's fact-finding process, as contained in the Notes of Interview with Colleague 1. The panel was of the view that the respective records are relevant to the charges as they provide your account of the alleged incidents.

The panel had regard to the case of *Thorneycroft* which laid out the factors to be considered in admitting hearsay evidence. The panel considered whether the evidence of Colleague 1 is the sole and decisive evidence with respect to charge 1. The panel took into account that there is other evidence which had been presented by the NMC in support of the charge in question, including the witness statement of Patient A, your local statements to the Trust, the witness statement from Witness 2, the snapshots and transcripts of text messages between you and Patient A. The panel therefore decided that the evidence of Colleague 1 is not the sole and decisive evidence with respect to charge 1.

The panel noted that the NMC had notified you prior to this hearing that the Witness statement from Colleague 1 and the Notes of Interview with Colleague 1 would be tendered into evidence. The panel took into account that you had challenged the hearsay application of the NMC to admit these documents into evidence. However, the panel was satisfied that there was no suggestion that Colleague 1 had any reason to fabricate the documents given that they provide your account of the alleged incidents, and they were produced in the course of the Trust's formal fact-finding process.

The panel considered the charges to be serious as any adverse finding could have a negative impact on your nursing career. The panel noted that there was no evidence to demonstrate any reasonable step taken by the NMC to secure the attendance of

Colleague 1 as a witness nor was there any good reason provided for the non-attendance of Colleague 1 at this hearing.

Having considered these factors, the panel determined that it is relevant and fair to admit the Witness statement from Colleague 1 and the Notes of Interview with Colleague 1 into evidence. The panel noted that the respective documents were obtained through a fair and reliable investigation process, and they provide your account of the alleged incidents. Furthermore, given that Patient A and Witness 1 are scheduled to give oral evidence in this case, you would have the opportunity to question and challenge their evidence. The panel would give what it deems appropriate weight once it had heard and evaluated all the evidence.

In relation to the Witness statement from Colleague 2 and the Notes of Interview with Colleague 2, the panel took into account that the Witness statement from Colleague 2 provides the record of the various contacts between you and Colleague 2 in which you provided your account of the relationship between you and Patient A. The panel also noted that the details of such contacts were provided to Witness 1 by Colleague 2 during the Trust's fact-finding process, as contained in the Notes of Interview with Colleague 2. The panel was of the view that the respective records are relevant to the charges as they provide your account of the alleged incidents.

The panel had regard to the case of *Thorneycroft* which laid out the factors to be considered in admitting hearsay evidence. The panel considered whether the evidence of Colleague 2 is the sole and decisive evidence with respect to charge 1. The panel took into account that there is other evidence which had been presented by the NMC in support of the charge in question, including the witness statement of Patient A, the witness statement from Witness 2, your local statements to the Trust, the snapshots and transcripts of text messages between you and Patient A. The panel therefore decided that the evidence of Colleague 2 is not the sole and decisive evidence with respect to charge 1.

The panel noted that the NMC had notified you prior to this hearing that the Witness statement from Colleague 2 and the Notes of Interview with Colleague 2 would be tendered into evidence. The panel took into account that you had challenged the hearsay application of the NMC to admit these documents into evidence. However, the panel was satisfied that there was no suggestion that Colleague 2 had any reason to fabricate the documents given that they provide your account of the alleged incidents, and they were produced in the course of the Trust's formal fact-finding process.

The panel considered the charges to be serious as any adverse finding could have a negative impact on your nursing career. The panel noted that there was no evidence to demonstrate any reasonable step taken by the NMC to secure the attendance of Colleague 2 as a witness nor was there any good reason provided for the non-attendance of Colleague 2 at this hearing.

Having considered these factors, the panel determined that it is relevant and fair to admit the Witness statement from Colleague 2 and the Notes of Interview with Colleague 2 into evidence. The panel noted that the respective documents were obtained through a fair and reliable investigation process and they provide your account of the alleged incidents. Furthermore, given that Patient A and Witness 1 are scheduled to give oral evidence in this case, you would have the opportunity to question and challenge their evidence. The panel would give what it deems appropriate weight once it had heard and evaluated all the evidence.

With regard to the Notes of Interview with Colleague 3, the panel took into account that they provide details of the meeting between Patient A and Colleague 3 in which Patient A reported the alleged inappropriate interactions you had with her. The panel was of the view that Colleague 3's evidence is relevant to the charges as it provides further detail and context to charge 1.

The panel had regard to the case of *Thorneycroft* which laid out the factors to be considered in admitting hearsay evidence. The panel considered whether the evidence of

Colleague 3 is the sole and decisive evidence with respect to charge 1. The panel took into account that there is other evidence which had been presented by the NMC in support of the charge in question, including the witness statement of Patient A, the witness statement from Witness 2, your local statements to the Trust, the snapshots and transcripts of text messages between you and Patient A. The panel therefore decided that the evidence of Colleague 3 is not the sole and decisive evidence with respect to charge 1.

The panel noted that the NMC had notified you prior to this hearing that the Notes of Interview with Colleague 3 would be tendered into evidence. The panel took into account that you had challenged the hearsay application of the NMC to admit this document into evidence. However, the panel was satisfied that there was no suggestion that Colleague 3 had any reason to fabricate her account, and it was produced in the course of the Trust's formal fact-finding process.

The panel considered the charges to be serious as any adverse finding could have a negative impact on your nursing career. The panel noted that there was no evidence to demonstrate any reasonable steps taken by the NMC to secure the attendance of Colleague 3 as a witness nor was there any good reason provided for the non-attendance of Colleague 3 at this hearing.

Having considered these factors, the panel determined that it is relevant and fair to admit the Notes of Interview with Colleague 3 into evidence. The panel noted that it was obtained through a fair and reliable investigation process and given that Patient A and Witness 1 are scheduled to give oral evidence in this case, you would have the opportunity to question and challenge their evidence. The panel would give what it deems appropriate weight once it had heard and evaluated all the evidence.

With regard to the Local statement of Colleague 4, the panel took into account that it provides the record of the various meetings that Colleague 4 had with Patient B and you.

The panel was of the view that Colleague 4's evidence is relevant to the charges as it provides further detail and context to charge 4.

The panel had regard to the case of *Thorneycroft* which laid out the factors to be considered in admitting hearsay evidence. The panel considered whether the evidence of Colleague 4 is the sole and decisive evidence with respect to charge 1. The panel took into account that your partial admissions to charge 4 and the witness statement of Witness 2 corroborates Colleague 4's evidence. The panel therefore decided that the evidence of Colleague 4 is not the sole and decisive evidence with respect to charge 4.

The panel noted that the NMC had notified you prior to this hearing that the Local statement of Colleague 4 would be tendered into evidence. The panel took into account that you had challenged the hearsay application of the NMC to admit this document into evidence. However, the panel was satisfied that there was no suggestion that Colleague 4 had any reason to fabricate her account, and it was produced in the course of the Trust's formal fact-finding process.

The panel considered the charges to be serious as any adverse finding could have a negative impact on your nursing career. The panel noted that there was no evidence to demonstrate any reasonable steps taken by the NMC to secure the attendance of Colleague 4 as a witness nor was there any good reason provided for the non-attendance of Colleague 4 at this hearing.

Having considered these factors, the panel determined that it is relevant and fair to admit the Local statement of Colleague 4 into evidence. The panel noted that it was obtained through a fair and reliable investigation process and given that Witness 2 is scheduled to give oral evidence in this case, you would have the opportunity to question and challenge their evidence. The panel would give what it deems appropriate weight once it had heard and evaluated all the evidence.

Having reviewed the hearsay application by the NMC, the panel therefore admitted the NMC hearsay evidence.

**Decisions and reasons on application for hearing to be held partly in private**

Mr Radley made an application for any matter relating to [PRIVATE], which may be explored in the course of her evidence, to be held in private. The application was made pursuant to Rule 19 of the Rules.

Mr Nwokedi did not oppose the application.

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 accepted the advice of the legal assessor.

The panel determined to hold the entirety of Patient A's evidence in private [PRIVATE].

**Decision and reasons on application for special measures/reasonable adjustments**

The panel heard an application made by Mr Radley for the provision of special measures/reasonable adjustments for Patient A. The application was made pursuant to Rule 23 (1) (b) of the Rules.

Mr Radley stated that, prior to this hearing, Patient A had requested for the provision of special measures/reasonable adjustments to assist her to attend the hearing and give oral evidence as a witness. [PRIVATE]. [PRIVATE]. Additionally, Patient A has requested that you attend the hearing via telephone call throughout the duration of her evidence.

Mr Radley submitted that [PRIVATE]. He submitted that the special measures/reasonable adjustments were necessary in order to provide support for Patient A throughout the duration of her evidence and to enable her to give her best evidence to the panel.

Mr Nwokedi did not oppose the application.

The panel accepted the advice of the legal assessor.

The panel decided to grant the application. The panel therefore directed that you should join the hearing via telephone call throughout the duration of Patient A's evidence. [PRIVATE]. The panel was satisfied that these special measures were necessary in order to enable Patient A to give her best evidence in these proceedings and no injustice would be posed to you by such special measures.

**Decision and reasons on facts**

At the outset of the hearing, Mr Nwokedi informed the panel that you made full admissions to charges 1a, 1b, 1c, 1d (in part), 1e, 1g, 4a, 4b, 4c(ii), 4c(iv), 4c(v), 4c(vi), 4d, 4e (in part).

The panel therefore finds charges 1a, 1b, 1c, 1d (in part), 1e, 1g, 4a, 4b, 4c(ii), 4c(iv), 4c(v), 4c(vi), 4d, 4e (in part) proved in their entirety, by way of your admissions.

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

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: Serious Incident Investigator at the Trust.

- Witness 2: Team Manager of the Early Intervention Team (EIT) at the Trust.

- Patient A: [PRIVATE].

The panel also heard evidence from you under affirmation.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor.

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

**Charge 1d**

1. Between 15 July 2022 and 8 September 2022 breached professional boundaries with Patient A, on one or more occasions in that you:
   d. made inappropriate comments to Patient A as set out in Schedule 1.

      Schedule 1

      d. told Patient A you had fallen in love with them.

**This charge is found proved.**

The panel took into account that Patient A stated in her witness statement dated 3 August 2023 that on one occasion while she was in your car, you had told her that you were in love with her, after reading a letter to her. She stated that she felt awkward at the time of the incident and [PRIVATE]. She further reported the incident to the Trust.

The panel had sight of the handwritten letter of complaint from Patient B to the Trust dated 12 September 2022 in which she provided a comprehensive background and context to the incident. [PRIVATE]. The panel noted that Patient A provided a detailed description of the incident, during her oral evidence, which was consistent with her letter of complaint to the Trust dated 12 September 2022.

The panel took into consideration that you denied the allegation. You provided a detailed account in the Timeline Statement you provided to the Trust in which you stated that on 8 September 2022, while Patient A was in your car, she told you she loved you, after you had read to her a paragraph [PRIVATE]. You further confirmed this account during your oral evidence to the panel. The panel took into account that in their respective written statements, Witness 2, Colleagues 1 and 2 also confirmed that you had reported to them that Patient A had told you she loved you.

The panel took account of the circumstances surrounding the incident. The panel considered the text messages between Patient A and you, on 8 September 2022 between the time of 12:00 and 12:36, where Patient A had indicated that she was going to cancel an appointment with you and any further meetings due to breach of professional boundaries. [PRIVATE]. The panel noted that Patient A had confirmed in her oral evidence that she had sent those text messages as a result of the incident where you told her that you loved her. The panel also had sight of the text messages between you and Patient A and you, from 4 – 7 September 2022 in which you had sent various messages including *‘love heart emojis’* to Patient A outside your working hours. The panel was of the view that some of the messages were inappropriate and crossed professional boundaries. [PRIVATE].

Given the context of your relationship with Patient A and your admissions in relation to making other inappropriate comments to her, the panel accepted the account of the incident by Patient A. In this regard, the panel was satisfied that it was more likely than not that between 15 July 2022 and 8 September 2022, you had breached professional boundaries with Patient A on one or more occasion in that you had told Patient A that you had fallen in love with them and therefore had breached professional boundaries with Patient A. The panel therefore found charge 1d (Schedule 1d) proved on the balance of probabilities.

**Charge 1f**

1. Between 15 July 2022 and 8 September 2022 breached professional boundaries with Patient A, on one or more occasions in that you:
   f. allowed a kiss between you and Patient A.

**This charge is found NOT proved.**

The panel took into account that in the Timeline Statement you provided to the Trust, you had described an incident where you had taken Patient A to the cinema and when a taxi had arrived to take her home, at the end of the movie, she kissed you.

The panel took into consideration that Colleagues 1 and 2 confirmed in their respective written statements that on 9 September 2022, you had narrated the same incident to them. The panel however noted that Witness 2, in her written statement, narrated that on 8 September 2022, although you had told her that Patient A had kissed you after an evening cinema trip few weeks ago, you changed your account of the incident and stated that it occurred on the same day she had told you she loved you (which was 8 September 2022). You explained that the reason for the inconsistency in your account was as a result of the shock and anxiety you felt after Patient A had told you she loved you. The panel further noted that you had changed your account when Witness 2 had asked you why you

had not earlier informed her of the kiss and why you had continued to work with Patient A after the incident.

The panel took into account that during your oral evidence to the panel, you had provided a different reason for not reporting the incident immediately to Witness 2. You stated that this was due to the acrimonious relationship you had with Witness 2 and that you wanted to report the incident to another manager, but he was on leave.

The panel took into consideration that when asked about the allegation during her oral evidence, Patient A was visibly shocked and surprised at the hearing. She denied the allegation and asserted that it was the first time that she had heard about such an incident.

The panel determined that, given the inconsistencies in your accounts with respect to when the incident occurred and the reasons for not reporting it immediately to Witness 2, an absence of any notes entered on the Trust's System One as well as the denial by Patient A that such incident had occurred, there was insufficient evidence to demonstrate that you had allowed a kiss between you and Patient A. The panel therefore found charge 1f not proved.

**Charge 2**

2. Your actions in charge 1 above were sexually motivated in that you were pursuing a sexual relationship

**This charge is found proved.**

The panel took account of your conduct in charge 1 and considered whether they were sexually motivated in that you were in pursuit of a sexual relationship with Patient A.

The panel had regard to the Trust's Sexual Relationships Policy as well as its Sexual Safety Policy. The panel took into account that both Witnesses 1 and 2 confirmed in their oral

evidence that although staff members were allowed to take service users to social outings, this must be undertaken within the Trust's working hours and with the express permission of the staff's manager. They also stated that staff members were not usually permitted to use their personal telephone numbers to contact service users and were only allowed to contact service users outside working hours with work phone numbers when there is a valid clinical reason. Witnesses 1 and 2 further stated that staff members were prohibited from consuming alcohol with service users and could only visit them at their homes or workplace when there is a valid clinical reason. Furthermore, any exchange of gifts between staff members and service users must be done with the permission of the staff's manager.

The panel noted that both Witnesses 1 and 2 described your actions in charge 1 to be inappropriate and that they breached professional boundaries.

The panel noted that you denied the allegation that your conduct at charge 1 was sexually motivated in that you were in pursuit of a sexual relationship with Patient A. You stated that it was the first time that you were acting in the role of providing support to partners of service users and you were mostly operating on instincts without any guidance from the Trust. You also stated that you were merely being friendly to Patient A and your actions formed part of your style of practice in which you go over and above your normal duties in order to assist service users and [PRIVATE].

However, the panel noted that there was no evidence that you had informed your manager or the Trust that you did not know how to perform your role towards Patient A. The panel was of the view that given the vulnerable nature of Patient A and your level of experience as a registered nurse, it was your responsibility as a registered nurse to manage your relationship with Patient A to ensure that it did not breach professional boundaries and to adhere to the Trust's Sexual Relationships Policy as well as its Sexual Safety Policy.

In this regard, the panel rejected your explanations of your conduct. It was of the view that your actions in charge 1 were wholly inappropriate and when viewed in totality, they formed a pattern of behaviour in which you consistently breached the professional

boundaries between you and Patient A. The panel noted that there was evidence that your actions caused distress to Patient A as she decided to cancel subsequent appointments with you and [PRIVATE]. She further lodged a formal complaint at the Trust about your conduct towards her. The panel further considered that given that similar allegations had been made against you with respect to another service user, there appears to be a pattern of behaviour relating to blurring of professional boundaries towards female service users under your care. The panel noted that there was a lack of evidence to suggest that you had engaged in similar relationships with male service users.

[PRIVATE].

Therefore, the panel was of the view that although at the outset of your allocation to Patient A, your conduct towards her may not have been sexually motivated, it was reasonable to infer that, based on the inappropriate content of your electronic messages with Patient A and the totality of your conduct towards her, a sexual motivation had developed during your regular contacts with her.

Accordingly, the panel was satisfied that there was sufficient evidence before it to determine that it was more likely than not that your actions in charge 1 were sexually motivated in that you were in pursuit of a sexual relationship with Patient A. The panel therefore found charge 2 proved on the balance of probabilities.

**Charge 3**

3. Your actions in charge 1 above were motivated by knowledge of Patient A's vulnerability

**This charge is found proved.**

The panel took into account that Witness 2 had stated in her witness statement dated 17 July 2023 that you were aware that Patient A was a vulnerable person [PRIVATE]. The

panel noted that you confirmed your awareness of Patient A's vulnerability during your oral evidence to the panel, but you denied this charge.

The panel took into consideration that you stated that your actions in charge 1 were motivated by your desire to assist Patient A to [PRIVATE]. However, the panel determined that given the inappropriate nature of your conduct towards Patient A that consistently breached professional boundaries, it was reasonable to infer that your actions were motivated by knowledge of Patient A's vulnerability and [PRIVATE]. Accordingly, the panel found charge 3 proved on the balance of probabilities.

**Charge 4c (i)**

4. Between November 2020 and November 2021 breached professional boundaries with Patient B, on one or more occasions in that you:

   c. invited Patient B to engage in and/or attend social activities outside working hours, when such activities were not part of the therapeutic and/or clinical relationship with Patient B including:

      i. to a stag do with a hotel stayover.

**This charge is found proved.**

The panel took account of Witness 2's Notes of Meeting with Patient B in which Patient B told Witness 2 that you had invited her to a stag do and to stay overnight in a hotel with you. The panel also had sight of the text messages between Patient B and you. It noted that on 16 November 2021, Patient B had expressed her annoyance that you had invited her to stay in a hotel with you.

The panel took into consideration that you denied the allegation as you stated that you had only invited Patient B to a birthday party with a hotel stayover.

The panel was of the view that although Patient B's evidence is hearsay, her account of the incident is clear and consistent, in Witness 2's Notes of Meeting and in Patient B's text messages, that you had invited her to a stag do with a hotel stayover. Witness 2 had also written contemporaneous notes of her meeting with Patient B, and when sent to Patient B, she confirmed its accuracy. The panel was of the view that based on your admissions to other charges with respect to Patient B, there is a similar pattern of behaviour of you inviting Patient B to attend social activities at various times, outside working hours, that were not part of your therapeutic and/or clinical duties to them. The panel also considered that the only distinction between your account of the incident and that of Patient B was the nature of the event to which Patient B was invited but you accepted that you invited Patient B to a hotel stayover after such event.

The panel was of the view that the allegation in relation to Patients A and B demonstrate a pattern of behaviour with striking similarities. This includes the vulnerable position of the service users, their gender, broad appearance, use of personal phone for contact, blurring of professional boundaries, gift giving and invitations to take part in social events outside of work. These factors together with your partial admissions, the existence of relevant contemporaneous notes and the manner in which the statement was obtained from Patient B led the panel to place significant weight on this evidence.

The panel noted that there was no evidence that such events were part of any therapeutic and/or clinical duties to Patient B and therefore, you had breached the professional boundaries with Patient B.

Based on the evidence before it, the panel was satisfied that it was more likely than not, that between November 2020 and November 2021, you had breached professional boundaries with Patient B on one or more occasion in that you had invited Patient B to a stag do with a hotel stayover when such activity was not part of the therapeutic and/or clinical relationship with Patient B. The panel therefore found charge 4c(i) proved on the balance of probabilities.

**Charge 4c (iii)**

4. Between November 2020 and November 2021 breached professional boundaries with Patient B, on one or more occasions in that you:

   c. invited Patient B to engage in and/or attend social activities outside working hours, when such activities were not part of the therapeutic and/or clinical relationship with Patient B including:

      iii. to a Queen tribute night.

**This charge is found proved.**

The panel took account of Witness 2's Notes of Meeting with Patient B in which Patient B told Witness 2 that you had invited her to a Queen tribute night. The panel also had sight of the text messages between Patient B and you. It noted that on 26 September 2021, you had asked Patient B if she wanted to go to a Queen tribute night.

The panel took into consideration that you denied the allegation as you stated that although you are a fan of Queen and had attended its tribute night previously, you had only told Patient B about the event, and you did not invite her.

The panel was of the view that although Patient B's evidence is hearsay, her account of the incident is clear and consistent, in Witness 2's Notes of Meeting and in Patient B's text messages, that you had invited her to a Queen tribute night. Witness 2 had also written contemporaneous notes of her meeting with Patient B, and when sent to Patient B, she confirmed its accuracy. The panel was of the view that based on your admissions to other charges with respect to Patient B, there is a similar pattern of behaviour of you inviting Patient B to attend social activities at various times, outside working hours, that were not part of your therapeutic and/or clinical duties to them.

The panel was of the view that the allegation in relation to Patients A and B demonstrate a pattern of behaviour with striking similarities. This includes the vulnerable position of the service users, their gender, broad appearance, use of personal phone for contact, blurring of professional boundaries, gift giving and invitations to take part in social events outside of work. These factors together with your partial admissions, the existence of relevant contemporaneous notes and the manner in which the statement was obtained from Patient B led the panel to place significant weight on this evidence.

The panel further considered your text message to Patient B as an invitation to a Queen tribute night. The panel noted that there was no evidence that such event was part of any therapeutic and/or clinical duties to Patient B and therefore, you had breached the professional boundaries with Patient B.

Based on the evidence before it, the panel was satisfied that it was more likely than not, that between November 2020 and November 2021, you had breached professional boundaries with Patient B on one or more occasion in that you had invited Patient B to a Queen tribute night when such activity was not part of the therapeutic and/or clinical relationship with Patient B. The panel therefore found charge 4c(iii) proved on the balance of probabilities.

**Charge 4e**

4. Between November 2020 and November 2021 breached professional boundaries with Patient B, on one or more occasions in that you:
    e. made inappropriate comments to Patient B as set out in Schedule 2.

        Schedule 2
        a. referenced sex.
        b. stated you liked Patient B boobs.

c. stated you were uncomfortable down there because you had shaved your genitals.
d. stated you would not be able to control yourself and would have to grab hold of Patient B.
e. said Patient B's dare would be for them to strip for you.
f. said you would love to grab Patient B's curves
i. ask about Patient B's sex life and if they had one-night stands and how many partners they had.
j. [PRIVATE]

**This charge is found proved (Schedule 2a, 2c, 2d, 2e, 2f, 2i and 2j). Schedule 2b is found NOT proved.**

The panel took account of Witness 2's Notes of Meeting with Patient B in which Patient B told Witness 2 that you had made inappropriate comments to her as described in Schedule 2a, 2c, 2d, 2e, 2f, 2i and 2j. The panel took into account that Patient B had also made text notes of those inappropriate comments as described above. The panel also had sight of the text messages between Patient B and you. It noted that on 16 November 2021, Patient B had expressed her disgust at some of the inappropriate comments as described in Schedule 2c, 2d and 2e which you had made towards her.

The panel took into consideration that you denied the allegation as you stated that you did not make those comments and in relation to Schedule 2c, you stated that you had only told Patient B that you had shaved your chest.

The panel was of the view that although Patient B's evidence is hearsay, her accounts of the incidents are clear and consistent, in Witness 2's Notes of Meeting, Patient B's text notes and in her text messages, that you had made inappropriate comments to her as described in Schedule 2a, 2c, 2d, 2e, 2f, 2i and 2j. Witness 2 had also written contemporaneous notes of her meeting with Patient B and when sent to Patient B, she confirmed its accuracy. The panel further considered that given that similar allegations had

been made against you with respect to another service user, there appears to be a pattern of behaviour relating to blurring of professional boundaries towards female service users under your care.

The panel was of the view that the allegation in relation to Patients A and B demonstrate a pattern of behaviour with striking similarities. This includes the vulnerable position of the service users, their gender, broad appearance, use of personal phone for contact, blurring of professional boundaries, gift giving and invitations to take part in social events outside of work. These factors together with your partial admissions, the existence of relevant contemporaneous notes and the manner in which the statement was obtained from Patient B led the panel to place significant weight on this evidence.

The panel was of the view that given the nature of such inappropriate comments, it was clear that you had breached professional boundaries with Patient B. However, the panel determined that there was insufficient evidence to demonstrate that you had made the comment as set out in Schedule 2b, specifically referring to Patient B.

Based on the evidence before it, the panel was satisfied that it was more likely than not that between November 2020 and November 2021, you had breached professional boundaries with Patient B on one or more occasion in that you had made inappropriate comments to Patient B as set out in Schedule 2a, 2c, 2d, 2e, 2f, 2i and 2j. The panel therefore found charge 4e in relation to Schedule 2a, 2c, 2d, 2e, 2f, 2i and 2j proved on the balance of probabilities. It however found Schedule 2b not proved.

**Charges 4f (i), (ii), (iii), (iv)**

4. Between November 2020 and November 2021 breached professional boundaries with Patient B, on one or more occasions in that you:

   f. engaged in inappropriate physical contact with Patient B in that you:

i. tried to cuddle Patient B and/or
ii. hold Patient B's face and/or
iii. pull Patient B on top of you and/or
iv. picked Patient B up

**Charges 4f (i), 4f (iii) and 4f (iv) found proved. Charge 4f (ii) found NOT proved.**

The panel took account of Witness 2's Notes of Meeting with Patient B in which Patient B described to Witness 2 how you had tried to cuddle her and pull her on top of you. Patient B further described how you picked her up to look over a wall despite her repeated refusals. The panel took into account that Patient B had also made text notes of this incident as described above. Witness 2 had also described these incidents in her witness statement dated 17 July 2023 as reported by Patient B.

The panel took into consideration that you denied the allegations and described them as misunderstandings of your actions by Patient B. In your witness statement dated 22 October 2024, you described an occasion where Patient B had pushed her head into your armpit while sobbing and you said that you did not attempt to cuddle her.

The panel was of the view that although Patient B's evidence is hearsay, her accounts of the incidents are clear and consistent, in Witness 2's Notes of Meeting and Patient B's text notes, that you had tried to cuddle her on one occasion, pull her on top of you and on another occasion, had picked her up to allow her to look over a wall. The panel considered that Witness 2 had written contemporaneous notes of her meeting with Patient B and when sent to Patient B, she confirmed its accuracy. The panel further considered that you had described similar incidents in which you had hugged Patient B when you were in her home and that you gone on a dog walk with her. The panel therefore accepted the evidence of Patient B and attached significant weight to it with respect to this charge.

The panel was of the view that given the nature of such inappropriate physical contacts, it was clear that you had breached professional boundaries with Patient B. However, the

panel determined that there was insufficient evidence to demonstrate that you had actually held Patient B's face as Patient B had only described you attempting to hold her face towards yours but did not specify this involved you actually holding her face.

Based on the evidence before it, the panel was satisfied that it was more likely than not that between November 2020 and November 2021, you had breached professional boundaries with Patient B on one or more occasion in that you had engaged in inappropriate physical contact with Patient B as described in charges 4f (i), 4f (iii) and 4f (iv). The panel therefore found charges 4f (i), 4f (iii) and 4f (iv) proved on the balance of probabilities. It however found charge 4f (ii) not proved.

**Charge 4g**

4. Between November 2020 and November 2021 breached professional boundaries with Patient B, on one or more occasions in that you:
   g. threatened to discharge Patient B from treatment if they did not comply with your requests.

**This charge is found proved.**

The panel took account of Witness 2's Notes of Meeting with Patient B in which Patient B told Witness 2 that you had threatened to discharge her from treatment if she did not engage in the programme, spend time with you on social outings and have home visits. The panel took into account that Patient B had also made text notes of this incident as described above. Colleague 4 further confirmed in her written statement that Witness 2 had made a contemporaneous note of the incident as described by Patient B in her meeting with them.

The panel took into consideration that you denied the allegations and described them as misunderstandings of your actions by Patient B. In your witness statement dated 22 October 2024, you stated that you had only informed Patient B that she would soon be

discharged when her [PRIVATE] treatment was completed. You stated that Patient B would become upset and had stated that she did not want to be discharged.

The panel was of the view that although Patient B's evidence is hearsay, her account of the incident is clear and consistent, in Witness 2's Notes of Meeting and Patient B's text notes, that you had threatened to discharge her from treatment if she did not comply with your requests. The panel considered that Witness 2 had written contemporaneous notes of her meeting with Patient B and when sent to Patient B, she confirmed its accuracy. The panel further considered that you had accepted that you had told Patient B that she would be discharged but this was in accordance with general protocol. The panel therefore accepted the evidence of Patient B and attached significant weight to it with respect to this charge.

Based on the evidence before it, the panel was satisfied that it was more likely than not that between November 2020 and November 2021, you had breached professional boundaries with Patient B on one or more occasion in that you had threatened to discharge her from treatment if she did not comply with your requests. The panel therefore found charge 4g proved on the balance of probabilities.

**Charge 5**

5. Your actions in charge 4 above were sexually motivated in that you were pursuing a sexual relationship.

**This charge is found proved.**

The panel took account of your conduct in charge 4 and considered whether it was sexually motivated in that you were in pursuit of a sexual relationship with Patient B.

The panel had regard to the Trust's Sexual Relationships Policy as well as its Sexual Safety Policy. The panel took into account that both Witnesses 1 and 2 confirmed in their oral

evidence that although staff members were allowed to take service users to social outings, this must be undertaken within the Trust's working hours and with the express permission of the staff's manager. They also stated that staff members were not usually allowed to use their personal telephone numbers to contact service users and were only allowed to contact service users outside working hours with work phone numbers when there is a valid clinical reason. Witnesses 1 and 2 further stated that staff members were prohibited from consuming alcohol with service users and could only visit them at their homes or workplace when there is a valid clinical reason. Furthermore, any exchange of gifts between staff members and service users must be done with the permission of the staff's manager.

The panel noted that both Witnesses 1 and 2 described your actions in charge 4 to be inappropriate and that they breached professional boundaries with Patient B.

The panel noted that you denied the allegation that your conduct in charge 4 was sexually motivated in that you were in pursuit of a sexual relationship with Patient B. You stated that you were merely being overfriendly to Patient B and your actions formed part of your style of practice in which you go over and above your normal duties in order to assist service users and [PRIVATE].

However, the panel was of the view that given the vulnerable nature of Patient B and your level of experience as a registered nurse, it was your responsibility as a registered nurse to manage your relationship with Patient B to ensure that it did not breach professional boundaries and to adhere to the Trust's Sexual Relationships Policy as well as its Sexual Safety Policy.

In this regard, the panel rejected your explanations of your conduct. It was of the view that your actions in charge 4 were wholly inappropriate, and when viewed in totality, they formed a pattern of behaviour in which you consistently breached the professional boundaries between you and Patient B. The panel noted that there was evidence that your actions caused distress to Patient B. The panel considered the text message from Patient B to you dated 16 November 2021 in which she described your conduct towards her as

generally disgusting. Patient B also stated that she would not have gone on social outings with you if she knew it was done outside your working hours. She further described the various inappropriate comments you had made towards her as *'sick'* and they made her feel '*dirty*' and *'sexualised'* and to lose her dignity. This led Patient B to disengage from her treatment and to block you from contacting her.

The panel further considered that given that similar allegations had been made against you with respect to another service user, there appears to be a pattern of behaviour relating to blurring of professional boundaries towards female service users under your care. The panel noted that there was a lack of evidence to suggest that you had engaged in similar relationships with male service users.

[PRIVATE].

Therefore, the panel was of the view that although at the outset of your allocation to Patient B, your conduct towards her may not have been sexually motivated, it was reasonable to infer that, based on the inappropriate content of your electronic messages with Patient B and the totality of your conduct towards her, a sexual motivation had developed during your regular contacts with her.

Accordingly, the panel was satisfied that there was sufficient evidence before it to determine that it was more likely than not that your actions in charge 4 were sexually motivated in that you were in pursuit of a sexual relationship with Patient B. The panel therefore found charge 5 proved on the balance of probabilities.

**Charge 6**

6. Your actions in charge 4 above were motivated by the knowledge of Patient B's vulnerability.

**This charge is found proved.**

The panel took into account that Witness 2 had stated in her witness statement dated 17 July 2023 that you were aware that Patient B was extremely vulnerable and [PRIVATE]. The panel noted that you confirmed your awareness of Patient B's vulnerability during your oral evidence to the panel given that you were her care coordinator, but you denied this charge.

The panel took into consideration that you stated that your actions in charge 4 were motivated by your desire to assist Patient B to [PRIVATE]. However, the panel determined that given the inappropriate nature of your conduct towards Patient B that consistently breached professional boundaries, it was reasonable to infer that your actions were motivated by knowledge of Patient B's vulnerability. Accordingly, the panel found charge 6 proved on the balance of probabilities.

**Charge 7a**

7. Your actions at all or any of charge 4 above harassed Patient B as:

    a. it was unwanted conduct of a sexual nature.

**This charge is found proved.**

The panel took account of your conduct in charge 4 and considered whether it harassed Patient B in that it was unwanted conduct of a sexual nature.

The panel considered '*harassment'* in its ordinary dictionary meaning as '*pestering', 'annoying', 'molestation', 'intimidation'.*

The panel noted that you had denied this allegation.

In examining whether each of your actions in charge 4 amounted to unwanted sexual conduct, the panel considered the nature and surrounding circumstances of each of your

actions. In this regard, the panel determined that your conduct in charges 4a, 4b, 4c (i), 4c (vi), all of your actions found proved in 4e (Schedule 2 except schedule 2b which was not found proved), your actions found proved in charge 4f (except 4f (ii) which was not found proved) and 4g amounted to unwanted conduct of a sexual nature. The panel did not consider charges 4c (ii), 4c (iii), 4c (iv), 4c (v) and 4d as unwanted conduct of a sexual nature, due to their nature and surrounding circumstances.

The panel considered the text message from Patient B to you dated 16 November 2021 in which she described your conduct towards her as generally disgusting. Patient B also stated that she would not have gone on social outings with you if she knew it was done outside your working hours. She further described the various inappropriate comments you had made towards her as *'sick'* and they made her feel '*dirty*' and *'sexualised'*. The panel also took account of Witness 2's Notes of Meeting with Patient B in which Patient B further told Witness 2 that your various actions towards her made her feel uncomfortable, helpless and anxious.

The panel was of the view that although Patient B's evidence is hearsay, her accounts of the incident are clear and consistent in Witness 2's Notes of Meeting and Patient B's text message to you. The panel considered that Witness 2 had written contemporaneous notes of her meeting with Patient B and when sent to Patient B, she confirmed its accuracy. The panel therefore accepted the evidence of Patient B that some of your actions in charge 4 had harassed her.

The panel was of the view that the allegation in relation to Patients A and B demonstrate a pattern of behaviour with striking similarities. This includes the vulnerable position of the service users, their gender, broad appearance, use of personal phone for contact, blurring of professional boundaries, gift giving and invitations to take part in social events outside of work. These factors together with your partial admissions, the existence of relevant contemporaneous notes and the manner in which the statement was obtained from Patient B led the panel to place significant weight on this evidence.

Based on the evidence before it, the panel was satisfied that it was more likely than not that your actions in charges 4a, 4b, 4c (i), 4c (vi), all of your actions found proved in 4e, 4f and 4g, had harassed Patient B as it was unwanted conduct of a sexual nature. The panel therefore found charge 7a proved on the balance of probabilities.

**Charges 7b (i) (ii)**

7. Your actions at all or any of charge 4 above harassed Patient B as:

   b. your actions had the purpose or effect of:

      i. violating Patient b's dignity
      ii. created an intimidating, hostile, degrading, humiliating or offensive environment for Patient B

**These charges are found proved.**

The panel bore in mind that it had earlier determined that on the balance of probabilities, your actions in charges 4a, 4b, 4c (i), 4c (vi), all of your actions found proved in 4e, 4f and 4g, had harassed Patient B. The panel therefore considered charge 7b in the context of these charges.

The panel took into account that you denied this allegation. You stated that your actions in charge 4 were tailored to provide care to Patient B and [PRIVATE]. You insisted that you were merely being especially friendly towards her and that you usually go over and beyond your normal duties to assist service users under care.

The panel examined the nature and surrounding circumstances of your actions in charge 4. It was satisfied that there was insufficient evidence to demonstrate that your actions had the intended purpose to violate Patient B's dignity or to create an intimidating, hostile, degrading, humiliating or offensive environment for her.

The panel considered the text message from Patient B to you dated 16 November 2021 as well as Witness 2's Notes of Meeting with Patient B. The panel was of the view that although Patient B's evidence is hearsay, her accounts of the incident are clear and consistent in Witness 2's Notes of Meeting and Patient B's text message to you. The panel considered that Witness 2 had written contemporaneous notes of her meeting with Patient B and when sent to Patient B, she confirmed its accuracy. The panel therefore accepted the evidence of Patient B and therefore attached significant weight to it with respect to these charges.

The panel took into account that in Patient B's text message to you dated 16 November 2021, she generally described your conduct towards her as disgusting. Patient B described the various inappropriate comments you had made towards her as *'sick'* and that they made her feel '*dirty*', *'sexualised'* and to lose her dignity. Based on this evidence, the panel was satisfied that it was more likely than not that your actions in charge 4 had harassed Patient B in that they had the effect of violating Patient B's dignity. The panel therefore found charge 7b (i) proved.

With regard to charge 7b (ii), the panel considered Witness 2's Notes of Meeting with Patient B. The panel was of the view that the effect of your conduct in charge 4 created an intimidating environment in that Patient B had reported that she felt pressured to accede to your requests and felt that she could not stand up to you. She further described how she hid in her '*loo'* when you visited her home.

The panel considered that Patient B stated that your conduct in charge 4 made her feel dirty, sexualised and to lose her dignity. She further stated that she felt uncomfortable and pressured whenever she was with you. The panel was of the view that the effect of your actions in charge 4 created a humiliating, degrading and an offensive environment for Patient B. However, the panel determined that there was insufficient evidence to demonstrate that your actions had the effect of creating a hostile environment for Patient B.

Based on the evidence before it, the panel was satisfied that it was more likely than not that your actions in charge 4 had harassed Patient B in that they had the effect of creating an intimidating, degrading, humiliating or offensive environment for Patient B. The panel therefore found charge 7b (ii) proved.

**Charge 8**

8. Failed to keep accurate records of all contacts with Patient A and/or Patient B.

**This charge is found proved.**

The panel had regard to the Trust's Clinical Record Keeping Guidance for Clinical Practice. The panel took into account that Witness 2 stated in her witness statement dated 17 July 2023 that you failed to keep accurate records of all your communications with Patients A and B. However, you documented other service users' text messages in their respective records. Witness 2 had also made a similar account in the Notes of Interview dated 4 November 2022.

The panel took into consideration that you denied this allegation. You stated in your Timeline Statement that you were unclear on where to document your contacts with Patient A as you stated that you had not received any training for the role. You also stated during your oral evidence that you had not recorded some of your contacts with Patient B as such contacts were usually outside your working hours and you felt that there was no need to record them.

The panel considered the Trust Investigation Report which outlined the several instances in which you failed to keep accurate records of your contacts with Patient A and that you had provided various justifications for your failure to keep accurate records.

Based on the evidence before it, the panel determined that it was more likely than not that you failed to keep accurate records of all contact with Patients A and B. Accordingly, the panel found charge 8 proved on the balance of probabilities.

**Decision and reasons on proceeding in the absence of Mr Millward on day 7 of the proceedings**

Mr Nwokedi informed the panel that he had received an email from you, in the early hours of the morning, stating that [PRIVATE] and would no longer be able to participate in the proceedings. Mr Nwokedi told the panel that he had received full instructions from you to present your position with respect to misconduct and impairment. He submitted that there was no indication from you that you wanted the hearing to be postponed, and it is a matter for the panel to decide if the hearing should proceed in your absence.

Mr Radley submitted that given that you had fully participated in the fact-finding stage and that you are currently being represented by Mr Nwokedi, it is fair for the hearing to proceed in your absence.

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

The panel has decided to proceed in your absence. In reaching this decision, the panel has considered the submissions of Mr Nwokedi and those made by Mr Radley as well as the advice of the legal assessor. It has had particular regard to the NMC Guidance on Proceeding with hearings when the nurse, midwife or nursing associate is absent (CMT-8), the provisions of Rule 32(4) and had regard to the overall interests of justice and fairness to all parties. It noted that:

- You had actively engaged with the proceedings in the fact-finding stage and received the panel's determination on facts;
- You are currently represented at the hearing by Mr Nwokedi and he has obtained instructions from you to present your position;
- No application for an adjournment has been made by you;

- There is no reason to suppose that adjourning would secure your attendance at some future date; and
- There is a strong public interest in the expeditious disposal of this case.

In these circumstances, the panel determined that it is fair and appropriate to proceed in your absence. The panel will draw no adverse inference from your subsequent absence in its findings.

**Fitness to practise**

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

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

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

**Submissions on misconduct**

Mr Radley referred the panel 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. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a practitioner in the particular circumstances'.*

Mr Radley further referred the panel to the comments of Jackson J in the case of *Calhaem v GMC* [2007] EWHC 2606 (Admin)

*'[Misconduct] connotes a serious breach which indicates that the [Nurse's] fitness to practice is impaired.*

*And*

*'The adjective 'serious' must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners.'*

Mr Radley submitted that your conduct in the charges found proved was a serious departure from the standards expected of a registered nurse and such departure was sufficiently serious as to warrant a finding of serious professional misconduct in this case. He submitted that your conduct breached the following sections of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2018' ("the Code"): 1, 2, 3, 4, 5.4, 5.5, 6.1, 6.2, 8, 10, 13, 14.1, 14.2, 14.3, 16.5, 16.6, 17.1, 19.1, 19.3, 20.1, 20.2, 20.3, 20.4, 20.5, 20.6, 20.8, 21.3, 24.2, 25.1 and 25.2.

Mr Radley submitted that your conduct in the charges found proven were failings directly related to the care of mental health patients and the management of patients who are vulnerable. He submitted that your relationship with other staff at the Trust was clearly lacking professional understanding and left colleagues feeling betrayed as confirmed by Witness 2. Mr Radley submitted that your actions were not simply breaches of a local disciplinary policy nor minor concerns, they were matters at the heart of and fundamental

to the nursing practice, for example, integrity and abuse of position of trust, sexual gratification and acting on vulnerabilities.

Mr Radley referred the panel to the NMC Guidance on Serious concerns which are more difficult to put right (FTP-3a). He submitted that the concerns in this case fall into this category and these are serious concerns at the heart of a caring profession. He stated that in considering seriousness of the misconduct, the panel may take into account evidence of any relevant contextual factors, however, it is the position of the NMC that there is little to assist the panel. He submitted that it may be concerning to the panel that the concerns involving Patient B did not come to light until now. This may demonstrate to the panel your ability to hide behaviours from other colleagues.

In making its decision on misconduct, Mr Radley invited the panel to consider the following factors:

- The period of time that the misconduct took place over,
- The distress caused to Patients A and B
- The clear vulnerabilities with no evidence of therapeutic advantage to Patients A and B.
- Inappropriate physical contact of a Patient.
- The potential serious outcome of the misconduct, for example, [PRIVATE].
- The lack of professionalism in your behaviour towards other staff.
- The lack of accurate recordkeeping and reasons for your decisions.
- Your lack of professionalism as a registered nurse such as meeting patients outside work, sending gifts and drinking alcohol with them.
- Failure to adhere to Trust’s policies

Mr Radley asserted that these factors could have a serious effect on patient trust and confidence in the nursing profession, especially in the case of the vulnerable patients involved in this case. He submitted that this underscores the need for your conduct to be found as serious misconduct in this case.

Mr Nwokedi stated that you accept that your actions in the charges found proved amount to misconduct.

**Submissions on impairment**

Mr Radley referred the panel to Article 22(1)(a) of the Nursing and Midwifery Order 2001. He stated that the panel should consider the following question in deciding whether a professional's fitness to practise is impaired:

> *'Can the nurse, midwife or nursing associate practise Kindly, safely and professionally?'*

Mr Radley further invited the panel to consider the factors set out by Dame Janet Smith in her Fifth Report from Shipman, approved in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Mr Radley submitted that your actions breached fundamental tenets of the nursing profession and therefore your fitness to practise is currently impaired. He asserted that a finding of impairment is required to mark the unacceptability of your behaviour, emphasise the importance of the fundamental tenets breached, and to reaffirm proper standards or behaviour. He referred the panel to the case of *Yeong v GMC* [2009] EWHC 1923 (Admin) per Hamer, paragraph 37.09.

Mr Radley invited the panel to consider the context in which the incidents occurred. He highlighted the following factors:

- Any factors relating to the professional existing at the time of the charges.
- The professional's working environment and culture.

- The lack of cooperation with the investigation internally and your resignation.
- The persistent and negative behaviour exhibited towards patients
- The threatening manner to other staff

Mr Radley submitted that the above factors and any others within the case substantially adversely affected your ability to practise professionally and as a consequence, you will not be able to demonstrate that you are currently able to practise kindly, safely and professionally.

Mr Radley submitted that with respect to your insight and any steps you have taken to strengthen your practice, you have only provided limited evidence. He highlighted that you denied a number of the allegations, causing the witnesses to attend to give evidence. He submitted that you have not shown full acceptance and insight into your conduct, neither have you taken any step to address the concerns nor provided any references or training courses completed. He asserted that this increases the risk of repetition in this case and therefore, a finding of impairment is required on both grounds of public protection and public interest.

Mr Nwokedi stated that, upon consideration and reflection on the panel's findings on facts, you accept that your fitness to practise is impaired on the ground of public interest based on the necessity to maintain public confidence in the nursing profession. He submitted that a fully informed member of the public, aware of the charges found proved, would be very concerned if a finding of impairment is not made in your case. Mr Nwokedi submitted that although you disputed some of the facts found proved, you accept the panel findings on facts out of respect to the process.

Mr Nwokedi submitted that although you have not provided any documentary evidence with respect to any training you had completed nor any testimonials, it should be noted that you made admissions to some of the charges at the outset of this hearing and had provided evidence of your insight and remorse during your oral evidence at the fact-finding

stage. He submitted that you had dedicated your life to the nursing profession, and you have had an otherwise unblemished career before the incidents occurred. He stated that it was due to your respect to the nursing profession that you accept misconduct and impairment.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments.

**Decision and reasons on misconduct**

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

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

> ***'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*
> ***1.3*** *avoid making assumptions and recognise diversity and individual choice*
> ***1.4*** *make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay*
> ***1.5*** *respect and uphold people's human rights*
>
> ***2 Listen to people and respond to their preferences and concerns***
> *To achieve this, you must:*
> ***2.1*** *work in partnership with people to make sure you deliver care effectively*
> ***2.2*** *recognise and respect the contribution that people can make to their own health and wellbeing*

***2.3*** *encourage and empower people to share decisions about their treatment and care*

***2.4*** *respect the level to which people receiving care want to be involved in decisions about their own health, wellbeing and care*

***2.5*** *respect, support and document a person's right to accept or refuse care and treatment*

***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*

***3.2*** *recognise and respond compassionately to the needs of those who are in the last few days and hours of life*

***3.3*** *act in partnership with those receiving care, helping them to access relevant health and social care, information and support when they need it*

***3.4*** *act as an advocate for the vulnerable, challenging poor practice and discriminatory attitudes and behaviour relating to their care*

***4 Act in the best interests of people at all times***

*To achieve this, you must:*

***4.1*** *balance the need to act in the best interests of people at all times with the requirement to respect a person's right to accept or refuse treatment*

***4.2*** *make sure that you get properly informed consent and document it before carrying out any action*

***4.3*** *keep to all relevant laws about mental capacity that apply in the country in which you are practising, and make sure that the rights and best interests of those who lack capacity are still at the centre of the decision-making process*

*__4.4__ tell colleagues, your manager and the person receiving care if you have a conscientious objection to a particular procedure and arrange for a suitably qualified colleague to take over responsibility for that person's care*

***5 Respect people's right to privacy and confidentiality***

*As a nurse, midwife or nursing associate, you owe a duty of confidentiality to all those who are receiving care. This includes making sure that they are informed about their care and that information about them is shared appropriately.*

*To achieve this, you must:*

*__5.4__ share necessary information with other health and care professionals and agencies only when the interests of patient safety and public protection override the need for confidentiality*

*__5.5__ share with people, their families and their carers, as far as the law allows, the information they want or need to know about their health, care and ongoing treatment sensitively and in a way they can understand*

***6 Always practise in line with the best available evidence***

*To achieve this, you must:*

*__6.2__ maintain the knowledge and skills you need for safe and effective practice*

***8 Work cooperatively***

*To achieve this, you must:*

*__8.1__ respect the skills, expertise and contributions of your colleagues, referring matters to them when appropriate*

*__8.2__ maintain effective communication with colleagues*

*__8.3__ keep colleagues informed when you are sharing the care of individuals with other health and care professionals and staff*

*__8.4__ work with colleagues to evaluate the quality of your work and that of the team*

*__8.5__ work with colleagues to preserve the safety of those receiving care*

*__8.6__ share information to identify and reduce risk*

***10 Keep clear and accurate records relevant to your practice***

*This applies to the records that are relevant to your scope of practice. It includes but is not limited to patient records.*

*To achieve this, you must:*

***10.1*** *complete all records at the time or as soon as possible after an event, recording if the notes are written some time after the event*

***10.2*** *identify any risks or problems that have arisen and the steps taken to deal with them, so that colleagues who use the records have all the information they need*

***10.3*** *complete all records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements*

***10.5*** *take all steps to make sure that all records are kept securely*

***13 Recognise and work within the limits of your competence***

*To achieve this, you must, as appropriate:*

***13.3*** *ask for help from a suitably qualified and experienced professional to carry out any action or procedure that is beyond the limits of your competence*

***13.4*** *take account of your own personal safety as well as the safety of people in your care*

***13.5*** *complete the necessary training before carrying out a new role*

***14 Be open and candid with all service users about all aspects of care and treatment, including when any mistakes or harm have taken place***

*To achieve this, you must:*

***14.1*** *act immediately to put right the situation if someone has suffered actual harm for any reason or an incident has happened which had the potential for harm*

***14.2*** *explain fully and promptly what has happened, including the likely effects, and apologise to the person affected and, where appropriate, their advocate, family or carers*

***14.3*** *document all these events formally and take further action (escalate) if appropriate so they can be dealt with quickly*

***16 Act without delay if you believe that there is a risk to patient safety or public protection***

*To achieve this, you must:*

***16.5*** *not obstruct, intimidate, victimise or in any way hinder a colleague, member of staff, person you care for or member of the public who wants to raise a concern*

***16.6*** *protect anyone you have management responsibility for from any harm, detriment, victimisation or unwarranted treatment after a concern is raised*

***17 Raise concerns immediately if you believe a person is vulnerable or at risk and needs extra support and protection***

*To achieve this, you must:*

***17.1*** *take all reasonable steps to protect people who are vulnerable or at risk from harm, neglect or abuse*

***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*

***20 Uphold the reputation of your profession at all times***

*To achieve this, you must:*

***20.1*** *keep to and uphold the standards and values set out in the Code*

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

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

***20.4*** *keep to the laws of the country in which you are practising*

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

***20.6*** *stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers*
***20.8*** *act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to*

***24 Respond to any complaints made against you professionally***
*To achieve this, you must:*
***24.2*** *use all complaints as a form of feedback and an opportunity for reflection and learning to improve practice*

***25 Provide leadership to make sure people's wellbeing is protected and to improve their experiences of the health and care system***
*To achieve this, you must:*
***25.1*** *identify priorities, manage time, staff and resources effectively and deal with risk to make sure that the quality of care or service you deliver is maintained and improved, putting the needs of those receiving care or services first'*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct.

The panel took into consideration that it had earlier determined that you had breached professional boundaries with Patients A and B in that you were in pursuit of a sexual relationship with them. The panel noted that some of your actions towards Patient A, when viewed in isolation, were not so serious to amount to misconduct. However, given that there was evidence of similar behaviour towards Patient B in the past, the panel was of the view that the totality of your actions towards Patient A formed a pattern of behaviour which was gravitating towards a sexual relationship with Patient A.

The panel was concerned that [PRIVATE], you abused the position of trust that exists between a registered nurse and a service user, and exploited their vulnerability at the

time, to engage in sexually motivated interactions with them, in pursuit of a sexual relationship. The panel was of the view that your actions posed a risk of harm and caused actual harm to them in terms of emotional and psychological distress. It noted that your interactions with Patient A were so concerning to her that she decided to cancel subsequent appointments with you and [PRIVATE]. Furthermore, Patient B stated that your actions made her feel '*dirty*', *'sexualised'* and to lose her dignity.

The panel therefore considered your conduct towards Patients A and B to be extremely serious and that they would be seen as deplorable by other members of the profession and members of the public. It determined that your actions constituted a serious breach of fundamental standards of professional conduct and behaviour that a registered nurse is expected to maintain as well as a serious breach of the fundamental tenets of the nursing profession.

The panel noted that you also failed to keep accurate records of all contacts with Patient A and Patient B. The panel considers accurate record-keeping and effective communication as some of the fundamental tenets of the nursing profession. It was of the view that your conduct may have deprived your colleagues and the appropriate health professionals from being aware of your interactions with Patients A and B to ensure the continuity of care provided. This posed a risk of harm to Patients A and B.

Consequently, having considered the proven charges individually and in totality, the panel determined that your actions in the charges found proved, did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

**Decision and reasons on impairment**

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

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

The panel had regard to the NMC Guidance on Impairment especially the question which states:

> '*Can the nurse, midwife or nursing associate practise kindly, safely and professionally?'*

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 first considered whether any of the limbs of the Grant test were engaged in the past. The panel noted that, at the time of the incidents, your actions caused apparent emotional and psychological distress to Patients A and B. The panel therefore determined that your misconduct had placed Patients A and B at an unwarranted risk of harm and caused actual harm to them in terms of emotional and psychological distress.

The panel determined that your misconduct constituted a serious breach of the fundamental tenets of the nursing profession as you failed to uphold the standards and values of the nursing profession, thereby bringing the reputation of the nursing profession into disrepute.

The panel therefore concluded that limbs a, b and c of the Grant test were engaged in the past.

The panel next considered whether the limbs of the *Grant* test are engaged in the future. In this regard, the panel considered the case of *Cohen v GMC* [2008] EWHC 581 (Admin) where the court addressed the issue of impairment with regard to the following three considerations:

a. *'Is the conduct that led to the charge easily remediable?*

b. *Has it in fact been remedied?*

c. *Is it highly unlikely to be repeated?'*

In this regard, the panel also considered the factors set out in the NMC Guidance on insight and strengthened practice (FTP-15).

The panel first considered whether your misconduct is capable of being addressed. In the NMC Guidance – Can the concern be addressed (FTP-14a), the panel noted the following paragraph:

> *'In cases like this, and in cases where the behaviour suggests underlying problems with the nurse, midwife or nursing associate's attitude, it is less likely the nurse, midwife or nursing associate will be able to address their conduct by taking steps, such as completing training courses or supervised practice.*
>
> *Examples of conduct which may not be possible to address, and where steps such as training courses or supervision at work are unlikely to address the concerns include:*
>
> - *….*
> - *inappropriate personal or sexual relationships with people receiving care or other vulnerable people or abusing their position as a registered nurse, midwife or nursing associate or other position of power to exploit, coerce or obtain a benefit'*

The panel was of the view that the concerns in this case are difficult to remediate due to the serious nature and impact of your actions on Patients A and B who were vulnerable persons under your care at the time of the incidents.

The panel then went on to consider whether the concerns have been addressed and remediated. It had regard to the NMC Guidance – Has the concern been addressed (FTP-

15b). Regarding insight, the panel took into account your Timeline Statement, your Statement dated 22 October 2024 and your oral evidence. The panel considered that you made admissions to some of the charges, shown some remorse and apologised for your actions. The panel took into account that you have demonstrated some insight into the seriousness of your conduct and its impact on Patients A and B, your colleagues, the nursing profession and the wider public. You have also set out how you would act differently if a similar situation should occur in the future or to prevent such a situation from re-occurring.

However, the panel noted that you sought to provide justifications for some of your actions. The panel therefore determined that you failed to demonstrate sufficient insight into your misconduct.

In considering whether you have strengthened your nursing practice, the panel noted that you did not provide any evidence of testimonials nor training in the areas of concern to demonstrate any positive steps you had taken to strengthen your nursing practice. Whilst the panel recognised that you had not been practising as a nurse in the last two years, it was of the view that evidence of transferable training or experience could have been provided.

In light of this, the panel was not satisfied that any of the concerns had been remediated nor had you strengthened your nursing practice. Accordingly, the panel determined that your misconduct is highly likely to be repeated, and limbs a, b and c of the *Grant* test are engaged in the future. The panel was of the view that your actions pose a significant risk of harm to the public. It considered that patients/service users should not feel confused or doubtful about their clinical relationships with nurses and health professionals as this could discourage members of the public from seeking/accessing clinical care when required.

The panel therefore concluded 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 had regard to the serious nature of your misconduct and the public protection issues it had identified. It determined that public confidence in the profession, particularly as the misconduct involved breach of professional boundaries and sexually motivated interactions with vulnerable service users, would be undermined if a finding of impairment were not made in this case. The panel was of the view that members of the public should be able to access clinical care without any concern for breach of professional boundaries or sexual interaction by registered nurses.

For these reasons, the panel determined that a finding of current impairment on public interest grounds is required. It decided that this finding is necessary to mark the seriousness of the misconduct, the importance of maintaining public confidence in the nursing profession, and to uphold proper professional standards for members of the nursing profession.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired 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 your name off the register. The effect of this order is that the NMC register will show that your name 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.

**Submissions on sanction**

Mr Radley submitted that in considering sanction, the panel should find a fair balance between the registered nurse's rights and the overarching objective of public protection. He stated that the panel should also consider whether the sanction with the least impact on your nursing practice would be enough to achieve public protection and be in the wider public interest by deciding on the reasons why you are not currently fit to practise and any aggravating or mitigating features. Mr Radley reminded the panel that in considering sanction, the proper approach is to consider the full range of sanctions, starting with the least restrictive order and apply the principle of proportionality.

Mr Radley submitted that it is the position of the NMC that you are not currently fit to practise as a registered nurse and that the panel could justifiably restrict your nursing practice in this case.

Mr Radley submitted that the aggravating factors in this case are as follows:

1. *'Registered nurses occupy a position of privilege and trust in the community and must maintain professional boundaries at all times*
2. *lack of sufficient insight into failings,*
3. *grooming type of behaviour*
4. *This could carry a significant impact on the profession*
5. *The three limbs of the Grant test are engaged*

6. *Patients were placed in unwarranted risk of harm/ physical distress (nurse taking advantage of vulnerabilities and for the purpose of sexual motivation)*

7. *Breaching a number of fundamental tenets of the profession*

8. *Lack of understanding of the seriousness of his actions*

9. *Lack of relevant up to date training/ references/ reflection or evidence understanding the mischief*

10. *Public interest and public protection are engaged*

11. *Attitudinal concerns towards staff and some colleagues as well as the treatment of patients A/B.'*

In terms of mitigating factors, Mr Radley submitted that the panel may consider the following:

1. '*No previous regulatory or disciplinary findings*
2. *Partial admissions*
3. *Age and experience*
4. *Previous good service'.*

Mr Radley submitted that the most appropriate and proportionate sanction in this case is a striking-off order. He submitted that a striking-off order is appropriate on the basis of your lack of insight, the risk of harm posed to Patients A and B given their vulnerabilities at the time of the incidents, your lack of acceptance of some of the charges, your sexual misconduct is more difficult to put right, the serious misconduct in this case and there is no alternative sanction that would be appropriate to address the seriousness of your misconduct.

Mr Nwokedi invited the panel to consider that the most appropriate and proportionate sanction in this case is a conditions of practice order. He submitted that a conditions of

practice order could protect patients by addressing the concerns in this case. He asserted that such sanction would protect the public and further address any concerns about public confidence or proper professional standards.

Mr Nwokedi submitted that you have been a dedicated nurse for almost two decades and your nursing role has formed part of your identity. He highlighted that Witness 2 had stated during her evidence that you were a dedicated, reliable and good nurse during your time at the Trust. He submitted that you have had an otherwise unblemished career until the incidents and in this case, there was no concerns raised about your competence as a registered nurse.

Mr Nwokedi highlighted that upon reflection on the panel's findings on facts, you had accepted that your actions amounted to misconduct and that your fitness to practise is impaired. He submitted that you have the utmost respect for the NMC and the nursing profession and it was not your intention to cause harm to patients.

Mr Nwokedi submitted that you are willing to do what is necessary to return to the nursing profession and you had already started taking some steps to address the concerns. He highlighted that you stated during your evidence that [PRIVATE] and you have actively searched for various documents about maintaining professional boundaries.

Mr Nwokedi reminded the panel that you made partial admissions to the charges before the commencement of this hearing, particularly in relation to charges involving Patient B whose evidence was hearsay. He submitted that this shows your ability to reflect on your actions and make necessary adjustment even when it is difficult for you. Mr Nwokedi submitted that this further demonstrates your capacity to address the concerns in this case and you have indicated your willingness to comply with any condition of practice imposed on you.

Mr Nwokedi suggested that the panel could impose conditions that includes measures to ensure that you are accompanied or supervised during any contacts with service users.

He further suggested that conditions of practice could include training on professional boundaries, weekly check-ups with supervisors, having contacts with patients only on clinical or hospital premises and restrictions to providing care to solely male patients. He submitted that you are considering the option of working in the mental health unit of a male prison. Mr Nwokedi submitted that the above suggested conditions are proportionate and workable and would protect patients. He submitted that you could further take training courses or remedial work which would allow you to correct the errors in your methodology of practice.

Mr Nwokedi submitted that if the panel is not minded to impose a conditions of practice order, a suspension order could be imposed on your nursing practice. He submitted that a suspension order would convey the seriousness of the misconduct to the public and the profession and it would provide you an opportunity for further reflection and self-assessment. He highlighted that the misconduct in this case does not stem from dishonesty or fraudulent actions. This supports the argument that the temporary suspension, rather than striking off, would be sufficient to protect the public and maintain confidence in the nursing profession.

Mr Nwokedi submitted that given your long-standing unblemished record prior to these incidents, a suspension order is a proportionate response that aligns with the severity of the misconduct, while allowing you a chance to restore your professional standing. He asserted that a striking-off order would be disproportionate as it is the most severe sanction reserved for cases involving the most egregious of breaches. Mr Nwokedi submitted that you are committed to addressing your misconduct, your willingness to adhere to stringent conditions and retraining demonstrates a capacity for change and the readiness to be a safe practitioner under the necessary safeguards. He submitted that public confidence in the nursing profession could still be maintained with conditions of practise order or a suspension order, both of which reflect the seriousness of the misconduct without ending your career.

Mr Nwokedi submitted that a striking-off order would be unnecessarily punitive, especially given your previously unblemished record and your long-standing dedication to nursing. He submitted that the healthcare system would lose a skilled and experienced professional as your vast experience and skill could still benefit the nursing profession, provided that adequate conditions are in place to ensure safe practice.

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

**Decision and reasons on sanction**

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

The panel identified the following aggravating factors:

- Registered nurses occupy a position of privilege and trust in the community and must maintain professional boundaries at all times, but you abused your position of trust.
- Your actions demonstrate a pattern of predatory behaviour.
- Attitudinal concerns towards the treatment of Patients A and B.
- Your conduct placed Patients A and B at unwarranted risk of harm and caused actual harm in terms of emotional and psychological distress.
- Insufficient insight and a lack of detailed reflection into your misconduct.
- Insufficient understanding of the seriousness of your actions.
- Lack of evidence of relevant up to date training and testimonials.
- Your conduct amounted to serious breach of fundamental tenets of the nursing profession.

- Your misconduct could have significant impact on the reputation of the nursing profession.
- The three limbs of the Grant test are engaged in this case.
- Both grounds of public protection and public interest are engaged

The panel also identified the following mitigating factors

- You made some admissions to some of the charges at the outset of the hearing.
- You demonstrated some evidence of remorse during the hearing.
- You have had an otherwise unblemished career prior to the incidents.
- Your twenty years of experience as a registered nurse.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. It had found that your actions pose a significant risk of harm to the public, had breached fundamental tenets of the nursing profession and your misconduct would undermine the public's confidence in the nursing profession if you were allowed to practise without restriction. The panel therefore determined that it would neither protect the public nor be in the public interest to take no further action.

The panel 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 your nursing practice would not be appropriate in the circumstances. The NMC Sanctions Guidance on Caution order (SAN-3b) 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 your 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 therefore determined that a caution order would neither protect the public nor be in the public interest.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be relevant, proportionate, measurable and workable. The panel took into account the NMC Sanctions Guidance on Conditions of practice order (SAN-3c), in particular:

> *'Conditions may be appropriate when some or all of the following factors are apparent:*
>
> - *No evidence of harmful deep-seated personality or attitudinal problems;*
> - *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
> - *No evidence of general incompetence;*
> - *Potential and willingness to respond positively to retraining;*
> - *……*
> - *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
> - *The conditions will protect patients during the period they are in force; and*
> - *Conditions can be created that can be monitored and assessed.'*

The panel determined that the sustained pattern of misconduct over an extended period of time towards vulnerable service users under your care, the predatory and serious nature of your misconduct and your lack of sufficient insight into your actions are suggestive of harmful deep-seated attitudinal concerns. It was of the view that these deep-seated attitudinal concerns could not be addressed through retraining and are difficult to remediate.

The panel considered the submissions made by Mr Nwokedi and his suggested conditions of practice. The panel noted that the CHRE Guidance titled '*Clear*

*sexual boundaries between healthcare professionals and patients: responsibilities of healthcare professionals'* states:

> *'In determining sanction, panel members should consider issues including:*
> - *whether the healthcare professional has demonstrated any insight*
> - *whether the healthcare professional works with or has access to vulnerable groups of patients or carers*
> - *whether there is a risk of the healthcare professional re-offending if allowed to continue in unrestricted practice.'*

The panel had earlier found that you failed to demonstrate sufficient insight into your misconduct. It noted that due to the nature of your role as a mental health nurse, you will continue to work with or have access to vulnerable patients. Hence, the panel was of the view that it would be impracticable for you to be sufficiently monitored and supervised at all times whilst working with vulnerable patients. Given the deep-seated attitudinal concerns which heightens the risk of repetition, the panel was not satisfied that there are relevant, proportionate, workable and measurable conditions that could be formulated to address the risk of repetition. This poses a risk of harm to patients' safety and the public. Consequently, the panel determined that a conditions of practice order would not protect the public nor be in the public interest.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The NMC Sanctions Guidance on Suspension order SG (SAN-3d) 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 this was not a single instance of misconduct but rather a sustained pattern of misconduct over an extended period of time towards two vulnerable service users under your care. It found that you had failed to demonstrate sufficient insight into the severity of your actions and also failed to strengthen your nursing practice. It also found that your misconduct caused actual harm to Patients A and B in terms of psychological and emotional distress. Although there is no evidence of repetition of the concerns since the incident, the panel had found that your actions are suggestive of deep-seated attitudinal concerns which heightens the significant risk of repetition. The panel further noted that you had not worked as a registered nurse for the past two years and you did not utilise the opportunity to provide evidence to demonstrate sufficient insight into your actions and strengthen your nursing practice. Therefore, the panel was not satisfied that a period of suspension would serve any useful purpose.

Accordingly, the panel determined that a period of suspension would not be a sufficient, appropriate or proportionate sanction. It would neither protect the public nor satisfy the public interest consideration in this case.

Finally, in considering a striking-off order, the panel took note of the following paragraphs of the NMC Sanctions Guidance on Striking-off (SAN-3e):

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

The panel was of the view that all of the criteria as set out above are met in this case. It noted that the NMC Guidance on Considering sanctions for serious cases, in particular, Cases involving sexual misconduct, states:

> *'Panels deciding on sanction in cases about sexual misconduct will, as in all cases, need to start their decision-making with the least severe sanction, and work upwards until they find the appropriate outcome. However, as these behaviours can have a particularly severe impact on public confidence, a professional's ability to uphold the standards and values set out in the Code, and the safety of people receiving care, any nurse, midwife or nursing associate who is found to have behaved in this way will be at risk of being removed from the register.'*

The panel determined that your conduct, as highlighted by the facts found proved, constitute a serious misconduct of a sexual nature which posed a risk of harm and caused actual harm to Patients A and B in terms of psychological and emotional distress.

The panel was of the view that your actions amounted to a serious breach of the position of trust between you and Patients A and B. [PRIVATE], you exploited their vulnerability by seeking inappropriately to develop a relationship with them outside of normal professional boundaries and this was sexually motivated. The panel determined that your actions towards Patients A and B were significant departures from the standards expected of a registered nurse. The panel, therefore, had doubts about whether you could practise kindly, safely and professionally as a registered nurse in future.

In considering sanction, the panel noted that, until these incidents, you had an otherwise unblemished career as a registered nurse. Notwithstanding, the panel concluded that the serious breach of the fundamental tenets of the profession evidenced by your inappropriate conduct towards Patients A and B, is fundamentally incompatible with you remaining on the register. The panel was of the view that the findings in this particular case raises serious and significant questions about your professionalism and to allow you

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, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of your actions in bringing the nursing 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 maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standards of behaviour expected and required of a registered nurse.

This will be confirmed to you 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 your own interests until the striking-off sanction takes effect.

**Submissions on interim order**

The panel took account of the submissions made by Mr Radley. He submitted that, given the seriousness of the concerns and the panel's findings on sanction, an interim suspension order for a period of 18 months is necessary in order to protect the public and otherwise in the public interest, to cover the 28-day appeal period before the substantive order becomes effective. He submitted that an interim conditions of practice order would

not be appropriate and proportionate in this case given the findings of the panel on sanction.

Mr Nwokedi stated that he did not oppose the application.

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

**Decision and reasons on interim order**

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 was therefore satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest.

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 in order to protect the public and otherwise in the public interest, during any potential appeal period. The panel determined that not to impose an interim order would be inconsistent with its earlier decisions.

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

That concludes this determination.