

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

**Substantive Hearing
Monday 8 April – Monday 22 April 2024
Monday 29 April 2024 (In camera)
Monday 16 September 2024 – Thursday 19 September 2024**

Virtual Hearing

Name of Registrant: **Niyi Sunday Okegbola**

NMC PIN: 03H04520

Part(s) of the register: Registered Nurse – Sub Part 1
RNMH: Mental Health Nurse, Level 1 (11 November 2009)
RN1: Adult Nurse, Level 1 (7 August 2003)

Relevant Location: Beckenham

Type of case: Misconduct

Panel members: Gregory Hammond (Chair, Lay member)
Jennifer Childs (Registrant member)
Lorraine Wilkinson (Lay member)

Legal Assessor: Christopher McKay (8 – 16 April 2024)
Michael Levy (17 – 22 and 29 April 2024)
Caroline Hartley (16 – 19 September 2024)

Hearings Coordinator: Rene Aktar (8 April 2024)
Max Buadi (9 April 2024)
Leigham Malcolm (10 – 12 April 2024)
Franchessca Nyame (15 – 16 April 2024)
Sharmilla Nanan (17 April – 22 April 2024)
Zahra Khan (29 April 2024 and 16 – 19 September 2024)

Nursing and Midwifery Council: Represented by Matthew Kewley, Case Presenter

Mr Okegbola: Present and represented by Dr Abbey Akinoshun, ERRAS Legal Services

Facts proved by admission: Charges 5c and 11

Facts proved:	Charges 1, 2a, 2b, 2d, 3a, 3b, 4, 5a, 5b, 6a, 6b, 7a, 7b, 7c, 7d, 7e, 7f, 7g, 8, 9, 12, 13a, 13b, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 (found proved in relation to charges 2a, 2b, 2d, 3a, 3b, 4, 5a, 5b, 6a, 6b, 7b, 7c, 7d, 7e, 7f, 7g, 8, 9, 11, 12a, 12b, 12c, 12d, 12e, 12f, 12g, 14, 15, 16, 17, 18, 19, 20, 21 and 22)
Facts not proved:	Charges 2c, 10, 13c, 13d, 25 (found not proved in relation to charges 2c, 7a and 12a)
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim order:	Interim suspension order (18 months)

Details of charges

That you a registered nurse, whilst working at the Bethlem Royal Hospital;

1) Around 2018, spoke to Person D about a 14 year-old female patient, using words to the effect '*She is the type of girl you think you can approach and rape but would turn around and kill the man because of her strength.*'

2) On 14 March 2019;

a) Touch/grabbed Person D's breasts.

b) Pulled Person D towards your body.

c) Placed your hand on/down Person D's trousers.

d) Spoke to Person D using words to the effect '*I am just playing with you.*'

On an unknown date between 1 September 2018 and 2 July 2021 on one or more occasion;

3) Hugged;

a) Person A.

b) Person B.

4) Hugged one or more female members of staff.

5) Spoke to Person A using words to the effect;

a) '*You're a bad girl.*'

b) *'You're naughty.'*

c) *'Have you got something for me?'*

6) Made inappropriate comments about Person B's;

a) Body/how her body looked in certain places.

b) Tight clothing

7) On one or more occasion spoke to Person B using words to the effect;

a) *'You look nice.'*

b) *'You are not happy in your relationship.'*

c) *'I can make you happy.'*

d) *'I want to do things to your body.'*

e) *'Do you have a boyfriend at home?'*

f) *'Who are you going to be having sex with when you get home from work?'*

g) *'I can show you what a real man is.'*

8) Touched/attempted to touch Person B's breasts.

9) Touched/attempted to touch Person B's thighs.

10) Argued with one or more nurses whilst carrying out restraints.

11) Whilst speaking to Person C on the telephone used words to the effect:
'What have you got for me when I get there?'

12) Whilst speaking to Person D, used words to the effect:

a) *'My darling.'*

b) *'You're looking good tonight.'*

c) *'When was the last time you had sex with your husband.'*

d) *'Does your husband give it to you from the front or back.'*

e) *'You should go out with me – I am better in bed than your husband.'*

f) *'Your hips are getting bigger.'*

g) *'I see you are putting on some weight.'*

13) Following the incident in charges 2 a) - 2 c) above, you on one or more occasion;

a) Pretended to lunge forward at Person D.

b) Pretended to grab person D.

c) Deliberately failed to authorise Person D's timesheet in a timely manner.

d) Deliberately booked Person D on less shifts.

14) In or around 2020 Spoke to Person F using words to the effect *'you are single because you haven't had pleasure from a real man.'*

Around December 2020;

15) Placed your hands on Person A's thigh/leg.

16) Rubbed Person A's thigh/leg.

17) Reached towards Person A's groin area and took her key card.

On 2 January 2021;

18) Hugged Person A.

19) Groped/put your hands on Person A's buttocks

20) Pulled Person A onto your body/penis

21) Ignored Person A's requests to let go of them.

22) Placed your head on Person A's neck

23) Between March-April 2022, on one or more occasion asked Person D if another female Duty Senior Nurse/colleague had put on weight.

24) Around April 2022 spoke to Person D using words to the effect '*Colleague X has added weight to her hips.*'

25) Your actions in one or more charges 2a, 2 b), 2 c), 2 d), 3 a), 3 b), 4, 5 a), 5 b), 6 a), 6 b), 7 a), 7 b), 7b), 7 c), 7 d), 7 e), 7 f), 7 g), 8, 9, 11, 12 a), 12 b), 12 c), 12 d), 12 e), 12 f), 12 g), 14, 15, 16, 17, 18, 19, 20, 21 & 22, were sexually motivated as you sought sexual gratification from one or more of your acts.

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

Decision and reasons on application to amend the charge

The panel heard an application made by Mr Kewley, on behalf of the Nursing and Midwifery Council (NMC), to amend the wording of charge 25.

The proposed amendment was to remove the duplication due to an administrative error on the charge sheet. It was submitted by Mr Kewley that the proposed amendment would provide clarity.

That you a registered nurse, whilst working at the Bethlem Royal Hospital;

25) Your actions in one or more charges 2a, 2 b), 2 c), 2 d), 3 a), 3 b), 4, 5 a), 5 b), 6 a), 6 b), 7 a), 7 b), ~~7 b)~~, 7 c), 7 d), 7 e), 7 f), 7 g), 8, 9, 11, 12 a), 12 b), 12 c), 12 d), 12 e), 12 f), 12 g), 14, 15, 16, 17, 18, 19, 20, 21 & 22, were sexually motivated as you sought sexual gratification from one or more of your acts.

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

Dr Akinoshun submitted, on your behalf, that he 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 determined that such an amendment, as applied for, was in the interests of justice. 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 charges (as amended)

That you a registered nurse, whilst working at the Bethlem Royal Hospital;

1) Around 2018, spoke to Person D about a 14 year-old female patient, using words to the effect '*She is the type of girl you think you can approach and rape but would turn around and kill the man because of her strength.*'

2) On 14 March 2019;

a) Touch/grabbed Person D's breasts.

b) Pulled Person D towards your body.

c) Placed your hand on/down Person D's trousers.

d) Spoke to Person D using words to the effect '*I am just playing with you.*'

On an unknown date between 1 September 2018 and 2 July 2021 on one or more occasion;

3) Hugged;

a) Person A.

b) Person B.

4) Hugged one or more female members of staff.

5) Spoke to Person A using words to the effect;

a) '*You're a bad girl.*'

- b) *'You're naughty.'*
- c) *'Have you got something for me?'*

6) Made inappropriate comments about Person B's;

- a) Body/how her body looked in certain places.
- b) Tight clothing

7) On one or more occasion spoke to Person B using words to the effect;

- a) *'You look nice.'*
- b) *'You are not happy in your relationship.'*
- c) *'I can make you happy.'*
- d) *'I want to do things to your body.'*
- e) *'Do you have a boyfriend at home?'*
- f) *'Who are you going to be having sex with when you get home from work?'*
- g) *'I can show you what a real man is.'*

8) Touched/attempted to touch Person B's breasts.

9) Touched/attempted to touch Person B's thighs.

10) Argued with one or more nurses whilst carrying out restraints.

11) Whilst speaking to Person C on the telephone used words to the effect:
'What have you got for me when I get there?'

12) Whilst speaking to Person D, used words to the effect:

- a) *'My darling.'*
- b) *'You're looking good tonight.'*
- c) *'When was the last time you had sex with your husband.'*
- d) *'Does your husband give it to you from the front or back.'*
- e) *'You should go out with me – I am better in bed than your husband.'*
- f) *'Your hips are getting bigger.'*
- g) *'I see you are putting on some weight.'*

13) Following the incident in charges 2 a) - 2 c) above, you on one or more occasion;

- a) Pretended to lunge forward at Person D.
- b) Pretended to grab person D.
- c) Deliberately failed to authorise Person D's timesheet in a timely manner.
- d) Deliberately booked Person D on less shifts.

14) In or around 2020 Spoke to Person F using words to the effect *'you are single because you haven't had pleasure from a real man.'*

Around December 2020;

15) Placed your hands on Person A's thigh/leg.

16) Rubbed Person A's thigh/leg.

17) Reached towards Person A's groin area and took her key card.

On 2 January 2021;

18) Hugged Person A.

19) Groped/put your hands on Person A's buttocks

20) Pulled Person A onto your body/penis

21) Ignored Person A's requests to let go of them.

22) Placed your head on Person A's neck

23) Between March-April 2022, on one or more occasion asked Person D if another female Duty Senior Nurse/colleague had put on weight.

24) Around April 2022 spoke to Person D using words to the effect '*Colleague X has added weight to her hips.*'

25) Your actions in one or more charges 2a, 2 b), 2 c), 2 d), 3 a), 3 b), 4, 5 a), 5 b), 6 a), 6 b), 7 a), 7 b), 7 c), 7 d), 7 e), 7 f), 7 g), 8, 9, 11, 12 a), 12 b), 12 c), 12 d), 12 e), 12 f), 12 g), 14, 15, 16, 17, 18, 19, 20, 21 & 22, were sexually motivated as you sought sexual gratification from one or more of your acts.

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

Decision and reasons on application for special measures for the witnesses

Mr Kewley told the panel that at a preliminary meeting on 6 March 2024, he had made an application that when giving oral evidence, special measures be put in place for five of the witnesses. Special measures had been agreed at that hearing that:

- Witnesses to have access to witness support; and
- When a vulnerable witness is giving evidence, you will not be seen by the witness and the witness will not be seen by you, but the witness will be visible to the panel and the representatives.
- This may be achieved by your dialling into the hearing via telephone or by any other means a future panel may approve.

The panel saw no reason to amend the agreed special measures and the hearing proceeded on the basis that you would dial into the hearing when a vulnerable witness was giving evidence.

Background

You joined the NMC register in 2003. You were referred to the NMC in April 2022. The allegations arose whilst you were working at the Bethlem Royal Hospital, which is part of the South London and Maudsley NHS Foundation Trust (the Trust), as a Deputy Site Nurse (DSN).

Incidents involving Person D

Person D alleged that in 2018 there was an incident involving a young patient on the Child and Adolescent Mental Health Service Psychiatric Intensive Care Unit (“CAMHS PICU”). The patient was a 14 year old girl who had been aggressive which led to the response team being called to restrain her on multiple occasions. During one such restraint, Person D was physically assaulted by the patient and took some time off work due to her injuries. Person D’s evidence was that when she returned a couple of weeks later, you provided her with a handover about the patient in the DSN office. During the handover, you said you had been working with the patient and

made a comment that she was “the type of girl you think you can approach and rape but would turn around and kill the man because of her strength”.

Person D alleged that you started to make inappropriate comments towards her around late 2018. Person D alleged that you initially would say things like “my darling” and “you’re looking good tonight”. However, she alleges that your comments progressed and you started to ask her personal matters such as when she last had sex with her husband. Person D alleges that you said that she should go out with you instead of her husband as you are better in bed than her husband. Person D alleges that you asked her how her husband gave it to her “from the front or back?”. You are alleged to have made comments about Person D’s appearance and commented that her hips were getting bigger and that she was putting weight on.

On 14 March 2019, Person D arrived for night duty and went into the DSN office to receive handover from you. You were sat in front of the computer at the desk and Person D sat down in the chair behind the computer table where you were sitting. You turned to face Person D for the handover. You had been away on holiday and had brought Person D some presents. As Person D got up off her chair to get something from her bag which was on top of a cupboard, she alleges that you grabbed her breasts from behind and that you had your hand on her breast and pulled her into you. She alleges that you kept one hand on her breast and the other was moving down towards her trousers. Person D managed to break free and asked you why you did that and you stated that you were only playing with her. Person D felt like she could not make a complaint to the Trust as she thought the Trust would favour you as a substantive member of staff.

The incident on 14 March 2019 allegedly left Person D feeling powerless, violated and vulnerable. Person D started to wear baggy clothes and put various safety measures in place such as standing near the exit of the office so that she could leave quickly if she had to. Person D alleges that you noticed that she had started to do this and so you would lunge forward and pretend to grab her. Person D alleges that you were responsible for doing the bank rota and, after the incident, you would give her fewer shifts. When Person D asked for more shifts, you allegedly told her

that there were none available. You also allegedly would fail to authorise her timesheets and she would continually have to chase it up with you.

Person D alleges that you returned to work around January 2022 and that she would speak to you over the phone about staffing levels. By March 2022, DSNs kept asking Person D if she had gone to welcome you back to work. Person D said she felt pressured and did not want to be the odd one out and so called you and said that she would maybe see you within the hospital grounds with one of the other females DSNs who was already planning to see you. You allegedly asked Person D if the female DSN had put weight on. Person D responded that the female DSN had not put weight on and was the same. When Person D saw you in April 2022, you mentioned that Person D had said that the female DSN had not put weight on but you had seen the female DSN and thought that she had put weight on her hips.

Incidents involving Person B

Person B alleges that within a few months of starting her role she noticed that you would make inappropriate comments to her and other female nurses on the CAMHS PICU. You would allegedly ask a lot of questions about Person B's boyfriend and would comment on her body and how it looked in certain places. Further, you would allegedly comment if Person B wore tight clothing.

Person B alleges that you would hug her quite a lot. You would hug her when you said hello and also when you were alone in the clinic room together. After a seclusion entry, Person B would have to clean up the clinic room and you would allegedly stay and ask if she was ok and give her a hug. However, Person B did not want you to hug her and she states that it became clear that your intention was not to comfort her. She alleges that you would wrap your arms around her and try to touch her breasts. She also alleges that you would also try to touch the front of her thighs, but she was quite short, and you could not reach.

Person B alleges that there was an influx of new nurses around September 2020 and she realised that she could step back and would no longer need to be in the clinic room with you. Person B would avoid you and would not speak to you unless

she had to. You allegedly would try to talk to Person B and say that she looked nice but she would respond in a rude manner and when that did not deter you, she would say that she had a girlfriend in a bid to stop you. However, you would allegedly continue with inappropriate comments such as saying that Person B was not happy in her relationship, saying that you could make her happy. Person B alleges that your comments were initially complimentary in nature, but you became more graphic stating what you wanted to do to Person B and her body.

Person B alleges that you would often argue with the nurses on how to do things and make it awkward in restraints.

Incidents involving Person A

Person A alleges that you were known amongst the nurses for being over familiar and inappropriate. She alleges that you would hug her and that she has also witnessed you hugging other nurses on multiple occasions.

Person A alleges that you would make inappropriate and suggestive comments such as “you’re a bad girl”, “you’re naughty” and “have you got something for me”.

Person A alleges on an unknown date in December 2020, while she was working at the computer in the office on the CAMHS PICU with another nurse, Person C, you came into the office to do some paperwork for a seclusion. You said hello to Person A, sat down next to her and put your hand on her thigh and rubbed it. Person A did not say anything to you but felt uncomfortable and moved away from you.

Person C alleges that she witnessed an inappropriate event on an occasion in December 2020 when she was in the nurses’ office with you and Person A. Person C states that staff wear their key cards on a belt around the waist as lanyards are not permitted. Person C saw you reach towards Person A’s groin and grab her key card. You allegedly pulled the key card and extension cord towards you. Person C alleges that it was not appropriate for you to do this as it was so close to Person A’s groin. Person A states that she recalls this incident with limited detail.

Person A alleges that around midday on 2 January 2021 she was on shift with two other nurses. She recalls that a colleague had called you requesting patient medication. Person A saw you with the medication and told you that she had the medication key and went with you to the clinic room. Whilst inside the clinic room, you allegedly hugged Person A 'front on', you then put your hands on Person A's bottom and pulled her into you such that she could feel the bulge of your penis. Person A asked you to stop but you ignored her and would not let go. Person A eventually wriggled out of your hold and immediately left the room.

After handover on 4 January 2021, Person A went to Witness 2's office and asked if she had time to speak. Person A described to Witness 2 an incident that happened in the clinic room with a DSN. Following this conversation, Witness 2 escalated the matter to her manager by way of an email dated 6 January 2021.

Person A sent an email to her manager, Ms 4, on 7 January 2021 describing the incident which she said took place on 2 January 2021.

Incidents involving Person C

Person C states that on one occasion she called you after a seclusion to ask you to sign the relevant paperwork. You responded in a flirtatious way and said "what have you got for me when I get there?". Person C did not like the comments and responded abruptly and allegedly ended the call.

Incidents involving Person F

Person F alleges that very soon after meeting you, she noticed that you seemed forward and overly familiar and began to ask her personal questions. You would ask about her relationship status and allegedly stated that she was single because she hadn't received pleasure from a real man or words to that effect.

It is the NMC's case that the panel can safely draw an inference from the primary facts that your actions were sexually motivated principally due to (a) the nature of your actions (i.e. touching a female colleague in a private area of the body) and (b)

the content (i.e. direct and indirect sexual undertones) of your alleged inappropriate comments towards your female colleagues.

Decision and reasons on facts

At the outset of the hearing, the panel heard from Dr Akinoshun, who informed the panel that you made full admissions to charges 5c and 11.

The panel therefore finds charges 5c and 11 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 Kewley on behalf of the NMC and by Dr Akinoshun on your behalf.

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 oral evidence from the following witnesses called on behalf of the NMC:

- Person A: [PRIVATE]
- Person B: [PRIVATE]
- Person C: [PRIVATE]
- Person D: [PRIVATE]
- Person F: [PRIVATE]

- Witness 1: A registered nurse who is employed by the Trust as the Clinical Governance Lead in the Older Adults Operational Directorate. She conducted the Trust's investigation into the allegations concerning your actions.
- Witness 2: She was employed by the Trust as a Senior Clinical Psychologist in the CAMHS PICU. She worked as a ward clinical psychologist from October 2020 [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. It considered all of the witness and documentary evidence provided by both the NMC and you.

The panel considered submissions from Dr Akinoshun that the allegations were fabricated and that the five alleged victims had colluded after breaches of confidentiality within the Trust. He submitted that if the incidents had occurred as alleged, the alleged victims had a duty under the NMC Code paragraph 9.1 to raise their concerns immediately which they had not. In this case, many of the allegations were raised months, and in some cases years, after they had allegedly occurred which in his submission undermined the complainants' credibility.

The panel saw no evidence of collusion and determined that the submission that five registered nurses were each prepared to construct a fabricated account was entirely without basis and was lacking credibility. Each of the witnesses gave credible reasons for why they had not initially reported their concerns. You were an

established member of staff and there was evidence suggestive of a culture within the Trust of accepting some of your behaviour. The complainants feared that they would not be believed or taken seriously. One was concerned that she would be perceived as racist. One feared repercussions within her community and referred to spiritual concerns. Each gave an account which was similar to others in many respects but differed in certain regards.

Had there been collusion, the panel considered it more likely than not that their accounts would have been more closely aligned in some of the detail. None of the women were more than work colleagues who may have attended occasional work events together. The panel found all five witnesses to be reliable, consistent and credible witnesses who maintained their position under extensive cross-examination. Even if there had been a breach in confidentiality by the Trust, as alleged by your representative, this does not, in the view of the panel, support the view that this would cause five registered nurses – to whom nothing had happened – to simply fabricate allegations. The panel noted that one of the complainants was, in other regards, extremely complimentary about your clinical skills.

The panel rejected the suggestion of conspiracy and collusion and preferred the evidence of the five witnesses, who gave compelling accounts of your conduct, to your denial.

The panel had regard to judicial guidance on delay and the dangers of assumptions in sexual offences as set out in the ‘Crown Court Compendium’ (previously known as ‘the Bench Book’), as referenced by Mr Kewley. The latest edition (June 2023) at section 20-1 states:

‘In ‘D’ the Court of Appeal accepted that a judge may give appropriate directions to counter the risk of stereotypes and assumptions about sexual behaviour and reactions to non-consensual sexual conduct. In short, these were that (i) experience shows that people react differently to the trauma of a serious sexual assault, that there is no one classic response; (ii) some may complain immediately whilst others feel shame and shock and not complain

for some time; and (iii) a late complaint does not necessarily mean it is a false complaint.'

The panel also rejected the submission by Dr Akinoshun that the complainants had breached section 9.1 of The Code, which the panel considered to relate primarily to clinical practice. The complainants are not the ones facing regulatory concerns. Whereas nurses do have a general duty to provide honest and constructive feedback in clinical practice, this was not the circumstance of these allegations. The panel accepted that there was a power imbalance and a culture of acceptance of some of your behaviour within the Trust. There were other compelling reasons why they felt unable to tell you that your conduct and language were unacceptable, which the panel accepted. One of the complainants did provide feedback in the form of a near-contemporaneous email to you and another provided an early complaint but this did not result in disciplinary action against you. The responsibility for the conduct lies with you and you alone.

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

Charge 1

"1) Around 2018, spoke to Person D about a 14 year-old female patient, using words to the effect 'She is the type of girl you think you can approach and rape but would turn around and kill the man because of her strength.'"

This charge is found PROVED.

In reaching this decision, the panel took into account the evidence of Person D and your oral evidence.

The panel considered the evidence of Person D. In her NMC witness statement she stated *"Before Niyi started making inappropriate comments towards me, there was an incident in 2018 involving a young patient at the Child and Adolescent Psychiatric Intensive care Unit ("CAMHS PICU"). The patient was a girl around 14 years old.*

She had been quite aggressive and the response team had been called multiple times to assist with restraining her. During one such restraint, the patient physically assaulted me and I took some time off work due to my injuries. When I returned a couple of weeks later, Niyi gave me handover about the patient in the DSN office. He said he had been working with her and she was full of strength and nearly impossible to restrain. Niyi then made a comment that the patient was the “type of girl you think you can approach and rape but would turn around and kill the man because of her strength”. I was quite shocked by his comment and that he would inappropriately relate the strength of a young patient to rape. I can’t remember what I said in response.”

In a local statement dated 24 September 2022, Person D stated “To add to the above concerns I did have a conversation with Niyi about a patient, which at the time I tried to brush off but which still made me uncomfortable. In 2018, there was a young person on CAMHS PICU and the response team had been called so many times to intervene and restrain this young person (I think she was 14 years old at the time). On one of these occasions, the YP mentioned physically assaulted me, I was injured and I went off work for about a week or two at the time. When I returned, Niyi gave handover about how he had responded to de-escalate the young person and we discussed that she was full of strength and almost impossible to restrain. Niyi then made a comment that “ this type of girl is whom you would think you can rape but would turn around and kill the man because of her strength”. When Niyi made this reference about the young person I was shocked, I felt Niyi's comment was strange, strong and inappropriate at the time to describe the YP strength, but this was before my incident with him, and before he was making inappropriate comments to me about husband and I thought it was just strange but nothing else.”

The panel took into account that Person D did not report that you had made this comment when you had said it. In Person D’s oral evidence, she said that she did not report it at the relevant time as you had not, at that stage, made any other inappropriate comments to her in the workplace. Person D stated that she thought that this was a strange and concerning comment to make. She reported it, four years later, in light of the alleged sexual assault and inappropriate sexual comments made to her by you. She said it was something that had stuck in her memory for a very

long time. When asked why she reported it in 2022, she said that it 'correlated with everything else and that everything tied together'.

The panel considered your oral evidence. [PRIVATE] and in summary you denied that you would say anything of this nature.

The panel considered the evidence before it. It noted that, although you made this comment in relation to one patient and that there was no contemporaneous evidence that you had made this comment, Person D found your comment to be inappropriate and this is why it stayed in her mind. The panel took into consideration Person D's explanation as to the delay in reporting this incident and concluded this was plausible and reasonable. The panel concluded that Person D's evidence was credible and reliable, and preferred her evidence to yours. The panel found on the balance of probabilities, around 2018, you spoke to Person D about a 14 year-old female patient, using words to the effect '*She is the type of girl you think you can approach and rape but would turn around and kill the man because of her strength.*'

The panel therefore found charge 1 proved.

Charge 2

"2) On 14 March 2019;

- a) Touch/grabbed Person D's breasts.
- b) Pulled Person D towards your body.
- c) Placed your hand on/down Person D's trousers.
- d) Spoke to Person D using words to the effect '*I am just playing with you.*'"

Charges 2a, 2b and 2d are found PROVED.

Charge 2c is found NOT PROVED.

In reaching this decision, the panel took into account the evidence of Person D and your oral evidence.

The panel considered the evidence of Person D. In her NMC witness statement, she stated *“On 14 March 2019, I arrived for night duty and went into the DSN office to receive handover from Niyi. Niyi was sat in front of the computer at the desk and I sat down in the chair behind the DSN computer table where he was sitting. Niyi turned the computer chair to face me while giving handover... I got up off my chair to get something, maybe my ID, from my bag which was on top of the out of hour cupboard near the entryway to the office. I had my back to Niyi and felt Niyi grab my boobs from behind. He had his hands on my boobs and pulled me into him. Niyi then kept one hand on my boob and the other was moving down towards my trousers. My shirt had lifted up and my stomach was visible and Niyi has his hand on my trousers.”*

In an email dated 15 March 2019, Person D stated in an email to you, *“And lastly but not the list- next time, do NOT touch my boobs without my permission (it’s called sexual assault).” [sic]*. The panel noted that you replied to this email and apologised, stating that the touching was not intentional.

The panel had regard to a ‘Review and reflect checklist’ dated 26 September 2022. This document had notes of a telephone conversation that took place on 15 September 2022 between Person D and Mr 3. It stated *“There was an incident on the night of 14th of March 2019. I had come in as DSN to take handover off Niyi. ... He'd got me some stock, some seasoning from home and I said thank you and we talked. Before he left, I had my back turned as I was working, but he grabbed my boobs. He was so strong and I was in shock, I wasn't expecting it. Thinking fast, I thought if I don't do anything, he might rape me so I quickly used my shoulder to break away and he said he was just playing with me...On the morning of the 15th of March 2019 I sent an e-mail to Niyi - I thanked him for the magi and told him about the agency he had asked for, I then put in capital letters DO NOT touch my boobs*

again without my permission, this was called sexual assault. I think he replied which I ignored.”

In her local statement dated 24 September 2022, Person D stated “Before Niyi left to go home, I got up to look for something in my bag, which I had placed at the top of the OOH cupboard. The position of the OOH cupboard in the room was such that it meant I had my back turned to Niyi. I then suddenly felt Niyi's hands on my boobs, and at the same time he had pulled me into him from behind whilst he grabbed my boobs tightly and one of his hands pushed down towards the front of my trousers. He was so strong, and I was in shock when all these were happening. It all happened so fast, I was also thinking fast because I thought if I do not do anything, the way his hand was progressing towards my trouser was unbelievable and I thought he might rape me, so I struggled as much as possible. He would not loosen his hold on me even as I was fighting to get free from him. In the end I was able to break away from his holds by fighting against him, using my upper arms and elbows. I immediately asked Niyi: “why did you do that “ ? and he said he was “just playing with me”. He then walked out of the DSN office as if nothing happened and went home...

My relationship with Niyi was purely a working relationship, not a personal one, so in the morning of the 15th March 2019, I reflected and I thought I just have to do something and the least I could do at the time was to send him an email about what happened and to be clear with him that he had sexually assaulted me. Hence, the email sent on the 15th March 2019 (which I have shown senior colleagues). In the email sent to Niyi, I thanked him for the Maggi cubes seasoning and told him about the agency he had asked for, I then put in capital letters DO NOT touch my boobs again without my permission, this is called sexual assault. Niyi did reply and said he was only hugging me and I note he did not deny grabbing my boobs (he had grabbed my boobs from behind !!! but I just ignored the email).”

The panel took into account that, during Person D's oral evidence, she said that your hand was on her abdomen and not on or down her trousers. Person D clarified in her oral evidence that when she had the telephone call with Mr 3, she was not able to get everything across during the call. She stated that she was invited to provide

further detail which she did in in the email dated 24 September 2022. The panel did not infer that being asked to provide an account in her own time was akin to requesting that Person D should 'embellish' her account as suggested by Dr Akinoshun.

The panel took into consideration that Person D provided an explanation in her NMC witness statement as to why she did not immediately report this incident to her senior colleagues. She stated *"I decided to report what Niyi had done to me after having a conversation with a work colleague about the sexual assault she had suffered by Niyi. The work colleague does not wish to be identified, so I cannot disclose her name. We were both crying and I told her that if Niyi came back to work, many other women would be at risk. [PRIVATE]. I wouldn't tell them to be quiet, I don't think that is the right thing to do. I knew there were plans for Niyi to return to work at the Hospital and I felt I had to do something to prevent this from happening to any other women. [PRIVATE], I spoke to the Trust about what Niyi had done to me."* The panel accepted Person D's reasons as to why Person D did not report this incident at the material time.

The panel took into account that the email dated 15 March 2019, from Person D to you, was a near-contemporaneous record of the event and the panel gave this significant weight. The panel found this email to be broadly consistent with the account provided by Person D in her oral evidence and in her written NMC statement. The panel found Person D's evidence to be compelling. The panel concluded that Person D was a reliable and consistent witness.

The panel considered your oral evidence. It noted that you said Person D had greeted you excitedly following your recent holiday to Nigeria. You stated that you are a married man and that you never touched Person D. You rhetorically asked why Person D would continue to text and WhatsApp once this incident took place. You stated that Person D has embellished her version of events and is a liar.

The panel considered the evidence before it. Having found Person D to be consistent, reliable, and credible, the panel preferred her evidence to yours. The panel found, on the balance of probabilities, that on 14 March 2019 you

touched/grabbed Person D's breasts, pulled Person D towards your body and spoke to Person D using words to the effect '*I am just playing with you.*' The panel therefore found charges 2a, 2b and 2d proved.

The panel was not satisfied, on the evidence before it, that on 14 March 2019 you placed your hand on/down Person D's trousers. In response to panel questions, Person D was clear that your hand was on her abdomen, close to her trousers.

On the basis of the charge, as drafted, the panel therefore did not find charge 2c proved.

Charge 3a

“On an unknown date between 1 September 2018 and 2 July 2021 on one or more occasion;

3) Hugged;

a) Person A.”

This charge is found PROVED.

In reaching this decision, the panel took into account Person A's evidence and your oral evidence.

The panel had regard to Person A's evidence. In her NMC witness statement she stated “*The registrant was known amongst the nurses for being over-familiar and inappropriate. He would often make inappropriate comments to me and hug me. I also witnessed him hugging other nurses on multiple occasions. ... His behaviour didn't bother me too much initially, it made me uncomfortable, but I was never alone with him and I didn't think he would do anything worse to me.*”

In an email to her manager, Ms 4, dated 7 January 2021, sent shortly after the incident and written in the style of a Datix, Person A stated *“DSN entered clinic room and hugged RMN, although this remains inappropriate - it is not unusual for this particular DSN to be tactile and it was not the first time he had tried to be overfamiliar with RMN...”*

The panel noted that Person A raised this incident a couple of days after the incident took place. In her oral evidence, she said that she did not think she would be believed and that was why she did not raise it immediately. Person A stated that there was a culture at the Trust of how you behaved which was accepted by other staff. She stated that she distinctly recalled you hugging her on more than one occasion. The panel noted that Person A stated when she did not remember a particular detail. The panel considered Person A’s evidence to be consistent and found her a credible and reliable witness.

The panel considered your oral evidence. You said that Person A could be emotional. You said to the panel that you had provided Person A with advice on how she could manage her emotions. You accepted that you gave some of your colleagues side hugs. You stated that if you were to hug colleagues you would do so in a room with other people.

The panel considered the evidence before it. The panel preferred Person A’s evidence to your evidence. The panel concluded that on an unknown date between 1 September 2018 and 2 July 2021 on one or more occasion, you hugged Person A. The panel therefore found charge 3a proved.

Charge 3b

“On an unknown date between 1 September 2018 and 2 July 2021 on one or more occasion;

3) Hugged;

b) Person B.”

This charge is found PROVED.

In reaching this decision, the panel took into account Person B and Witness 1's evidence and your oral evidence.

The panel had regard to the evidence of Person B. In her NMC witness statement she stated "*The registrant would hug me quite a lot. He would hug me when he said hello and would also hug me in the clinic room when it was just me and him. After a seclusion entry, I would have to clean up the clinic room and the registrant would stay and ask if I was ok and hug me, but I didn't want him to hug me and it became clear his intention was not to comfort me. He would wrap his arms around me and try to touch my breasts. He would also try to touch the front of my thighs when he was hugging me, but I am quite short so he couldn't reach down that far. I wouldn't say anything to him, I would just push away.*"

In the Draft Transcript of Meeting with Person B for the investigation, dated 3 February 2021, she said "*...there's been times where he'll come into the office, in front of other people, and try and hug me, even if there hasn't been an incident, if I'm not obviously upset, or anything. And I'm just like, 'I don't really want to hug you,' and then in front of other people, when he's a bit forceful and saying, 'oh you know, why do you not like me any more?' Sometimes I have been given a side hug, quite awkwardly.*"

The panel considered Person B's oral evidence. She said that she did not need to be hugged though it happened several times. She said that there was a culture at the Trust, in which people accepted your behaviour. Despite this, she still did not feel comfortable.

The panel had regard to the Draft Transcript of Meeting with you for the investigation dated 30 March 2021. You said, "*If I am hugging somebody here, this would make somebody uncomfortable, they would say it*". You accepted that you gave 'sideways hugs' and that "*we do like bump into each other, greeting, do knuckles, shake hands*". You said "*Touching somebody on the thighs, it is more or less like*

encroaching on private parts, I wouldn't do that Hugging somebody definitely, touching breast I wouldn't do that".

In your oral evidence, you noted that Person B did not provide any dates as to when you hugged her, nor did she escalate it to anyone else. You said that Person A and Person B colluded to provide this account about you.

The panel had regard to the evidence before it. The panel took into consideration that Person A and Person B did not know about the other's experience and was satisfied that their accounts did not amount to collusion. The panel was of the view that Person B's evidence was consistent and that she was a credible and reliable witness. The panel did not accept your account. It concluded that on an unknown date between 1 September 2018 and 2 July 2021 on one or more occasion you hugged Person B.

The panel therefore found charge 3b proved.

Charge 4

"4) Hugged one or more female members of staff."

This charge is found PROVED.

In reaching this decision, the panel took into account the evidence and findings outlined at charges 3a and 3b.

The panel also had regard to the evidence of Person F. In her NMC witness statement she stated "*Niyi often hugged people when he greeted them. It was usually a side hug but could be a full hug if it was someone very familiar to him. The receivers usually seemed quite comfortable with this.*"

The panel had regard to the Draft Transcript of Meeting for Person F dated 13 April 2021. Person F said in her interview that she had seen you give young female colleagues full hugs and side hugs.

The panel had regard to your oral evidence. You said that you 'side hugged' your female colleagues and that none of these staff members that you hugged had complained. The panel also noted that, in your response to Person D's email, in which she had complained about you touching her breasts, you had responded that you had been hugging her. This is consistent with the allegation that you hugged other female colleagues.

The panel considered the evidence before it and concluded that you hugged one or more female members of staff.

The panel therefore found charge 4 proved.

Charge 5

"5) Spoke to Person A using words to the effect;

- a) *'You're a bad girl.'*
- b) *'You're naughty.'*

These charges are found PROVED.

In reaching this decision, the panel took into account Person A's evidence, Witness 2's evidence and your oral evidence.

The panel had regard to Person A's evidence. In her NMC witness statement she stated *"The registrant would say inappropriate and suggestive things to me quite regularly. He would say things like "you're a bad girl", "you're naughty" and "have you got something for me?". I would often just ignore the comments or tell him to stop or shut up in a joking way so I didn't anger him."*

The panel took into consideration the transcript of Interview with Person A dated 3 February 2021. During this interview, Person A said *"Oh yeah he will say that to my face and when he calls, he would be calling about staffing or whatever and I would*

say its [Person A] in charge, and then he would say [Person A] and he would say 'you are a bad girl', but that is on normal DSN phone calls...He would just make comments like that, he would not bring out an action, he would do it either over the phone, to my face, 'you are naughty' and like 'what have you got to give me'".

The panel considered the oral evidence of Person A. During panel questions, Person A said that the tone of your voice during the phone call was suggestive, provocative and sexual.

The panel considered Witness 2's evidence. In her NMC statement she stated *"[Person A] also told me that the DSN had previously said inappropriate things to her on the phone when he called the unit. I can't remember exactly what she said he had said, but it was things along the lines of "you're a naughty girl"."*

The panel had regard to the Draft Transcript Meeting with Witness 2 dated 8 March 2021. During this interview, Witness 2 said *"Yes, one of the other things she said to me on that day, on that Monday, was that he has also at other times, I didn't get her to specify what other times, but she said that he has on the phone when calling the ward and speaking to her as the Nurse in Charge said things like 'you are a bad girl', and she did say some other comments. I am really sorry I can't remember what they were, and I didn't write them down at the time. had shared that in the past, that this member of staff had said in-appropriate things on the phone on the Nursing Station phone on the ward when he had called from somewhere else, my understanding was."*

The panel considered your oral evidence. You said that Person A was like your daughter and said, 'I don't even call my own children bad, I speak positively'.

The panel considered the evidence before it. The panel noted that Person A's evidence was supported by Witness 2. The panel considered Person A's evidence was consistent and it concluded that her evidence was credible and reliable. On this basis, the panel preferred Person A's evidence and rejected your account. The panel concluded that you spoke to Person A using words to the effect 'You're a bad girl' and 'You're naughty'. The panel therefore found charges 5a and 5b proved.

Charge 6

“6) Made inappropriate comments about Person B’s;

a) Body/how her body looked in certain places.

b) Tight clothing”

These charges are found PROVED.

In reaching this decision, the panel took into account Person B’s evidence and your evidence.

The panel considered Person B’s evidence. In her NMC witness statement Person B stated *“Within the first few months of me starting the role, I noticed that the registrant would make inappropriate comments to me and other female nurses on CAMHS PICU. The registrant would ask me lots of questions about my boyfriend and would comment about my body and how it looked in certain places. If I wore tighter clothes, he would comment on that as well. I felt very awkward and uncomfortable. I was newly qualified and hadn’t been on CAMHS PICU very long. The staff on the ward had already formed friendships and it appeared to me like the other nurses seemed fine with the registrant making those kind of comments towards them and it was just me that found the comments strange and uncomfortable. The registrant would make these comments quite publicly, in the nursing office, the corridor and in the clinic room, the latter of which would be when it was just me and him. I was quite quiet when I started so I didn’t speak to anyone about the registrant’s behaviour. It seemed to be accepted behaviour and I didn’t want to be seen as racist if his behaviour was due to cultural differences. I also wanted to become a DSN and thought the registrant would prevent that if I spoke negatively about him.”*

The panel considered the Transcript of Interview Notes with Person B dated 10 March 2021. Person B said during the interview, *“... he said that he could show me what a real man was like. Would make comments on if I’d lost weight or I’d gained weight, or if I was wearing different outfits. Yeah, them comments would happen on*

day shifts and night shifts, but it was a lot more worse on night shifts, cos there's not very many people around. Yeah and it's always covered up as a joke, but it just doesn't always, it doesn't feel like a joke"

In Person B's oral evidence, she said that you made comments such as 'I can see your boobs have grown today' and 'I can't see your bum in that today'. Person B said that she didn't feel strong enough to say anything about these comments. She stated that she started to wear baggy clothes to stop drawing attention to herself. She stated that she had made it clear to her manager that she did not want to be left alone in a room with you. She said that her actions, for example by walking away from you, made it clear that she said no she did not want this attention from you. She said that there is a power in actions and her actions toward you said no.

The panel considered your evidence. You said that Person B was lying. You stated that there had been no date as to when this incident was alleged to have taken place. You stated that you were a married man and that the witnesses had colluded to make up these allegations about you.

The panel considered the evidence before it. The panel considered Person B's evidence to be consistent and found her evidence to be compelling. The panel determined that Person B was a credible and reliable witness. The panel accepted Person B's evidence in respect of this charge and rejected your evidence. The panel concluded that you made inappropriate comments about Person B's body/how her body looked in certain places and Person B's tight clothing.

The panel therefore found charges 6a and 6b proved.

Charge 7

"7) On one or more occasion spoke to Person B using words to the effect;

a) *'You look nice.'*

- b) *'You are not happy in your relationship.'*
- c) *'I can make you happy.'*
- d) *'I want to do things to your body.'*
- e) *'Do you have a boyfriend at home?'*
- f) *'Who are you going to be having sex with when you get home from work?'*
- g) *'I can show you what a real man is.'*

These charges are found PROVED.

In reaching this decision, the panel took into account Person B's evidence and your evidence.

The panel considered Person B's evidence. In her NMC witness statement, she stated *"The first time he hugged me like this was a few months after I started at CAMHS PICU and it happened a lot over the next year and a half. Around September 2020, we had an influx of new nurses at CAMHS PICU and I realised I could step back a bit and would no longer need to be in the clinic room with the registrant or call him as much. I could therefore avoid the registrant and wouldn't speak to him unless I had to. I became quite rude to him and I made it clear I did not accept his behaviour anymore. He would try to talk to me and tell me I looked nice, but I would respond in a more rude manner for example, by telling him to shut up. When that still didn't stop him, I would say that I had a girlfriend in an attempt to deter him, but he would still make inappropriate comments by saying things like I wasn't happy in my relationship and he could make me happy. His comments were initially of a complimentary nature, but became more graphic and he would talk about what he wanted to do to me and my body that my partner couldn't do."*

The panel considered the Transcript of Interview Notes with Person B dated 10 March 2021. Person B said during the interview, *“He would ask quite questions, like if I had a boyfriend, or if I was married, who would I be having sex with when I left my shifts, it was quite common knowledge on the Wards. At one of those points I was breaking up with my boyfriend, and I think he must have overheard that in conversation a few times and he said that he could show me what a real man was like. Would make comments on if I’d lost weight or I’d gained weight, or if I was wearing different outfits. Yeah, them comments would happen on day shifts and night shifts, but it was a lot more worse on night shifts, cos there’s not very many people around. Yeah and it’s always covered up as a joke, but it just doesn’t always, it doesn’t feel like a joke” [sic].*

Person B said in her oral evidence that she was not lying and that you had asked her about her boyfriend several times, including, ‘what has he done’ and ‘is not what a real man would do’. She said that she told you that she was in a same sex relationship to deter your comments as you would know that you are not her type. She said that she did not want you to give her any compliments. She said that when you said ‘I want to do things with your body’ she felt you said this ‘to entice her into sex’. She said that your comments to her made her extremely scared and that she did not know how to process them. She did not know what to call it. She said that she knew that it was awful, and she blamed herself for not reporting it.

The panel considered your oral evidence. You said that you did not say these things to Person B. You said that you did not fancy her and that there was no sexual intention toward Person B in your interactions. You stated that you are a married man and would not say the statements alleged. You stated that she was very sensitive and would have definitely escalated this and completed an incident form.

The panel considered the evidence before it. The panel considered that Person B’s evidence was consistent. It found that she was a credible and reliable witness. The panel preferred Person B’s evidence to your evidence. The panel concluded that on one or more occasion, you spoke to Person B using words to the effect ‘You look nice’, ‘You are not happy in your relationship’, ‘I can make you happy’, ‘I want to do things to your body’, ‘Do you have a boyfriend at home?’, ‘Who are you going to be

having sex with when you get home from work?’ and ‘I can show you what a real man is.’

The panel therefore found charges 7a, 7b, 7c, 7d, 7e, 7f and 7g proved.

Charge 8 and 9

“8) Touched/attempted to touch Person B’s breasts.

9) Touched/attempted to touch Person B’s thighs.”

These charges are found PROVED.

In reaching this decision, the panel took into account Person B’s evidence and your evidence.

The panel considered the evidence of Person B. In her NMC witness statement she stated *“After a seclusion entry, I would have to clean up the clinic room and the registrant would stay and ask if I was ok and hug me, but I didn’t want him to hug me and it became clear his intension was not to comfort me. He would wrap his arms around me and try to touch my breasts. He would also try to touch the front of my thighs when he was hugging me, but I am quite short so he couldn’t reach down that far. I wouldn’t say anything to him, I would just push away.”*

The panel considered the Transcript of Interview Notes with Person B, dated 10 March 2021. Person B said *“He would try and touch my breasts and also between my legs, just kind of initially on the thighs and try and go up a bit and that was a lot less than the breasts I have to admit, but yeah that definitely happened on like, at least twice that I can think of”.*

In Person B’s oral evidence, she said that on several occasions you wrapped your arms around her. She said that this happened without any discussion. She said that there is a power in actions and her actions toward you said no. She stated that she was not strong enough to say anything.

The panel considered your oral evidence. You said you never touched or attempted to touch Person B. You said Person B was very sensitive and would cry over little things. You asserted that there is no way that she would not have escalated this straightaway if you had done what is alleged. You said that she has never provided a specific date because she was frightened that it would be discovered that you were not on shift that day. You also said that it is similar to what Person A said in that she is trying to make it look like a pattern.

The panel considered the evidence before it. The panel considered Person B's evidence and found that she was consistent. The panel concluded that Person B was a credible and reliable witness. The panel preferred Person B's evidence to your evidence in respect of these charges. The panel concluded that you touched/attempted to touch Person B's breasts and touched/attempted to touch Person B's thighs.

The panel therefore found charges 8 and 9 proved.

Charge 10

“10) Argued with one or more nurses whilst carrying out restraints.”

This charge is found NOT PROVED.

In reaching this decision, the panel took into account Person B's evidence, Person A's evidence, Person F's evidence, Ms 4's hearsay evidence and your evidence.

The panel considered Person B's evidence. In her NMC witness statement, she stated *“The registrant would often argue with the nurses on how to do things and make it quite awkward in restraints. The registrant was also inappropriate with a lot of nurses. ... I didn't call the response team as readily when I knew the registrant was the DSN and as his behaviour escalated and my experience and confidence in my practise grew, I would try to resolve situations on my own instead of ringing for*

the DSN. The patient's needs would always come first, but I would hesitate in calling the response team and would try to find alternatives."

The panel considered the Transcript of Interview Notes with Person B, dated 10 March 2021. Person B said *"Even, even like calling the team for a response. We're quite good, as I said earlier, of planning what our intervention is, how we're gonna do it, we mainly just need extra bodies to do that, is kind of why we call the team. And when I see him, I suddenly feel like I can't do my job as well, either, because I'm restraining a young person, and obviously that's my first concern, is making sure that the restraint's done properly, the young person's safe, my staff are safe that are also restraining. But there are times where I'll be in a restraint and Niyi will completely undermine us all, if that's the right word, which he didn't do for years, like, until like the beginning when there was a bit of power dynamic. He started doing that again, saying, 'you should do this, you should do that,' and it's like, 'Niyi, take a step back.' And I've had to be quite forceful in a few restraints, and be like, 'no, Niyi, I know this person, they've been here for 6 months, we have a good rapport, we're doing it this way because of this.' And I know he listens to me a lot more than some of the other Nurses and he's kind of said before that, '[Person B] knows what she's doing, she's been here ages.' There is definitely that trust that we've built up, on a professional level with all the DSNs, over the years. But a lot of people have started quite new and I think the trust isn't there, which is a different issue. But I think there's been times in restraints where I've been restraining a young person and he's walked, been very close to me, and I am too concerned about where, what he is doing behind me, and what he could do, rather than what I'm currently doing as my job"*.

Person B said in her oral evidence that, the DSN was there to support and not undermine the rest of the nursing staff. She stated that the nursing staff know things that the DSN would not know and she would be familiar with a patient's triggers. She stated that you did not listen to her and that her views were dismissed.

The panel had regard to Person A's evidence. In her NMC statement she said *"The registrant's attitude was quite controlling and dismissive. He would come into CAMHS PICU and want to take control of situations and would not listen to me or the other nurses and would talk over people. I didn't feel like I could talk to him about*

how his attitude wasn't very respectful as I felt like he wouldn't listen and would just laugh at me."

The panel considered Person F's evidence. In her NMC witness statement, she stated *"As a DSN he was knowledgeable and responsive and supportive of the team. He knew the Trust site well and was well-known in the organisation. He was very reliable in a professional capacity relating to his nursing duties."* The panel noted that this was not wholly consistent with Person A's account of your attitude although it recognised that two people may experience things differently and/or your behaviour may have been different around different colleagues.

The panel had regard to the Transcript of Interview with Ms 4 dated 11 March 2021. Ms 4 stated *"Obviously because he is DSN I only see him for Incidence. There is always an incidence when he comes onto the ward. We have had sometime in the past where we have difference of opinion on how to manage incidence but, we have built quite a good working relationship in terms of planning and managing incidences. He has built trust in my decision making and planning in terms of going forward. That's it really."*

The panel had regard to your oral evidence. You said that you follow the policy. You said that the role of the DSN is to supervise the incident. You stated that any discussions about what happened should take place in a debriefing following the incident.

The panel considered the evidence before it. The panel considered that whilst you may have had a difference of opinion with your nursing colleagues whilst carrying out restraints, it did not necessarily amount to you arguing with your colleagues. The panel concluded, on the balance of probabilities, that the NMC has not discharged its burden of proving that you argued with nurses whilst carrying out restraints and, accordingly, found charge 10 not proved.

Charge 12

"12) Whilst speaking to Person D, used words to the effect;

- a) *'My darling.'*
- b) *'You're looking good tonight.'*
- c) *'When was the last time you had sex with your husband.'*
- d) *'Does your husband give it to you from the front or back.'*
- e) *'You should go out with me – I am better in bed than your husband.'*
- f) *'Your hips are getting bigger.'*
- g) *'I see you are putting on some weight.'*

These charges are found PROVED.

In reaching this decision, the panel took into account Person D's evidence and your evidence.

The panel took into account Person D's evidence. In her NMC statement she stated *"Around late 2018, Niyi started to make inappropriate comments towards me. Initially, he would just say things like "my darling". We are from the same tribe in Nigeria, so Niyi would speak to me in Uruba and say things like " you're looking good tonight". However, Niyi's comments progressed and he started to ask comments about my husband such as where he worked and when was the last time I had sex with my husband. Niyi would say I should go out with him instead as he was better in bed than my husband and would ask me how my husband "gives it to me – from the front or back". Niyi would also make comments about my appearance. He would say that my hips were getting bigger and he could see I was adding some weight. Niyi would not say these comments in front of others, they were mostly said in the DSN office when I was receiving handover from him.*

Even though I knew the comments were inappropriate and they made me feel uncomfortable, I am not someone who is confrontational and I was worried that if I upset him, he would stop me getting shifts at the Hospital, so I would just shrug the comments off and tell Niyi to give me the handover. Niyi would just laugh like it was nothing.”

The panel had regard to Person D’s local statement, dated 24 September 2022. She stated *“Prior to this incident, Niyi sometimes would ask me about my sex life, many times he had asked "oh when last did you have sex with your husband” , “did he fuck you from the back or from the front ” , “are you sure your husband is fucking you well because I can do better in bed if you can go out with me”. Sometimes he would make comment such as "oh your hips is getting bigger, I could see you are adding some weight”. All these comments from Niyi made me feel very uncomfortable and I would usually tell him to please get on with the clinical handover as I worried if I tell him off, he could react by stopping me from working there.”*

During Person D’s oral evidence, she stated that she did not tell you to stop your inappropriate comments but attempted to divert you. She asked rhetorically who would not find these comments distressing. She said that when you made the comments ‘My darling’ and ‘You’re looking good tonight’, you looked her up from top to toe, assessing every inch of her body. She said that when you told her ‘Your hips are getting bigger’, you made her feel uncomfortable. She said that your comment ‘I see you are putting on some weight’ is an inappropriate comment to make to a woman.

She said that she did not want to upset you as she was working on the unit as bank staff, and she was worried that you would stop giving her shifts. She said she did not come forward at the material time as she was worried about the possibility of ‘voodoo’ and that by reporting this conduct would potentially bring disgrace on you, an African man, which is not accepted in your shared culture.

The panel considered your evidence. You said that you never made these comments. You referred the panel to your WhatsApp messages to Person D. You stated that it was normal for you both to use terms like ‘dear’ and ‘sweetie pie’. You

said that you had no interest in Person D. You stated that you wouldn't make a comment on how someone looks 'tonight' as it would imply they did not look good before. You stated that you are a married man. [PRIVATE]. You disputed that Person D would be subject to any cultural disgrace by making allegations against you.

The panel considered the evidence before it. The panel considered Person D's evidence to be consistent. It found Person D to be a credible and reliable witness. The panel preferred Person D's evidence and concluded that whilst speaking to Person D, you used words to the effect 'My darling', 'You're looking good tonight', 'When was the last time you had sex with your husband', 'Does your husband give it to you from the front or back', 'You should go out with me – I am better in bed than your husband', 'Your hips are getting bigger' and 'I see you are putting on some weight'.

The panel therefore found charges 12a, 12b, 12c, 12d, 12e, 12f and 12g proved.

Charge 13a and 13b

"13) Following the incident in charges 2 a) - 2 c) above, you on one or more occasion;

- a) Pretended to lunge forward at Person D.
- b) Pretended to grab person D."

This charge is found PROVED.

In reaching this decision, the panel took into account Person D's evidence and your evidence.

In Person D's NMC witness statement she stated "*I also put safety measures in place. For example, when I was in the DSN office with Niyi I would sit or stand near the exit and make sure my bag was near the exit so I could quickly leave if I had to.*"

Niyi started to notice that I was doing this and turned it into a game. He would lunge forward and pretend to grab me and I would run away. He would laugh and act like it was a joke. He would call me a “coward” in our Nigerian dialect.”

The panel had regard to Person D’s local statement, dated 24 September 2022. She stated *“Niyi noticed that I was always by the door when giving handover after the incident, so he would attempt to jump forward to scare me as if he would grab me again and I would quickly run out of the DSN office.”*

The panel considered your oral evidence in which you denied that this happened and suggested that Person D was happy to continue to contact you via WhatsApp. You maintained that she had every opportunity to report you if such an incident had happened.

The panel considered the evidence before it. It considered Person D’s evidence to be reliable and compelling and it preferred her evidence to yours. The panel concluded that following the incident outlined in charges 2 a) - 2 c) above, you on one or more occasion pretended to lunge forward at Person D and pretended to grab her.

The panel therefore found charges 13a and 13b proved.

Charge 13c and 13d

“13) Following the incident in charges 2 a) - 2 c) above, you on one or more occasion;

c) Deliberately failed to authorise Person D’s timesheet in a timely manner.

d) Deliberately booked Person D on less shifts.”

These charges are found NOT PROVED.

In reaching this decision, the panel took into account Person D's evidence submitted by you in the course of the hearing in the email exchange between Ms 5 and Ms 6, and your evidence.

The panel considered the evidence of Person D. In her NMC witness statement she stated *"After the incident, when Niyi was responsible for doing the bank rota, he would give me less shifts. When I asked for more shifts, he would tell me there weren't any available. He would also fail to authorise my timesheets in time and I would have to continuously chase him to release my timesheet. When I chased him, he would apologise and say that he forgot, but he had never forgotten before the incident. It was at this point that I realised I could definitely never report Niyi. I needed to be friendly with him in order to continue getting shifts."*

The panel had regard to the email exchange regarding the DSN shift dated 14 February 2023 from Ms 5 to Ms 6. The email stated *"There was a time when [Person D] communicated to me that some of those shifts were not being booked and were being given to other staff instead. I had communicated to NO that the shifts [Person D] and I had agreed to were to be booked for her. I apologise that off the top of my head I don't know exactly when that was."*

The panel considered your oral evidence. You stated that you were able to approve timesheets for staff but only when you were at work. You noted that some of your colleagues could do this at home. You said that the timesheets were approved on a weekly basis to avoid any delays with payment. You provided screenshots of WhatsApp and text messages Person D exchanged with you and said you had always authorised her timesheets when she had asked.

The panel noted that the NMC had not provided corroborating evidence that might assist it, specifically: evidence setting out the formal process in place at the Trust for the authorisation of time sheets, the timeframe for doing so, and the booking of shifts; examples of any specific timesheets that show you authorising the timesheet on a date long after the timesheet was submitted; and timesheet and shift booking data from before and after the incident on 14 March 2019 to show that the alleged incident on 14 March 2019 resulted in the facts alleged in charge 13(c) and (d).

The panel considered the evidence before it. In respect of charge 13c, the panel considered that Person D had accurately reported her perception that you had deliberately failed to authorise her timesheets in a timely manner. However, the panel had no evidence before it to support Person D's perception that this had not been done in a timely manner. On the balance of probabilities, the panel found that the NMC had not discharged its burden of proof in respect of charge 13c.

In respect of charge 13d, the panel was not satisfied that you were the sole person to book staff onto shifts and bore in mind that there were other staff who were able to book staff onto shifts, and evidence that they did so in respect of Person D. The panel determined that the NMC had also not adequately discharged the burden of proof in respect of charge 13d.

The panel concluded that following the incident in charges 2 a) - 2 c) above, on the balance of probabilities, you did not, on one or more occasion deliberately fail to authorise Person D's timesheet in a timely manner or deliberately book Person D onto less shifts.

The panel therefore found charges 13c and 13d not proved.

Charge 14

"14) In or around 2020 Spoke to Person F using words to the effect
'you are single because you haven't had pleasure from a real man.'"

This charge is found PROVED.

In reaching this decision, the panel took into account Person F's evidence and your evidence.

The panel considered Person F's evidence. In her NMC witness statement she stated *"Very quickly after meeting Niyi I noticed he seemed forward to me and overly-familiar. Nothing happened on our first interaction but he soon began to ask*

me personal questions. I didn't know him that well before I started my own DSN training. He would ask me about my relationship status. At first it just seemed a general conversation about marriage and relationships but then he said I was single because I hadn't "had pleasure from a real man" or words to that effect. I found this uncomfortable as it seemed sexual in nature. This was in the Nurse's Office but I don't recall anyone else being present during the conversation. I didn't feel the questions were appropriate so I shut him down by saying that I wasn't going to answer and that it wasn't his business. My tone made it clear I didn't want to pursue the conversation any further. He didn't ask me similar questions again."

The panel had regard to the Transcript of Person F's interview dated 13 April 2021. Person F said during this interview that "... we were just talking about marriage, just general. He just said probably the reason you are single is because you haven't had that pleasure from a real man. I cant remember the exact word and don't want to put words in my mouth, XXX real man, pleasure, cant remember, I know it was definitely in the context of pleasure" [sic].

Person F stated in her oral evidence that she considered this conversation to be sexual in nature. She stated that you were often over-familiar and she stated that she was not comfortable discussing issues in her personal life with you.

The panel considered your oral evidence. You stated that you did not say this to Person F. You stated that Person F [PRIVATE] and you did not know that she was single. You also said that you do not get involved in personal talk. You clarified that you said you contributed to a general conversation in the nurses' office to say that a man was needed around the house to do jobs that a woman could not do.

The panel considered the evidence before it. The panel noted that Person F had made positive comments about your clinical ability and had no axe to grind. The panel considered Person F to be consistent in her account and found her to be a credible and reliable witness. The panel took into consideration that your evidence in relation to this charge evolved throughout your oral evidence. The panel preferred her evidence to yours and concluded that in or around 2020, you spoke to Person F

using words to the effect ‘you are single because you haven’t had pleasure from a real man.’

The panel therefore found charge 14 proved.

Charges 15 and 16

“Around December 2020;

15) Placed your hands on Person A’s thigh/leg.

16) Rubbed Person A’s thigh/leg.”

These charges are found PROVED.

In reaching this decision, the panel took into account Person A’s evidence, Person C’s evidence and your evidence.

The panel considered Person A’s evidence. In her NMC witness statement she stated *“I don’t remember the exact date, but sometime in December 2020, I was working at the computer in the office on CAMHS PICU. I was with another nurse, [Person C] and the registrant came into the office to do some paperwork for a seclusion. The registrant said hello to me, sat down next to me and put his hand on my thigh and rubbed it. I felt really uncomfortable but I didn’t say anything, I just scooted further away from him on my chair.”*

The panel had regard to Draft Transcript of Meeting, with Person A for the Niyi Okegbola Investigation, dated 3 February 2021. Person A confirmed that you had put your hand on her thigh. She said *“That was in the nursing station. One of the nurses even saw it and we spoke about after the incident the second incident because it happened before and I kind of brushed it off. I can’t remember but probably in December.”* She stated that Person C saw this incident and that she spoke about the incident afterwards with Person C.

The panel had regard to Person C's evidence. In her NMC statement she stated *"The NMC asked me if I ever witnessed Niyi touching or rubbing [Person A] thigh. I do not recall witnessing this."* The panel also noted that in Person's C's oral evidence she stated that she did not recall this incident. It took into consideration that this incident may not have been a significant memory for Person C as it did not happen directly to her. The panel did not conclude that it was reasonable to infer from the absence of Person C's recollection that the incident was fabricated by Person A.

The panel considered your oral evidence. You denied that this incident took place and pointed out that the alleged eye witness does not remember the event. You said that Person A and Person C were colluding together to make these allegations up about you.

The panel considered the evidence before it. The panel noted that Person A reported this incident sometime after it took place as she did not think she would be taken seriously and it was only after the incident on 2 January 2021 that she felt compelled to report your behaviour. The panel took into consideration that the evidence from Person A and Person C did not corroborate each other in relation to charges 15 and 16. The panel determined that it was more likely than not that Person A and Person C did not collude with each other to make these allegations.

The panel considered Person A's evidence to be consistent and concluded that Person A was a reliable and credible witness. Further, the panel took into account the other allegations made by Person A and that she did not need this particular incident to bolster her claims against you if she was making up the allegations. The panel preferred Person A's evidence to yours and concluded that around December 2020, you placed your hands on Person A's thigh/leg and rubbed Person A's thigh/leg.

The panel therefore found charges 15 and 16 proved.

Charge 17

"Around December 2020;

17) Reached towards Person A's groin area and took her key card."

This charge is found PROVED.

In reaching this decision, the panel took into account Person C's evidence, Person A's evidence and your oral evidence.

The panel considered the evidence of Person C. In their NMC witness statement, they stated *"On the unit, staff are not allowed to wear lanyards so key cards are kept on a belt at your waist and the key card has an extension cord on it so you can pull it out to use it [Person A] key card was dangling around her groin area and I watched Niyi reach towards groin and grab her key card. He pulled the key card and extension cord towards him. I was shocked and said something like "what's going on here?" and Niyi replied "I am just looking at her key card". I looked at [Person A] and she looked very taken aback and frozen. I then said something like "that's not right, why are you doing that?" and then Niyi let go of the key card. I remember feeling very uncomfortable as it was not appropriate for Niyi to grab [Person A] key card, especially when it was so close to her groin. There was no reason for Niyi to grab the key card as he already knew [Person A] name and designation. Something just felt not right about the whole thing, especially as Niyi usually gave off a very overly familiar and flirtatious energy. [Person A] looked visibly uncomfortable and I don't believe Niyi was genuinely just looking at [Person A] key card. Even if he was, he should have asked her before reaching out and grabbing the card. Later when it was just me and [Person A] I asked [Person A] if she was ok. We both agreed that what Niyi had done was weird and uncomfortable, but [Person A] said she was ok."*

In the Draft Transcript of Meeting, with Person C for the Niyi Okegbola Investigation, dated 9 March 2021, Person C said *"So where he was sat, she was like beside him standing then he reached towards like her private area and then went for the key and pulled it out like its extension string. Then I said, 'What are we doing here' because it was so close. It is no appropriate to touch someone without consent or anything like that. He said, 'I am just looking at her key card', and at that point [Person A] did look taken aback, like, what is he doing. After that when he noticed that both of us was a*

bit like what's happening here, he then let go off it and it sprang back towards her belt, so that was that one interaction as well" [sic].

The panel considered Person C's oral evidence. She stated that she had an unobstructed view of this interaction between you and Person A. She stated that she was approximately a metre to a metre and half away from you and Person A. She stated that she was shocked. She noted that you had seen Person A's key card before and that there was no need to see it at this particular moment. The panel took into consideration that Person C was clear when she could not recall something that she was asked about.

The panel had regard to Person A's evidence. In her NMC supplemental witness statement which stated *"The NMC asked me if there was ever an incident whereby the registrant grabbed my key card. I do recall the registrant grabbing my key card which was attached to a belt on my waist. This incident happened either in the nursing station or the extra care area, but I cannot recall any further details. I believe there were a couple of staff members present at the time, but I do not recall who. I cannot conclusively say when this incident happened, but it was before the incident on 2 January 2021."*

Person A said in her oral evidence that she did not recall being particularly concerned about this specific interaction with you at the time.

The panel considered your evidence. You denied that this incident happened and you would not invade someone's privacy. You pointed out that although Person C said she witnessed the incident, Person A could not recall it happening.

The panel considered the evidence before it. The panel found Person C to be a consistent and reliable witness. It took into consideration that Person A recalled the incident but not with the vivid detail of Person C. The panel determined that Person C and Person A's evidence was credible and consistent in relation to the incident that took place. On this basis, the panel concluded that around December 2020, you reached towards Person A's groin area and took her key card.

The panel therefore found charge 17 proved.

Charges 18, 19, 20, 21 and 22

“On 2 January 2021;

18) Hugged Person A.

19) Groped/put your hands on Person A’s buttocks

20) Pulled Person A onto your body/penis

21) Ignored Person A’s requests to let go of them.

22) Placed your head on Person A’s neck.”

These charges are found PROVED.

In reaching this decision, the panel took into account the evidence of Person A, Person B, Witness 2 and your oral evidence.

The panel considered Person A’s evidence. In her NMC witness statement she stated *“Once we were inside the clinic room, the registrant put the box of medication on a bench and then hugged me front on. He put his hand on my bum and pulled me into him so that I could feel the bulge of his penis. Previously, I had gotten out of his hugs and uncomfortable situations with him by laughing it off uncomfortably and telling him to stop. However, when I asked him to stop this time, he ignored me and wouldn’t let me go. The registrant is around 6 foot 3 inches tall and I am only 5 foot 5 inches so he could overpower me easily and had me in a strong hold. I eventually managed to wriggle out of his hold and immediately left the clinic room. The incident lasted a few minutes and he didn’t say anything to me during this time.”*

The panel had regard to Draft Transcript of Meeting, with Person A for the Niyi Okegbola Investigation, dated 3 February 2021. Person A said *“When we were in the*

clinic room, he put the meds down and then kind of tried to hug me. He done that before to lots on the unit, that was kind of his personality side, so I was not worried at that point. But then he kind of grabbed my Behind and like pulled me into him and I could feel his area, and I was trying to push him off, but wasn't able to. I was asking him to stop then kind of wiggled out and then left the clinic room."

The panel took into account an email from Person A to Ms 4, dated 7 January 2021. The email stated *"DSN entered clinic room and hugged RMN, although this remains inappropriate - it is not unusual for this particular DSN to be tactile and it was not the first time he had tried to be overfamiliar with RMN. However, DSN then pulled RMN into him, and grabbed RMN's bottom and groped and then waist whilst placing his head into her neck. RMN tried to push DSN away and asked him to "stop" on multiple occasions. RMN managed to manoeuvre out of his hold and exited clinic room. RMN felt uncomfortable and threatened."* The panel considered this to be a near-contemporaneous account of the incident from Person A and accordingly gave it significant weight.

The panel considered Person A's oral evidence. She said that this was a terrible Saturday shift and she ended up speaking to the ward psychologist about it. She stated that she could not get to the alarm on her waist, and she was too far from the room alarm to activate it when she was sexually assaulted by you. She stated that when she reported this incident she used different language to describe the incident and stated that she did not know how to describe it at the time. She said that she had cried when she got home and that she had reported it as soon as she was able to upon her return to work, initially to Colleague B and subsequently to the Ward Psychologist, Witness 2.

The panel considered Person B's evidence. In her NMC witness statement, she stated *"Around January or February 2021, one of the nurses on CAMHS PICU, [Person A], said that she needed to speak to me about something that had happened with a DSN. I said something like "let me guess, was it the registrant in the clinic room?". [Person A] face changed and mine did too as I hadn't expected her to say yes. I didn't think I was the best person she should speak to about it so I suggested she speak to [Witness 2], Ward Clinical Psychologist. I cant remember*

much of the conversation with [Person A] but as soon as she told me, I felt guilty. I felt like if I had said something about the registrant's behaviour to someone earlier, it wouldn't have happened to her. I was now one of the older nurses at CAMHS PICU, so I felt like I should have prevented it from happening to others. I think shortly after my conversation with [Person A] I spoke to [Witness 2] and told her that the registrant had been inappropriate with me too."

The panel had regard to Person B's oral evidence. Person B confirmed that Person A approached her about this incident. She said that she had felt unable to support Person A at the time and so had suggested that she speak to the psychologist.

The panel considered Witness 2's evidence. In her Witness 2's NMC statement she stated *"When [Person A] came into my office she looked really distressed. She told me there had been an incident involving a DSN in the clinic room. [Person A] started crying and was struggling to speak so she physically demonstrated on herself what the DSN had done to her by wrapping her arms around her and running her arms up and down her torso. I verbalized what I was seeing and asked [Person A] if that was what happened and she confirmed it was. [Person A] me she had told the DSN "no" and tried to get him off of her and then left the clinic room."*

Witness 2 said in her oral evidence, that when Person A came to see her, she appeared really distressed. Witness 2 said she had no reason to disbelieve Person A's account.

The panel considered your oral evidence. You denied that the incidents alleged took place. You stated that you took the drugs to the clinic room and when you arrived that Person A was distressed. You said that Person A put her head on your shoulder. You told the panel that Person A was upset about her boyfriend and initiated the physical contact which made you uncomfortable. You asked why the CCTV footage outside the clinic room was not checked and why Person A did not report it to Person F, the nurse in charge of the ward at the time.

The panel considered the evidence before it. The panel took into consideration that it was disputed why you were on the ward at the material time, but not the fact that you

were on the ward at the time. The panel considered Person A's account to be consistent and found her to be a reliable and credible witness. Person A's account was supported by an early complaint to Person B and Witness 2 and a near-contemporaneous email to her ward manager. The panel took into consideration that this incident with Person A triggered the investigation at the Trust and it rejected your claims that the allegations were made by the witnesses in collusion against you. Her evidence was broadly consistent throughout the investigation process, her witness statement, and extensive cross examination. The panel considered that the reasons Person A did not cover all of the details, in particular about whether she could feel your penis against her, to be credible.

The panel accepted Person A's account and rejected your evidence. The panel concluded that on 2 January 2021, you hugged Person A, groped/put your hands on Person A's buttocks, pulled Person A onto your body/penis, ignored Person A's requests to let go of them and placed your head on Person A's neck.

The panel therefore found charges 18, 19, 20, 21, and 22 proved.

Charge 23

"23) Between March-April 2022, on one or more occasion asked Person D if another female Duty Senior Nurse/colleague had put on weight."

This charge is found PROVED.

In reaching this decision, the panel took into account Person D's evidence and your oral evidence.

The panel considered the evidence of Person D. In her NMC witness statement she stated *"I called Niyi and told him I would maybe see him within the hospital grounds with one of the other female DSNs who was already planning to do so. Niyi asked me over the phone if the female DSN had put on weight. I said no, she is the same."* The panel took into consideration that Person D was consistent in her evidence.

The panel considered your oral evidence. You said this never happened and went on to describe your meeting in her car with Person D who, you said, wanted your shifts. The panel did not find you to be a reliable witness in this regard.

The panel considered the evidence before it. It noted that the language that you used in this charge was similar to the language you used in charges 6, 12f and 12g, in relation to your comments about your colleagues' physical appearance. The panel concluded that between March-April 2022, on one or more occasions you asked Person D if another female Duty Senior Nurse/colleague had put on weight. The panel therefore finds charge 23 proved.

Charge 24

“24) Around April 2022 spoke to Person D using words to the effect
‘Colleague X has added weight to her hips.’”

This charge is found PROVED.

In reaching this decision, the panel took into account Person D's evidence and your oral evidence.

In Person D's NMC witness statement she stated *“When I later went to see Niyi in April 2022, he came outside of the ward and sat in my car. I asked how he was and he said he was fine and was talking about his spiritual life. He mentioned to me that I had said the female DSN hadn't added weight, but she came to see him and he thought she has added weight to her hips. I didn't know what to say, I just brushed the comment off.”*

The panel took into account that Person D said in the investigation meeting held on 21 November 2022, *“Yeah, but I remember he had made comment on someone's weight. And then even when I said I didn't see that person had in any way. They said no, no, no, no, no. That person has had weight. Do I not see around her around her hips,*

she definitely had some weight and I just don't know why he is always fixated on this type of things”.

In Person D's oral evidence, she said that she was not expecting you to get into the car and was not comfortable with the conversation that took place.

The panel considered your oral evidence in which you denied making any reference to Colleague X's weight. You said that Person D was lying.

The panel considered the evidence before it. The panel determined that Person D was consistent, credible, and reliable in her evidence about this incident. The panel rejected your evidence in respect of this charge and concluded that around April 2022, you spoke to Person D using words to the effect '*Colleague X has added weight to her hips.*

The panel therefore finds charge 24 proved.

Charge 25

“25) Your actions in one or more charges 2 a), 2 b), 2 c), 2 d), 3 a), 3 b), 4, 5 a), 5 b), 6 a), 6 b), 7 a), 7 b), 7 c), 7 d), 7 e), 7 f), 7 g), 8, 9, 11, 12 a), 12 b), 12 c), 12 d), 12 e), 12 f), 12 g), 14, 15, 16, 17, 18, 19, 20, 21 & 22, were sexually motivated as you sought sexual gratification from one or more of your acts.”

This charge is found proved in relation to charges 2a, 2b, 2d, 3a, 3b, 4, 5a, 5b, 6a, 6b, 7b, 7c, 7d, 7e, 7f, 7g, 8, 9, 11, 12b, 12c, 12d, 12e, 12f, 12g, 14, 15, 16, 17, 18, 19, 20, 21 and 22)

This charge is found not proved in relation to charges 2c, 7a and 12a.

In reaching this decision, the panel took into account the evidence and its findings in relation to charges 2a, 2b, 2c, 2d, 3a, 3b, 4, 5a, 5b, 6a, 6b, 7a, 7b, 7c, 7d, 7e, 7f, 7g, 8, 9, 11, 12a, 12b, 12c, 12d, 12e, 12f, 12g, 14, 15, 16, 17, 18, 19, 20, 21 and 22, as outlined above. The panel considered each of the charges in turn.

In respect of charges 2a, 2b, and 2d, the panel bore in mind that it found these charges proved. It considered that your actions were sexual in nature as you touched/ grabbed Person D's breasts, pulled Person D towards your body and spoke to Person D using words to the effect '*I am just playing with you.*' The panel had regard to Person D's oral evidence where she stated that she felt that your conduct in relation to these charges was sexually motivated. The panel concluded, on the balance of probabilities, that your actions in these charges were sexually motivated as you sought sexual gratification from one or more of your acts.

The panel noted that it did not find charge 2c proved and therefore this element of charge 25 falls away.

The panel bore in mind that it found charge 3a proved, in that on an unknown date between 1 September 2018 and 2 July 2021 on one or more occasion you hugged Person A. It noted the conduct found proved in charges 18, 19, 20, 21 and 22 in the clinic room with Person A had been initiated with a hug. The panel considered your conduct in charge 3a to be sexually motivated as, on the balance of probabilities, you sought sexual gratification from these acts.

The panel bore in mind that it found charge 3b proved, in that on an unknown date between 1 September 2018 and 2 July 2021 on one or more occasion you hugged Person B. The panel noted that these hugs made Person B uncomfortable. It noted that Person B stated in her NMC statement "*He would wrap his arms around me and try to touch my breasts. He would also try to touch the front of my thighs when he was hugging me...*". The panel considered your conduct in charge 3b to be sexually motivated as you sought sexual gratification from these acts.

The panel took into consideration that charge 4 was found proved, in that you hugged one or more female members of staff. The panel determined, on the balance of probabilities, that your conduct in charge 4 to be sexually motivated as you sought sexual gratification from hugging one or more female members of staff.

The panel next considered charge 5a and 5b. It noted that these charges were found proved. It bore in mind that Person A said that your tone of voice was suggestive and provocative when you said these things. Person A said that your voice had sexual connotations as though you were trying to elicit something from her. The panel determined, on the balance of probabilities, that your conduct in charges 5a and 5b was sexually motivated as you sought sexual gratification in saying to Person A words to the effect of 'You're a bad girl' and 'You're naughty'.

The panel took into account that charge 6a and 6b were found proved. You made inappropriate comments about Person B's body/how her body looked in certain places and about her tight clothing. Person B stated that you made a comment about how you could not see her bum in certain clothing, and this made her uncomfortable. The panel determined, on the balance of probabilities, that your conduct in charges 6a and 6b was sexually motivated as you sought sexual gratification by making these inappropriate comments to Person B.

In relation to charge 7, the panel bore in mind that this charge was found proved.

In respect of charge 7a, you spoke to Person B using words to the effect, '*You look nice*'. The panel determined, on the balance of probabilities, that this comment said on its own was not sexually motivated. Whilst this might not be appropriate in a professional setting, without evidence as to the overall context of the conversation in which this comment was made, the panel did not find this charge proved in respect of charge 7a.

In relation to charge 7b and 7c, you spoke to Person B using words to the effect, "*You are not happy in your relationship*" and '*I can make you happy*'. Person B stated in her NMC witness statement "*When that still didn't stop him, I would say that I had a girlfriend in an attempt to deter him, but he would still make inappropriate comments by saying things like I wasn't happy in my relationship and he could make me happy.*" The panel considered the context of your statements to Patient B and concluded that it was inappropriate between colleagues. Having regard to the overall context of the conversation, the panel determined, on the balance of probabilities,

that your conduct in charges 7b and 7c was sexually motivated as you sought sexual gratification from these acts.

The panel bore in mind that it found charges 7d, 7e, 7f and 7g proved, in that you spoke to Person B using words to the effect, *'I want to do things to your body'*, *'Do you have a boyfriend at home?'*, *'Who are you going to be having sex with when you get home from work?'* and *'I can show you what a real man is'*. Person B stated in her NMC witness statement *"His comments were initially of a complimentary nature, but became more graphic and he would talk about what he wanted to do to me and my body that my partner couldn't do."* The panel considered the wording outlined in these charges was unambiguously of a sexual nature and it determined that your conduct in charges 7d, 7e, 7f and 7g was sexually motivated as you sought sexual gratification from these acts.

The panel took into account that it found charges 8 and 9 proved, in that you touched/attempted to touch Person B's breasts and touched/attempted to touch Person B's thighs. The panel concluded that these areas were not appropriate places to touch a colleague. The panel determined that your conduct in charges 8 and 8 was sexually motivated as you sought sexual gratification from these acts.

The panel bore in mind that you admitted charge 11. You told the panel that you were talking to Person C about food. Person C stated in her NMC witness statement, *"On one occasion, I do not recall when, I called Niyi after a seclusion to ask him to sign the relevant paperwork. Niyi replied in a flirtatious way "what have you got for me when I get there?" I didn't like that sort of comment so my response was quite abrupt and I just said something along the lines of "nothing, I just have your paperwork" and then I ended the call."* Person C stated in her oral evidence that she thought your tone of voice was flirtatious and she found it inappropriate. Person C stated that the conversation was not about food but about seclusion. She said she shut down the conversation with you as she felt uncomfortable. The panel determined that, in the context of the conversation and from the tone of voice used, your conduct in charge 11 was sexually motivated as you sought sexual gratification from this conversation.

The panel took into account that charge 12a was found proved. Whilst speaking to Person D, you used words to the effect, *'My darling'*. The panel considered this statement in the context of the other terms that you and Person D used to address each other on your text and WhatsApp exchanges, including 'sweetie pie' and 'dear'. Although this is unprofessional language between colleagues, the panel did not find this particular phrase, in the context of the other phrases used between you, to be sexually motivated. The panel did not find this charge proved in relation to charge 12a.

The panel took into account that charge 12b was found proved. Whilst speaking to Person D, you used words to the effect, *'You're looking good tonight.'* The panel bore in mind Person D's oral evidence, where she said that when you said this, you looked her up from top to toe, assessing every inch of her body. The panel was of the view that this interaction was inappropriate for the workplace. On the balance of probabilities, the panel found your conduct in charge 12b was sexually motivated as you sought sexual gratification in this act.

The panel took into account that charges 12c, 12d and 12e were found proved. Whilst speaking to Person D, you used words to the effect, *'When was the last time you had sex with your husband'*, *'Does your husband give it to you from the front or back'* and *'You should go out with me – I am better in bed than your husband.'* The panel took into consideration that the words in these statements and questions made by you are overtly sexual and highly intimate. The panel determined that your conduct in charges 12c, 12d and 12e was sexually motivated as you sought sexual gratification from these acts.

The panel took into account that charges 12f and 12g were found proved. Whilst speaking to Person D, you used words to the effect, *'Your hips are getting bigger'* and *'I see you are putting on some weight'*. The panel was of the view that these comments may not, in themselves, be overtly sexual. However, the panel determined that they are highly inappropriate statements to make in a workplace and were sexually motivated as you were assessing your colleague's physique when making these statements. The panel bore in mind that Person D felt uncomfortable when you made these statements. The panel concluded, on the balance of

probabilities, that your conduct in charges 12f and 12g was sexually motivated as you sought sexual gratification from these acts.

The panel took into account that charge 14 was found proved. In or around 2020, you spoke to Person F using words to the effect '*you are single because you haven't had pleasure from a real man.*' The panel bore in mind that Person F felt uncomfortable when you made this statement. She stated in her NMC statement "*I found this uncomfortable as it seemed sexual in nature*". The panel rejected your evidence that this was an innocuous conversation about men needing women and women needing men. It determined that your comment was sexual in nature and over familiar with your colleague, Person F. The panel concluded, on the balance of probabilities, that your conduct in charge 14 was sexually motivated as you sought sexual gratification from this act.

The panel next considered charges 15 and 16. It bore in mind that these charges were found proved in that around December 2020, you placed your hands on Person A's thigh/leg and rubbed Person A's thigh/leg. The panel concluded that these areas were not appropriate places to touch a colleague. The panel bore in mind that Person A felt uncomfortable with you touching her in these areas. The panel determined that your conduct in charges 15 and 16 was sexually motivated as you sought sexual gratification from these acts.

In relation to charge 17, the panel bore in mind that it found this charge proved, in which you reached towards Person A's groin area and took her key card. The panel took into account the position of the key card and that Person C was shocked by your actions. The panel was of the view that there was no justification to reach for the key card. The panel determined, on the balance of probabilities, that your conduct in charge 17 was sexually motivated as you sought sexual gratification from this act.

The panel considered charges 18, 19, 20, 21 and 22. It bore in mind that these charges were found proved. You hugged Person A, groped/put your hands on Person A's buttocks, pulled Person A onto your body/penis, ignored Person A's requests to let go of them and placed your head on Person A's neck. The panel was

of the view that your actions in these charges demonstrated a clear course of conduct that was sexual in nature. The panel determined that your conduct in charges 18, 19, 20, 21 and 22 was sexually motivated as you sought sexual gratification from these acts.

Fitness to practise

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

The panel, in reaching its decision, 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 therefore exercised its own professional judgement.

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

Submissions on misconduct

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

Mr Kewley invited the panel to take the view that the facts found proved amount to misconduct. He drew the panel's attention to the terms of 'The Code: Professional

standards of practice and behaviour for nurses and midwives (2015)' (the Code) in making its decision.

Mr Kewley identified the specific and relevant standards where he said your actions amounted to misconduct, namely paragraphs 20, 20.1, 20.3, and 20.8 of the Code.

Mr Kewley provided written submissions, dated 17 September 2024, which stated:

“Introduction

1. These are the written submissions on behalf of the Nursing and Midwifery Council (“NMC”) in respect of misconduct and impairment in the fitness to practise proceedings concerning Niyi Okegbola (“the Registrant”).

2. The questions for the panel at this stage are as follows:

a. Do any of the facts admitted by the Registrant/found proved by the panel amount to misconduct?

b. If so, is the Registrant’s fitness to practise as a nurse currently impaired as a result of his misconduct?

Misconduct

3. The panel may be assisted by the following:

a. The question of misconduct is not determined by reference to a burden or standard of proof on a party. The issue is one for the panel’s own judgement or assessment (CHRE v GMC & Biswas [2006] EWHC 464 (Admin) per Jackson J at [43]).

b. In Roylance v General Medical Council (no.2) [2000] 1 A.C 311, Lord Clyde held that:

‘misconduct is 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 medical practitioner in the particular circumstances.’

c. Subsequent case law has confirmed that misconduct must be sufficiently ‘serious’ such that it can properly be described as misconduct going to a registrant’s fitness to practise (see, for example, *Elias LJ in Remedy v General Medical Council [2010] EWHC 1245 (Admin)* at paragraph [37]).

d. The NMC has published guidance on misconduct (see FTP-2A – updated 27.2.24) which defines sexual misconduct in this way:

‘Sexual misconduct is unwelcome behaviour of a sexual nature, or behaviour that can reasonably be interpreted as sexual, that degrades, harms, humiliates or intimidates another. It can be physical, verbal or visual. It could be a pattern of behaviour or a single incident.’

4. In determining whether any of the facts amount to misconduct the panel may be assisted by reference to ‘The Code: Professional standards of practice and behaviour for nurses, midwives and nursing associates’ (effective 31 March 2015) (“the Code”). Under the heading ‘Promote professionalism and trust’ the Code provides as follows:

‘You uphold the reputation of your profession at all times. You should display a personal commitment to the standards of practice and behaviour set out in the Code. You should be a model of integrity and leadership for others to aspire to. This should lead to trust and confidence in the profession from patients, people receiving care, other health and care professionals and the public.’

5. It is submitted that the following specific provisions of the Code are engaged in this case:

20 Uphold the reputation of your profession at all times

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

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

20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to.

6. It is submitted that all of the charges amount to serious professional misconduct. The NMC does, however, acknowledge the panel's comments in respect of charges 7(a) and 12(a) (see pages 61 and 62 of the panel's determination). In these circumstances, charges 7(a) and 12(a) may not be sufficiently serious so as to amount to misconduct.

7. The Registrant was employed by the Trust as a senior nurse and he held a position of responsibility. The panel heard evidence that the Registrant was well known on the hospital site and that he was an established member of staff. The Registrant had a duty, therefore, to act as a role model for junior nursing staff and to lead by example in setting the standards of conduct and behaviour to which other staff should aspire.

8. The panel has found that the Registrant engaged in sexually motivated conduct towards five separate female nursing colleagues over a protracted period of time. The incidents in this case are not, therefore, isolated in nature. The Registrant's conduct was widespread, unwanted, and evidently had a profound and lasting effect on a number of the Registrant's former colleagues.

9. Unwanted sexual misconduct towards colleagues is, of course, always likely to be viewed as serious in nature. However, it is submitted that the

power imbalance in this case between the Registrant and the complainants renders this sexual misconduct particularly serious in nature. Some of the complainants had worked at the Trust for a relatively short period, some had less overall nursing experience than the Registrant and some were also more junior. The panel has noted within its determination that there was evidence to suggest that a culture had developed at the Trust of just ‘accepting’ the Registrant’s behaviour (see, for example, witness statement of Person C at paragraph 16).

10. The conduct in this case was wholly at odds with the expected standards of conduct and behaviour as set out in the Code. The Registrant’s behaviour was, plainly, deplorable in nature and has no role or place within any healthcare setting. All of the complainants in this case were entitled to practise in an environment that was entirely free from the type of behaviour that the Registrant engaged in over a protracted period.”

At the outset of his submissions on both misconduct and impairment, Dr Akinoshun referred the panel to paragraph 18 of Mr Kewley’s written submissions which covers impairment. Dr Akinoshun submitted that this paragraph is not relevant as this is a case where you have denied the majority of the charges from the outset of the hearing.

Dr Akinoshun referred to your reflective statement dated 16 September 2024 and further submitted that you have made it clear that you have accepted the panel’s findings.

Dr Akinoshun informed the panel that you have been under an interim suspension order since October 2023, and that you also resigned from the Trust in September 2023. He submitted that this context provides the panel with reasons as to why you have not provided it with any current references. However, Dr Akinoshun submitted that you have provided references from colleagues that you have worked with previously.

Dr Akinoshun submitted that the panel must first determine whether the facts found proved amount to misconduct and only then should it look at whether you are impaired.

Dr Akinoshun referred to the case of *Cohen*. He told the panel that you have never been before your regulator previously and that you have been on the NMC register since 2003 as a registered nurse without any previous findings against you.

Dr Akinoshun accepted that the facts found proved do amount to misconduct, but that this does not mean that your fitness to practise is impaired.

Submissions on impairment

Mr Kewley moved on to the issue of impairment and addressed the panel in his written submission on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Mr Kewley's written submissions, dated 17 September 2024, stated:

“Impairment

11. The panel's attention is drawn to the NMC's guidance on 'Impairment' (see DMA-1 updated 27.2.24). The guidance poses the following question:

‘Can the nurse, midwife or nursing associate practise kindly, safely and professionally? If the answer to this question is yes, then the likelihood is that the professional's Fitness to practise is not impaired.’

12. The above guidance on impairment (DMA-1) provides that ‘there are types of concerns that are so serious that, even if the professional addresses the behaviour, a finding of impairment is required either to uphold proper professional standards and conduct or to maintain public confidence in the

profession'. The guidance then provides examples of cases which may fall into this category and includes those that raise fundamental questions about the nurse's ability to uphold the values and standards set out in the Code which includes cases involving sexual misconduct.

13. The NMC has published guidance on 'How we determine seriousness' (see FTP-3 updated 27.2.24). This guidance refers specifically to cases involving sexual misconduct and states as follows:

'Sexual misconduct is unwelcome behaviour of a sexual nature, or which can reasonably be interpreted as sexual, that degrades, harms, humiliates or intimidates another. It can be physical, verbal or visual. It could be a pattern of behaviour or a single incident.'

Our Code is clear that nurses, midwives and nursing associates have a responsibility to "uphold the reputation of [their] profession". This involves demonstrating a personal and professional commitment to core values such as integrity and kindness, and protecting vulnerable people from any form of harm and abuse.

Sexual misconduct can have a profound and long-lasting impact, on people, including causing physical, emotional and psychological harm. Acts of sexual misconduct directly conflict with the standards and values set out in the Code.

Sexual misconduct is likely to be serious enough to impair fitness to practise whether the conduct takes place in professional practice or outside professional practice. **Sexual misconduct poses risks both to people receiving care and colleagues and can seriously undermine public trust and confidence in our professions.'**
(emphasis added)

14. This guidance addresses sexual harassment in the following way:

'Bullying, harassment (including sexual harassment) and victimisation

The environment that all health and social care professionals work in should be safe and free from bullying, harassing (including sexual harassment) and victimising behaviours, as well as any abuses of power to exploit, coerce or obtain a benefit (for example sexual or monetary) from people receiving care, colleagues or students.

*The Code sets out that nurses, midwives and nursing associates must maintain effective communication with colleagues and act with honesty and integrity at all times, treating people fairly and without discrimination, bullying and harassment. **The presence of bullying, harassment (including sexual harassment) and victimisation in the workplace can have an extremely negative effect on the work environment, performance and attendance. This in turn can have an effect on the delivery of care and if not dealt with can affect trust and confidence in the professions.*** (emphasis added)

15. The panel's attention is drawn to the NMC's guidance 'Serious concerns which are more difficult to put right' ([see FTP-3a updated 27.2.24](#)). This guidance explains that there are a small number of concerns that are so serious that it may be less easy for the nurse to put right their conduct or the aspect of their attitude which led to the incidents happening. This guidance identifies a number of cases where this may arise including: 'harassment, including sexual harassment, and other forms of sexual misconduct whether it occurs inside or outside professional practice'

16. The NMC's guidance on 'Serious concerns based on public confidence or professional standards' ([see FTP-3c updated 27.2.24](#)) provides that:

‘Sometimes we may need to take regulatory action against a nurse, midwife or nursing associate to promote and maintain professional standards and the public's trust and confidence in the professions we regulate.

We will do so when the concerns raise fundamental questions about the ability of the nurse, midwife or nursing associate to uphold the standards and values set out in the Code.

We're more likely to need to do this if clinical failings suggest an underlying issue with the nurse, midwife or nursing associate's attitude to people in their care, such as cruelty, neglect or failing to prioritise their safety.

However, such concerns can also arise in professional practice where there is no direct link to the care of patients or people who use services (for example, a professional has dishonestly claimed payment for hours they had not worked)¹, or even outside of professional practice.

Concerns that someone has displayed discriminatory views and behaviours, engaged in sexual misconduct, behaved violently (including in a domestic setting), abused a child or vulnerable adult, or committed a serious crime, for example, could have a particularly negative impact on public confidence.

We are likely to take restrictive regulatory action against nurses, midwives or nursing associates whose conduct has had this kind of impact on the public's trust in their profession, particularly where they haven't made any attempt to reflect on it, show insight, and haven't taken any steps to put it right. This may even mean they can't stay on the register.’ (emphasis added)

Strengthening of practice

17. *It is submitted that the concerns in this case fall into the category of concerns that are more difficult to put right. It is submitted that the sexual misconduct in this case raises concerns that are attitudinal in nature.*

18. *It is submitted that Registrant's reflective piece dated 16 September 2024 does not demonstrate any real depth of insight into the concerns. The Registrant has not sought to identify why he acted as he did. He has not reflected on the clear power imbalance that was present between the Registrant and the complainants. The Registrant has not meaningfully engaged with the profound impact that his conduct has had on a number of the complainants. The Registrant has also failed to reflect on the potential compromise of patient care that can arise as a result of the difficult working environment that occurs following behaviour of the kind seen in this case. The Registrant has also failed to provide any meaningful reflection on how such behaviour can negatively impact upon the wider public perception of the nursing profession as a whole.*

19. *To the extent that the panel does find that the reflection shows any insight, such insight has developed at a very late stage. The panel will note that as recently as April 2024 the complainants were invariably accused of collusion, fabrication and falsification.*

20. *It is submitted that minimal weight can be attached to the references provided. It is not clear whether the authors of those references had full sight of the NMC charges setting out the Registrant's conduct towards multiple complainants. Some of the references are historic in nature and were provided at a time prior to the adverse findings made by the panel about the Registrant's conduct towards his former colleagues. The reference from [Ms 4] (dated 7 December 2021 at pages 5 and 6 of the Registrant's bundle) also appears to have been provided for the purpose of a local disciplinary hearing rather than this NMC hearing.*

21. *In these circumstances, it is submitted that the risk of repetition remains high.*

Public protection

22. It is accepted, of course, that this case does not raise any direct concerns around the Registrant's day to day clinical practice or his patient care. However, it is submitted that the facts do engage 'public protection' concerns in the manner elucidated in guidance FTP-3c:

*'The presence of bullying, harassment (including sexual harassment) and victimisation in the workplace can have an extremely negative effect on the work environment, performance and attendance. **This in turn can have an effect on the delivery of care and if not dealt with can affect trust and confidence in the professions.**'*

23. It is further submitted that the sexual misconduct in this case placed the Registrant's colleagues at a risk of emotional harm and, in some cases, resulted in actual emotional harm. See, in particular, the witness statement of Person A at paragraphs 18 to 19, the witness statement of Person B at paragraphs 14 to 17 and the witness statement of Person D at paragraphs 15 and 22.

Public interest

24. It is submitted that even if the panel were to find that the risk of repetition is low, a finding of current impairment is required in the public interest. The sexual misconduct in this case is likely to negatively affect public confidence in the nursing profession. The misconduct is fundamentally at odds with the standards of behaviour and conduct expected of nurses as set out within the Code. All staff are entitled to work in an environment which is free from the type of behaviour that arose in this case. The Registrant misused his position of trust and responsibility as a senior nurse for his own ends. The Registrant had no regard whatsoever for the impact that his behaviour had on his nursing colleagues.

25. *The panel will be aware of the seminal case of CHRE v NMC & Grant [2011] EWHC 927 (Admin), in which Cox J held at [74]:*

'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.'

26. *In these circumstances, a finding of current impairment is required to promote and maintain public confidence and professional standards in the nursing profession."*

Dr Akinoshun submitted that the panel should take into account the fact that you have subsequently worked on Chelsham Ward at the Trust without similar allegations occurring. This demonstrates that your fitness to practise is not currently impaired.

Dr Akinoshun provided the panel with some context regarding the incidents that took place, namely that Chelsham Ward consisted predominantly of female staff and that you were working there from January 2022 to September 2022. Dr Akinoshun told the panel that, during this period, there were no concerns whatsoever.

Dr Akinoshun submitted that, in your most recent reflective piece dated 16 September 2024, you have acknowledged that you would handle the situation in a different way in the future. Dr Akinoshun submitted that you also informed the panel that you have watched videos on professional boundaries. Further, he submitted that, given the lessons that you have learned so far, you are a safe practitioner as you have realised how your conduct at work would have placed your colleagues at risk. He submitted that the incident has made you become more aware of your responsibilities as a nurse and to not breach your professional boundaries.

Dr Akinoshun submitted that you have been known for your ‘impeccable character’ before these allegations were made. He submitted that, given the steps you have taken to remediate, you do not pose a future risk to the public as your safe practice has been tested when you were working on Chelsham Ward at the Trust subsequent to the period of allegations. Dr Akinoshun submitted that, during this period, you remained a safe practitioner up until the time you resigned from the Trust.

Dr Akinoshun acknowledged that complaints were made against you by several different colleagues. He submitted that the panel should take into account your unblemished record of over 20 years. Further, as part of your insight, Dr Akinoshun submitted that you have cooperated with the NMC from the outset as you wanted to learn from what has happened and that you have taken the allegations very seriously. He also submitted that both the concerns and the risks arising from the charges have been remedied.

Dr Akinoshun referred to your references in which you were spoken highly of. These come from female colleagues with whom you worked at Chelsham Ward and from your former manager with whom you were working at the time of the incidents. He drew the panel’s attention to the fact that one of your references, dated 5 April 2024, comes from a female colleague who stated:

‘... Throughout the time I knew and worked with Niyi, no female employee reported any instances of professional misconduct. He maintained a professional rapport with every member of staff (male and female) at all times. Niyi was an exceptionally well-informed and valuable team member... Niyi never exceeded his professional boundaries when interacting with staff. He was a reliable and efficient nurse who consistently demonstrated a willingness to assist and impart his knowledge to his colleagues. He got along with every member of the ward’s staff...’

Dr Akinoshun further referred to a WhatsApp message from your colleague which praises you as a colleague and a farewell card from colleagues, which contained supportive comments. Dr Akinoshun also referred to your reflective statement from the internal process at the Trust, dated 8 April 2022.

In these circumstances, Dr Akinoshun submitted that your fitness to practise is not currently impaired.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311 and *Nandi v General Medical Council* [2004] EWHC 2317 (Admin).

Decision and reasons on misconduct

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

The panel found that your actions did fall significantly short of the standards expected of a registered nurse, and that your actions amounted to breaches of the Code, specifically the following:

'Promote professionalism and trust

You uphold the reputation of your profession at all times. You should display a personal commitment to the standards of practice and behaviour set out in the Code. You should be a model of integrity and leadership for others to aspire to. This should lead to trust and confidence in the professions from patients, people receiving care, other health and care professionals and the public.

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

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

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

20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to'.

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that the above paragraphs of the Code were seriously breached in this context.

The panel determined that although your conduct in charges 7a and 12a was unprofessional and fell below the standards expected of a nurse, these charges on their own did not amount to serious misconduct.

However, the panel determined that all of the remaining charges found proved, both individually and collectively, amounted to misconduct. It found that your actions were sexually motivated as you sought sexual gratification from one or more of your acts. You breached professional boundaries on numerous occasions and repeatedly harassed more than one colleague over a prolonged period of time. The panel noted that Dr Akinoshun accepted that your actions amount to misconduct.

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

Decision and reasons on impairment

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

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

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

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

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

The panel recognised, however, that there are some types of misconduct that are so egregious that even if the professional addresses the behaviour, a finding of impairment may be necessary either to uphold professional standards or to maintain public confidence in the profession. Cases involving sexual misconduct can raise fundamental questions about a nurse’s ability to uphold the values and standard set out in the Code.

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

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

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

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

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

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

The panel determined that patient care was compromised and there was a risk of harm due to the sexual harassment you subjected your colleagues to which created a toxic workplace. One colleague described how she was reluctant to call management when there was an incident and would try to manage it herself, in case you were on duty. The panel finds that colleagues were put at risk and were caused emotional and psychological harm as a result of your misconduct. Your misconduct involved five separate colleagues, each of whom were caused significant distress over a prolonged period of time, meaning that the incidents were not isolated. You also took advantage of your power as each person that you abused was either junior to you or on a bank contract.

The panel found that your misconduct breached the fundamental tenets of the nursing profession, in particular, prioritising people, practising effectively, and

promoting professionalism and trust. Your misconduct brought the reputation of the profession into disrepute.

The panel considered the below paragraphs from Person A, Person B, Person C, and Person D's NMC witness statements. It noted that each witness shared how your abusive behaviour impacted them negatively and the trauma they have faced both at the time and subsequently.

Person A stated:

'I left the Trust in July 2021. I loved the job, but I couldn't continue working in the same Hospital as the registrant. I didn't feel like anyone at the Trust would protect me as the registrant was a senior member of staff and due to the way the Trust's investigation had been carried out

I am still very anxious and paranoid about men being near me, especially at night or when there aren't many people around. [PRIVATE] so this incident with the registrant was incredibly triggering for me. [PRIVATE]'.

Person B stated:

'I felt really alone after the Trust's investigation and I didn't have good support at the time, [PRIVATE] ... , Head of Nursing at the Trust. I told ... how the registrant's conduct and the investigation had impacted me. She supported me and I worked in a non-clinical role for a while [PRIVATE]. I feel ok now, but I still see ... [PRIVATE] the registrant has made me not trust men. I do not want to work with them in any capacity and can be quite rude as a defence mechanism'.

Person C stated:

'I didn't receive any updates on the Trust's investigation after I was interviewed. One day I was working a shift as a DSN and went to Chelsham House and saw that Niyi's name was listed on the board as one of the nurses

on duty. I didn't have any interaction with him, but I remember feeling uneasy about the fact he was still working on the site after what he had been accused of and it made me feel quite vulnerable'.

Person D stated:

'At the time of the incident, I felt useless and frustrated by the fact I had done nothing wrong, yet Niyi still did that to me. I felt like I was no longer in control of my life and it was up to Niyi to decide what he did to me. I felt disgusted, angry and sad. [PRIVATE]. [PRIVATE]. I was too scared to say anything at the time and I still live in fear of not knowing what will happen to me. I am risking everything by coming forward and being identified, but the more I talk about it, the more I feel like I shouldn't keep quiet. The fact that Niyi continues to deny his behaviour indicates that he lacks insight and is going to do it again. Many women are at risk, so I am risking everything to give this statement and try to prevent there being any more victims'.

The panel determined that the misconduct in this case is very difficult to address and to be remedied as the concerns are attitudinal in nature. However, the panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice.

Regarding insight, the panel bore in mind your admissions to two of the charges, namely charges 5c and 11. The panel took into account your most recent reflective piece, dated 16 September 2024, which briefly outlines the fact that you would handle the situation differently in the future. However, the panel noted that you do not explain how you would handle the situation differently. Further, it noted that you stated: *'I will never forget this incident and will always use it as a reference point'*. The panel found this statement focused on the impact on you and minimised a longstanding pattern of abusive behaviour towards numerous individuals over an extended period. The panel also noted that you stated: *'I sincerely apologise to all my colleagues for any distress caused'*. The panel found your apology significantly understated the serious harm you had inflicted and the use of the word *'any'* suggested a lack of recognition of the full extent of the damage caused.

Considering the above, the panel found your insight to be very limited and noted that you have not apologised for the ongoing trauma that colleagues suffered, nor have you demonstrated an understanding of how your actions caused your colleagues significant harm. Further, you have failed to demonstrate an understanding of why what you did was wrong and how this impacted negatively on the reputation of the nursing profession.

The panel took into account your references, your reflective statements dated 8 April 2022 and 16 September 2024, and the fact that you have said in 2022 that you watched videos regarding professional boundaries at work. The panel did not consider this to be sufficient to strengthen your practice. The panel placed little weight on two of your references which were written whilst you were undergoing an internal investigation. The panel considered the third reference to be quite guarded in nature. However, the panel is not satisfied that you have made sufficient effort to remedy your misconduct as you have not fully understood the impact your actions had, and continue to have, on others.

In these circumstances, the panel decided that there is a risk of repetition. The panel therefore determined that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind 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 found that members of the public would be less likely to seek medical treatment if they felt that healthcare professionals were being distracted by a toxic working environment caused by unwanted behaviour of a sexual nature.

The panel determined that public confidence in the profession would be significantly undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise impaired on the grounds of public interest.

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

Sanction

The panel considered this case very carefully and 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 you have been struck-off the register.

In reaching this decision, the panel had regard to all the evidence that has been adduced in this case. The panel also had careful regard to the Sanctions Guidance (SG) published by the NMC, including SAN-2 which covers serious cases such as those involving sexual misconduct.

The panel accepted the advice of the legal assessor.

Submissions on sanction

Mr Kewley informed the panel that in the Notice of Hearing, dated 4 March 2024, the NMC had advised you that it would seek the imposition of a striking-off order if the panel found your fitness to practise currently impaired, and this remains the NMC's position today.

Mr Kewley recognised that two charges have been found not to amount to misconduct but submitted that those make no material difference to the overall case.

Mr Kewley submitted that the aggravating features in this case are as follows:

- Lack of insight.
- A pattern of misconduct over a period of time, meaning that this was not a one-off isolated incident.

- A power imbalance between you and the colleagues that you abused. The power imbalance comes from your established status at the Trust, your senior position as a DSN, and your many years of nursing experience.
- Actual emotional harm caused to a number of colleagues.

Mr Kewley submitted that the NMC has not established any mitigating features in this case.

Mr Kewley submitted that it would be wholly insufficient in protecting the public or maintaining public confidence in the nursing profession if the panel took no action, imposed a caution order, or imposed a conditions of practice order.

Mr Kewley referred the panel to SAN-3d of the SG which covers suspension orders. He submitted that this is a case where there has been repeated and sustained misconduct over a protracted period. Further, he submitted that there is evidence of deep-seated attitudinal issues and that your insight is very limited meaning there is a real risk of repetition. He submitted that this case is too serious for temporary removal from the register.

Mr Kewley then referred to SAN-3e of the SG which covers striking-off orders. He submitted that your behaviour raises fundamental concerns about your professionalism for the following reasons:

- The repeated misconduct took place over a protracted period of time whereby you have engaged in deplorable conduct towards five female colleagues.
- Some of that conduct was directed to relatively inexperienced junior female nurses.
- Your engagement in unwanted physical sexual misconduct to colleagues has resulted in emotional harm. Your colleagues should have been safe to do their jobs and look after their patients, without suffering from the type of behaviour that you engaged in repeatedly.

In these circumstances, Mr Kewley submitted that your conduct is fundamentally at odds with the expected standards of conduct and behaviour of a registered nurse. He submitted that you present a current risk to the public as this type of behaviour creates a working environment where care can be compromised.

Mr Kewley therefore invited the panel to impose a striking-off order. He submitted that this is the only sanction that will adequately protect the public and maintain public confidence in the profession.

At the outset of his submissions, Dr Akinoshun told the panel that he does not intend to go behind the panel's findings. He reminded the panel of the available sanctions that it can impose today.

Dr Akinoshun told the panel that you are an experienced registered nurse who has been practising for 20 years. He submitted that the following mitigating features are engaged in this case:

- Your recent reflective piece exemplifies your developing insight.
- You have demonstrated the steps that you have taken to remediate your actions.
- You accepted the panel's findings regarding the charges found proved.
- You have taken full responsibility for your actions.
- You are willing to continue to reflect upon your actions, in your efforts to becoming a better and safer practitioner.
- You practised safely at Chelsham House, subsequent to the incidents occurring, which evidences your safe practice.
- You have kept up to date with nursing practice by completing mandatory training and watching YouTube videos in relation to professional boundaries within the workplace.
- You have fully engaged with the NMC proceedings.
- You have not been the subject of previous regulatory concerns.
- There has been no repetition of similar misconduct.
- You have provided the panel with positive testimonials from colleagues.

- Other colleagues did not provide you with feedback at the time of the incidents.

Dr Akinoshun drew the panel's attention to your recent reflective piece whereby you stated what you had done differently, which he submitted was portrayed in a different way by the panel following its determination on misconduct and impairment. Dr Akinoshun clarified that you did not state what you would do differently in the future, but instead you stated what you have done differently thus far, which shows the efforts made in strengthening safe practice.

Dr Akinoshun submitted that you have made progress in your communication and establishing safe boundaries. He submitted that your interactions have been strictly professional, and you have maintained a respectful distance to colleagues by not discussing personal or family matters.

In these circumstances, Dr Akinoshun submitted that you have demonstrated, at the least, a minimal level of insight as you have reflected upon your actions.

Dr Akinoshun reminded the panel that you have been under an interim suspension order. As a consequence, you may not have been able to address the concerns as readily as if you had been practising. He invited the panel to consider imposing a suspension order. He submitted that he does not intend to undermine the severity of the allegations.

Dr Akinoshun submitted that a suspension order would provide you with the opportunity to address the concerns identified by the panel. He acknowledged that the panel has raised significant issues regarding your insight and ability to reflect.

Further, Dr Akinoshun submitted that, while the public would not benefit from losing a qualified nurse, they would be understandably shocked if you were allowed to practise without restriction, given the seriousness of the allegations. He submitted that it is essential for you to continue reflecting on your communication and relationships with female colleagues as you work on developing your insight.

[PRIVATE].

Decision and reasons on sanction

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

The panel took account of Dr Akinoshun's submissions about its interpretation of your reflective piece. The panel acknowledged that you had worked without complaint at Chelsham House and had set out some changes to your practice. However, it was not satisfied that these were sufficient to address the particular nature of the misconduct in this case, or that you had developed any meaningful insight into the gravity of your misconduct.

The panel took into account the following aggravating features:

- A power imbalance between you and the colleagues that you harmed.
- Very limited insight into your failings.
- Lack of sufficient remediation in the context of the gravity of misconduct in this case.
- A wide-ranging pattern of misconduct over a period of time which caused a number of female colleagues serious emotional harm and distress.
- Your actions, indirectly, may have put patients at risk of harm.

The panel also took into account the following mitigating features:

- Some remorse shown, albeit at a late stage.
- Admissions to two minor charges.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case and the need for public protection. The panel decided that it would be neither proportionate nor 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, the deep-seated attitudinal concerns, and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* 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 decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel determined that there are no practicable or workable conditions that could be formulated, given the nature of the misconduct in this case and the attitudinal concerns. The serious misconduct identified in this case was not something that can be addressed through retraining. Further, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public.

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

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

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

The panel recognised that there were no clinical concerns about your practice, but the misconduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The misconduct in this case was sustained over a significant period of time and involved five separate victims. Whilst there has been no repetition, including whilst you were working at Chelsham House, the panel was not satisfied that you have sufficient insight for it to be confident that you would not be at risk of repeating the behaviour when not under the spotlight of an investigation. It considered that your misconduct demonstrated harmful deep-seated attitudinal problems in relation to female colleagues. The panel also determined that the serious breaches of the fundamental tenets of the profession evidenced by your actions are fundamentally incompatible with your remaining on the register.

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

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

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

The panel decided that your actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with you remaining on the register. The panel determined that the findings in this particular case demonstrate that your actions of sexual misconduct were extremely serious.

The panel further determined that allowing you to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

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

The panel considered that this order was necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

This will be confirmed to you in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel 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.

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

Submissions on interim order

The panel took account of the submissions made by Mr Kewley. He submitted that an interim suspension order should be imposed for a period of 18 months to cover the 28-day appeal period and the subsequent period should an appeal be lodged. He submitted that this is necessary for the same reasons as given by the panel regarding the substantive order.

The panel also took into account the submissions of Dr Akinoshun. He submitted that he does not intend to undermine the panel's findings. In these circumstances, he submitted that he was indifferent to the panel making an interim suspension order for a period of 18 months.

Decision and reasons on interim order

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

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order as to do otherwise would be incompatible with its earlier findings. The panel decided that the length of this interim suspension order should be 18 months to cover the likely time taken for an appeal should one be lodged.

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

That concludes this determination.