# Fitness to Practise Committee

# Substantive Hearing

**11-18 December 2017**

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

| | | |
|---|---|---|
| **Name of registrant:** | Rodwell Ndoro | |
| **NMC PIN:** | 00B1558E | |
| **Part(s) of the register:** | Registered Nurse – Adult Nursing | |
| **Area of registered address:** | England | |
| **Type of case:** | Misconduct | |
| **Panel members:** | Joy Julien | (Chair, Lay member) |
| | Dorothy Keates | (Registrant member) |
| | Alex Forsyth | (Lay member) |
| **Legal Assessor:** | Nina Ellin | |
| **Panel Secretary:** | Nilima Ali | |

**Representation:**

| | |
|---|---|
| Nursing and Midwifery Council (NMC): | Represented by Derek Zeitlin, Case Presenter |
| Mr Ndoro: | Mr Ndoro was not present and not represented |
| **Facts found proved:** | 1(a), 1(b), 1(c), 2(a), 2(b), 3(b), 3(c), 3(d), 3(e), 4(a), 4(b), 5(a), 5(b), 5(c), 6(a), 6(b), 6(c), 7, 8, |

| | |
|---|---|
| | 9, 10(a), 10(b), 10(c), 10(d), 11, 12(a), 12(b), 13, 14(a), 14(b), 14(c), 14(d), 15, 16(a), 16(b), 16(c), 16(d) and 17 |
| **Facts found not proved:** | 3(a) |
| **Fitness to practise:** | Impaired |
| **Sanction:** | Striking-off order |
| **Interim Order:** | Interim suspension order: 18 months |

**Determination on service**

The panel received information from Mr Zeitlin on behalf of the Nursing and Midwifery Council ("NMC") that the Notice of Hearing had been served in accordance with The Nursing and Midwifery Council (Fitness to Practise) Rules 2004 ("the Rules"). The panel accepted the advice of the legal assessor.

The Notice of Hearing was sent by first class post and the Royal Mail 'signed for' service on 10 November 2017 to Mr Ndoro's registered address as recorded on WISER, the system supporting the NMC's Register. The letter provided details of the allegations, the times, dates and venue of the hearing and other pertinent matters, including his right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

The panel concluded that service had been effected in accordance with Rules 11 and 34.

**Determination on proceeding in the absence of Mr Ndoro**

Mr Zeitlin invited the panel to proceed in the absence of Mr Ndoro, pursuant to Rule 21(2)(b).

Mr Zeitlin referred the panel to an email exchange between Ms 8, NMC Case Preparation Officer, and Mr Ndoro, dated 22 November 2017, in which Mr Ndoro had confirmed that he would not be attending hearing and that he was "more than happy for the hearing to go as planned".

In light of the above, Mr Zeitlin invited the panel to conclude that Mr Ndoro had voluntarily absented himself. Mr Zeitlin submitted that there was a clear public interest in the hearing proceeding and that it would be appropriate for the case to be dealt with as

scheduled. He further submitted that there was no suggestion that an adjournment of these proceedings would likely result in Mr Ndoro's attendance on a future occasion.

The panel considered whether to exercise its discretion to proceed in Mr Ndoro's absence, in accordance with Rule 21(2)(b). The panel had regard to all the information before it, including the submissions from Mr Zeitlin, and accepted the advice of the legal assessor, who referred to the cases of *R. v Jones (Anthony William) (No.2)* [2002] UKHL 5 and *Adeogba v General Medical Council* [2016] EWCA Civ 162.

The panel, in considering this matter, had regard to the public interest in the expeditious disposal of the case, the potential inconvenience caused to a party or any witnesses to be called by that party, and fairness to Mr Ndoro. The panel gave careful regard to the judgment in the case of *Jones* and exercised the "utmost care and caution" in coming to its decision, with close regard to the overall fairness of proceedings. The panel was mindful that whilst a registrant has a right to be present in regulatory proceedings, that registrant may also voluntarily absent themselves such as to enable the panel to decide to proceed in their absence.

The panel had regard to the email exchange between Ms 8 and Mr Ndoro, in particular Mr Ndoro's confirmation that he would not be attending this hearing and that he was content for it to proceed in his absence. Mr Ndoro had, in the panel's view, expressed a clear and settled intention not to attend, and his absence at this hearing was consistent with that position. The panel was mindful that Mr Ndoro had not applied for or alluded to an adjournment in order to allow for his attendance. On that basis, the panel considered that adjourning the hearing would serve no purpose as it would be highly unlikely to secure his attendance on a future occasion. In the panel's judgment, Mr Ndoro had voluntarily absented himself from the hearing.

The panel was aware that there was some disadvantage to Mr Ndoro in not being present at the hearing to give his account of events or challenge the evidence relied upon by the NMC, and in relation to the personal and professional impact any adverse

findings may have against him. However, in the panel's judgement, it could make allowance for the fact that the NMC's evidence would not be tested in cross-examination and, of its own volition, could explore any inconsistencies in the evidence which the panel itself identified. Furthermore, the panel considered that any disadvantage to Mr Ndoro was as a result of his decision to absent himself from the hearing, waiving his right to attend/be represented.

The panel had regard to the public interest in the expeditious disposal of cases. There were approximately four witnesses, due to give evidence on behalf of the NMC, who would be inconvenienced by an adjournment of these proceedings. The earliest allegation in this case dated back to 2010 and the panel was mindful that any continued delay in these matters could further impact upon the witnesses' recollection of events.

Weighing all the factors into the balance, the panel was satisfied that the risk of prejudice to Mr Ndoro, in proceeding in his absence, was not so significant that it outweighed the public interest. In all of the circumstances, the panel concluded that it was reasonable, appropriate and in the public interest to proceed today, and that it would not be unfair to Mr Ndoro to hear the case in his absence.

For all the reasons set out above, the panel determined to proceed in the absence of Mr Ndoro. The panel was satisfied that it could properly adjudicate upon the charges, in the absence of Mr Ndoro, using its own discretion when assessing all the evidence and taking account of all matters raised. The panel will draw no adverse inference from his absence in its findings of fact.

**Charges read**

That you, a registered nurse, whilst working at Torbay and South Devon NHS Foundation Trust:

1. Spoke inappropriately to Patient A in that:
    a. On 9 March 2016, in response to Patient A's request for a "black, sweet and hot" coffee, said "what, just like me" or words to that effect;
    b. On 9 or 10 March 2016, said "If you could twerk I'll take you to Zimbabwe", or words to that effect;
    c. On 9 or 10 March 2016 said "we'll meet up" or words to that effect;

2. On 9 March 2016 when rubbing Patient A's back:
    a. Inappropriately touched Patient A's skin directly;
    b. Inappropriately touched Patient A's lower back/ bottom;

3. On one or more occasion between 9 – 11 March 2016 touched Patient A inappropriately in that you:
    a. Touched Patient A's hand;
    b. Stroked Patient A's shoulder;
    c. Touched Patient A's knee;
    d. When assisting Patient A to walk to the toilet, touched her skin directly;
    e. Hugged Patient A;

4. On 9 or 10 March 2016 kissed Patient A:
    a. on her cheek;
    b. on her lips;

5. On 9 or 10 March 2016:
    a. Entered your telephone number into Patient A's mobile telephone without her permission;
    b. Used Patient A's mobile telephone to call your own mobile telephone without her permission;
    c. Sent one or more personal messages to Patient A's mobile telephone;

6. On 10 March 2016 administered a suppository to Patient A:

a. When this was not prescribed;
b. Without Patient A's consent;
c. Without documenting the administration;

7. Your actions at one or more of charges 1 to 6 were sexually motivated;

That you a registered nurse:

8. On 4 October 2010 failed to declare to MSI Group Ltd. the health condition set out in Schedule 1;

9. Your actions at charge 8 above were dishonest in that you knew you suffered from the health condition set out in Schedule 1 and knew you were required to declare it;

10. On one or more of the following dates, failed to declare to Thornbury Nursing Services the health condition set out in Schedule 1:
    a. 15 February 2011;
    b. 11 January 2013;
    c. 22 October 2013;
    d. 29 December 2014;

11. Your actions at charge 10 above were dishonest in that you knew you suffered from the health condition set out in Schedule 1 and knew you were required to declare it;

12. On one or more of the following dates, failed to declare to Your World Agency the health condition set out in Schedule 1:
    a. 30 May 2014;
    b. 16 June 2015;

13. Your actions at charge 12 above were dishonest in that you knew you suffered from the health condition set out in Schedule 1 and knew you were required to declare it;

14. You worked on one or more of the following dates as a registered nurse in breach of an interim order ("IO"):
    a. 7 April 2016;
    b. 8 April 2016;
    c. 9 April 2016;
    d. 10 April 2016;

15. Your actions at charge 14 above showed a lack of integrity in that you knew there was an IO hearing on 7 April 2016 where your registration could be restricted and you did not inform yourself of the outcome;

16. You worked on one or more of the following dates as a registered nurse in breach of an IO:
    a. 15 April 2016;
    b. 16 April 2016;
    c. 17 April 2016;
    d. 18 April 2016;

17. Your actions at charge 16 were dishonest in that you knew you were subject to an IO which suspended your registration.

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

**Schedule 1 [PRIVATE]**

[PRIVATE]

**Response to charges**

Mr Zeitlin informed the panel that Mr Ndoro made no admissions to the charges.

**Determination on application to hear matters in private**

Mr Zeitlin made an application to hear matters pertaining to Mr Ndoro's health, as and when they arose during the course of the hearing, in private.

The panel accepted the advice of the legal assessor, who referred the panel to Rule 19 of the Rules, which governs public and private hearings:

***19.****—(1) Subject to paragraphs (2) and (3) below, hearings shall be conducted in public.*

*(3) Hearings other than those referred to in paragraph (2) above may be held, wholly or partly, in private if the Committee is satisfied—*
*(a) having given the parties, and any third party from whom the Committee considers it appropriate to hear, an opportunity to make representations; and*
*(b) having obtained the advice of the legal assessor,*

*that this is justified (and outweighs any prejudice) by the interests of any party or of any third party (including a complainant, witness or patient) or by the public interest.*

The panel was mindful of the presumption that hearings are held in public session for the open and transparent administration of justice. That being said, as certain matters in this case were inextricably linked with Mr Ndoro's health, the panel determined that his right to privacy in respect of his health outweighed the general public interest. It therefore determined to consider those matters in private. All other matters will be

considered in public.

**Background**

The background to this case was presented by Mr Zeitlin, on behalf of the NMC, as follows:

Charges 1-7 related to Mr Ndoro's conduct towards Patient A, who was, at the material time, approximately 29 years old.

Charges 8-13 concerned Mr Ndoro's alleged failure to declare, when applying to join a number of nursing agencies, his health condition as set out in Schedule 1. [PRIVATE].

Charges 14-17 concerned Mr Ndoro working as a registered nurse whilst subject to an interim suspension order.

**Determination on application to hear the evidence of Ms 2 by telephone**

Mr Zeitlin made an application to adduce the evidence of Ms 2, Healthcare Assistant at Torbay and South Devon NHS Foundation Trust ("the Trust"), by telephone. In support of his application, he provided the panel with the NMC's guidance on telephone evidence.

Mr Zeitlin explained that Ms 2 had been very reluctant to cooperate with the NMC and, unlike the position with a registered nurse, the NMC had no powers, short of a witness summons, to compel her attendance. Numerous attempts had been made by the NMC to engage Ms 2 in these proceedings and to secure her attendance in order to give live evidence. Those attempts were largely unsuccessful until recently, when Ms 2 agreed to be available to give evidence by telephone on day three of the proceedings. A witness

summons was thus not obtained, albeit this was the initial intention, because Ms 2 had agreed to give evidence by telephone.

Mr Zeitlin submitted that Ms 2 gave important evidence in respect of charge 6, that her evidence tended to support the tenor of the accounts provided by Patient A, and that it corroborated one of the allegations made by Patient A. He submitted that one could reasonably assume that her evidence was challenged by Mr Ndoro, as he denied the charges her evidence spoke to.

Mr Zeitlin referred the panel to an email exchange between Ms 8 and Mr Ndoro, in which he was informed of the NMC's intention to call Ms 2 to give evidence by telephone, rather than asking the witness to attend the hearing in person; Mr Ndoro's response to this was "No objection".

In all of those circumstances, Mr Zeitlin submitted that it would be appropriate to hear the evidence of Ms 2 by telephone.

In reaching its decision on the application, the panel had regard to the submissions made by Mr Zeitlin and it accepted the advice of the legal assessor, who referred to Rule 31 of the Rules:

***Evidence***

***31.—****(1) Upon receiving the advice of the legal assessor, and subject only to the requirements of relevance and fairness, a Practice Committee considering an allegation may admit oral, documentary or other evidence, whether or not such evidence would be admissible in civil proceedings (in the appropriate Court in that part of the United Kingdom in which the hearing takes place).*

The legal assessor further advised the panel to consider whether, in the particular circumstances, it should depart from the general principle envisaged in Rule 22 that

witnesses should attend proceedings in order to give evidence. The legal assessor also commended the NMC's telephone evidence guidance and advised the panel to have regard to the 'key considerations' outlined therein.

The panel had in mind its overarching duty to protect the public, act fairly whilst carefully balancing the interests of all parties, and uphold confidence in the regulatory process.

Panels in regulatory proceedings perform an inquisitorial and investigatory role. In order to perform this role, panels require the best evidence available. The panel accepted that the best form of evidence is obtained by calling witnesses live before it. It bore in mind the disadvantage in not being able to assess Ms 2's demeanour when giving evidence. However, it balanced this with the public interest in exploring the charges fully.

Mr Ndoro made no admissions to the charges laid against him. On that basis, the panel considered it reasonable to infer that Ms 2's evidence was materially in dispute. That being said, Ms 2's evidence was not the sole and decisive evidence in respect of the allegations against Mr Ndoro; whilst her evidence was undoubtedly significant and directly relevant to charge 6, it provided some corroboration to the overall evidence of Patient A and Mrs A, Patient A's mother.

As at the time of the application, the panel had already read through all the documentary evidence relied upon by the NMC, including Ms 2's NMC witness statement dated 30 November 2016, and her signed handwritten statement to the Trust. The panel was mindful that her evidence was contained in a written statement supported by a signed declaration of truth, which, along with all other documentary evidence in this case, would have been served on Mr Ndoro. On that point, the panel took into account that Mr Ndoro had confirmed that he had no objection to the NMC's proposal to call Ms 2 to give evidence by telephone. The panel was nevertheless acutely aware of its own obligation to ensure fairness in these proceedings. In that regard the panel, of its own volition, would explore any inconsistencies in the NMC evidence which the panel itself identified, as well as any matters referred to by Mr Ndoro

in his written representations to the NMC.

The panel further considered that the length of Ms 2's evidence did not make it impractical to hear it by telephone.

The panel took into account that Ms 2 was a very reluctant witness, and it was mindful of the considerable efforts made by the NMC to secure her participation in these proceedings, including potentially compelling her attendance by way of witness summons. In those circumstances, the panel considered that an adjournment of this hearing to secure her attendance in person was highly unlikely to be of any benefit, but rather may cause the witness to disengage entirely with the process.

Having considered this application with care, taking account of the public interest in the expeditious disposal of this case and fairness in these proceedings, and taking account of the age of the allegations, the panel determined that Ms 2's evidence was relevant and that it was fair to allow her to give evidence by telephone.

**Determination on application to admit hearsay evidence**

Mr Zeitlin made an application to admit into evidence the NMC witness statements of Ms 3 (Managing Director of Forward Vision Occupational Health and Safety Services and a registered nurse), Ms 4 (Compliance Director at MSI Group LTD), Ms 5 (Director of Clinical Governance at Your World Agency), Ms 6 (Senior Complaints/Incident Manager at Thornbury Nursing Services and a registered nurse), Ms 7 (Clinical Nurse Manager at Plan B Healthcare) and Ms 8 (NMC Case Preparation Officer).

Mr Zeitlin told the panel that it had been the NMC's intention throughout to adduce the witnesses' statement as hearsay evidence, without requiring the witnesses' attendance in person at the hearing. All the witness statements, save for the statement of Ms 7, were sent to Mr Ndoro early on in the proceedings. The NMC's position was made plain

in the Case Management Form sent to Mr Ndoro well in advance of the hearing; no response was received from him. A week prior to the hearing, Mr Zeitlin requested that Ms 8 send Mr Ndoro an email, outlining again the NMC's position in respect of the above witnesses, and requesting a response. The witness statement of Ms 7 was also served on Mr Ndoro at this stage. Mr Ndoro provided the following response: "I have no objection to any witness being called".

In reaching its decision on the application, the panel had regard to the submissions made by Mr Zeitlin and it accepted the advice of the legal assessor, who referred to Rules 22 and 31 of the Rules. The legal assessor advised the panel to consider whether there was any other supporting evidence upon which the panel could rely, in addition to the statements subject to this application; how the statements came to be made; Mr Ndoro's written responses to the allegations in question; and fairness to both parties.

The panel had in mind its overarching duty to protect the public, act fairly whilst carefully balancing the interests of all parties, and uphold confidence in the regulatory process. The panel was mindful that the admission of the statement of an absent witness should not be regarded as a routine matter.

In its consideration of this application, the panel had regard to each separate witness statement in question. Having done so, the panel took note that each statement was, essentially, a vehicle used by the witness in order to adduce a number of exhibits which formed the substance of the evidence in support of the allegation. Each witness confirmed that they had no personal knowledge of Mr Ndoro.

The panel was satisfied that the statements and exhibits were directly relevant to charges 8 onwards, and was thus satisfied that the requirement of relevance, as per Rule 31, was met.

Panels in regulatory proceedings perform an inquisitorial and investigatory role. In order to perform this role, panels require the best evidence available. The panel accepted that

the best form of evidence is obtained by calling witnesses live before it. The panel had regard to the email exchange between Ms 8 and Mr Ndoro, in which Mr Ndoro was informed that the NMC had proposed to 'read into the record' the witness statements in question, rather than asking the witnesses to attend the hearing in person. Whilst Mr Ndoro's response to this was somewhat unclear (his reply was that he had no objection to the witnesses being called), the panel was satisfied that the NMC had made its own position sufficiently clear. In any event, there was, the panel noted, no explicit objection from Mr Ndoro to the NMC's proposal.

The panel was mindful of its earlier decision to proceed in the absence of Mr Ndoro. With this in mind, the panel considered that any potential unfairness or disadvantage to him in allowing this application would be as a result of his decision to absent himself from the hearing. That being said, the panel was acutely aware of its own obligation to ensure fairness in these proceedings. In that regard the panel, of its own volition, would explore any inconsistencies in the NMC evidence which the panel itself identified, as well as any matters referred to by Mr Ndoro in his written representations to the NMC.

The panel bore in mind the disadvantage in not being able to assess the witnesses' demeanour when giving evidence. However, it was mindful that the witnesses' evidence was contained within written statements, supported by signed declarations of truth. Their evidence, along with all other documentary evidence relied upon by the NMC, had been served on Mr Ndoro, in advance of and in preparation for this hearing.

The panel was satisfied that the admission of the witnesses' statements and associated exhibits would accord with the public interest in ensuring that the evidence in this case was explored fully and that decisions were reached on the best available evidence. Having considered this application with care, taking account of the public interest in the expeditious disposal of this case and fairness in these proceedings, the panel determined that it would be fair to admit the documents. In reaching this conclusion, the panel was mindful of the potential limitations of receiving evidence in this manner and would, in due course, attach appropriate weight to the fact that the witnesses' written

accounts could not be explored by way of oral evidence and questions of clarification from the panel.

**Determination on facts**

In reaching its determination on facts, the panel had regard to all the evidence adduced, including all the oral evidence and exhibited documents. It had regard to the submissions of Mr Zeitlin and accepted the advice of the legal assessor.

The burden of proof rests entirely upon the NMC. Mr Ndoro does not have to prove or disprove anything. The standard of proof is the civil standard, namely the balance of probabilities. This means that, for a fact to be found proved, the NMC must satisfy the panel that what is alleged to have happened is more likely than not to have occurred.

The panel heard evidence on behalf of the NMC from the following witnesses:

- ☐ Patient A
- ☐ Mrs A, Patient A's mother
- ☐ Ms 1, Matron in Surgery at the Trust
- ☐ Ms 2, Healthcare Assistant at the Trust (by telephone)

Patient A gave a number of accounts in respect of the allegations to which she spoke, namely to the police (at two interviews), to the NMC, and to the panel in these proceedings. Her evidence was consistent throughout. She answered questions put to her as openly and as best she could. She was resolute in her oral evidence in disputing Mr Ndoro's version of events. She had a good recall of matters about which she spoke and was candid when unable to recollect other matters, making no attempt to speculate when unable to answer questions. The panel was satisfied that she was a reliable and credible witness.

The panel was further satisfied that Patient A gave a truthful account of what had occurred, and that she gave evidence in good faith. The panel took into consideration that despite the impact of the events in question, and her subsequent participation with the police and with the NMC in speaking about the allegations, on her physical and mental health, she attended this hearing to give evidence before the panel. In accepting Patient A's evidence, the panel therefore rejected any assertion or suggestion that she was wrong, lying or mistaken.

Patient A, during the course of her evidence, addressed the panel in regard to text messages she had received from an unknown number, which pertained to the matter of NMC proceedings. These messages were not served on Mr Ndoro for his representations, and did not form part of the allegations against him. The panel thus put that information out of its mind.

Mrs A appeared, quite understandably given the seriousness of the allegations and the nature of her relationship with Patient A, as protective of her daughter. Much of her evidence as contained in her NMC witness statement related to matters disclosed to her by Patient A, and was therefore hearsay. Her account of the incident to which she was a direct witness (when Mr Ndoro had allegedly hugged Patient A) was consistent throughout. The panel was satisfied that she was, overall, a reliable and credible witness, but bore in mind that the majority of her evidence was based on what her daughter had reported to her; it was inevitable that discussions would have been had between mother and daughter about the allegations and the panel, therefore, exercised some caution when considering how much Mrs A was able to recall, independently.

Ms 1 gave factual evidence in regard to Patient A's medical records and in respect of certain medications, and her evidence in this regard was of assistance to the panel. She confirmed that she had no personal knowledge of Mr Ndoro, and therefore provided what the panel considered to be impartial evidence. The panel was satisfied that she was a reliable and credible witness.

Ms 2's oral evidence did not go much further than what was contained in her handwritten statement to the Trust, produced sometime shortly after 10 March 2016. That said, she confirmed that her statement was an accurate record of what she had witnessed on the date in question. She had a good recall of some matters and was candid when unable to recollect other matters, making no attempt to speculate when unable to answer questions. The panel was satisfied that she was a reliable and credible witness.

The panel received into evidence the signed NMC witness statements of:

- ☐ Ms 3, Managing Director of Forward Vision Occupational Health and Safety Services ("Forward Vision") and a registered nurse
- ☐ Ms 4, Compliance Director at MSI Group LTD ("MSI")
- ☐ Ms 5, Director of Clinical Governance at Your World Agency ("Your World")
- ☐ Ms 6, Senior Complaints/Incident Manager at Thornbury Nursing Services ("TNS") and a registered nurse
- ☐ Ms 7, Clinical Nurse Manager at Plan B Healthcare ("Plan B")
- ☐ Ms 8, Case Preparation Officer at the NMC.

The panel made the following findings of fact in respect of the charges:

*That you, a registered nurse, whilst working at Torbay and South Devon NHS Foundation Trust:*

1. *Spoke inappropriately to Patient A in that:*
   a. *On 9 March 2016, in response to Patient A's request for a "black, sweet and hot" coffee, said "what, just like me" or words to that effect;*

According to the transcript of Patient A's Achieving Best Evidence ("ABE") police interview on 16 April 2016, Patient A said that when she had first met Mr Ndoro on the Forrest Ward ("the Ward"), he came across as "quite lovely, really nice and pleasant

and friendly". He asked her if she wanted anything to drink and she said she would like some water. He replied that she was allowed to have coffee and he asked her how she took her coffee. She said, "I like it black, sweet and hot", to which he said, "what, just like me?"

According to the transcript of Patient A's ABE police interview on 27 May 2016, Patient A repeated that when she said that she liked to take her coffee, "hot, dark and sweet", Mr Ndoro replied, "what, just like me?" She said that she took his comment as a joke and "a little bit of banter".

By way of background Patient A explained, in her NMC witness statement, that she was a patient on the Ward at Torbay Hospital ("the Hospital") between 9 and 11 March 2016. She had been experiencing severe pain for a number of weeks, which was not getting better, and she attended the Accident and Emergency Department with her mother, Mrs A, on 9 March 2016. She was later transferred to the Ward.

Patient A first met Mr Ndoro when she was admitted to the Ward. She described him, in her statement, as "pleasant and friendly" upon her arrival onto the Ward. He introduced himself to her as 'Rod' and asked her if she wanted anything to eat or drink. She informed him that she was nil by mouth and then asked for some water. He told her that she could have a coffee, to which she agreed. He asked her how she wanted her coffee and she replied, "I like it black, sweet and hot". He then turned around and said "what, just like me?" She giggled at this and said 'yes' in response, as she was of the view that this "was just a bit of banter".

In his handwritten response to the NMC, Mr Ndoro recalled that upon her arrival on the Ward, Patient A had asked him for something to eat. He informed her that she could not eat anything but could have clear fluids and intravenous fluids only. She then asked him for coffee without milk, which he went away to prepare and brought back for her.

The panel found Patient A to be a credible and reliable witness and accepted her

evidence in respect of this charge. In that regard, the panel accepted her testimony that, in response to her request for a "black, sweet and hot" coffee, Mr Ndoro said words to the effect of "what, just like me?"

The panel carefully considered the context of the discussion in question and determined that Mr Ndoro's comment crossed professional boundaries. This was the first substantive interaction between Patient A and Mr Ndoro, her nurse. There was no pre-existing familiarity and therefore no way of knowing that, even if the comment were intended by Mr Ndoro as a joke, it would be received as such. In any event, the panel considered that his comment had sexual, suggestive and flirtatious undertones, which had no clinical or therapeutic justification. It therefore concluded that Mr Ndoro's comment was inappropriate.

Accordingly, the panel found charge 1(a) **proved**.

b. *On 9 or 10 March 2016, said "If you could twerk I'll take you to Zimbabwe", or words to that effect;*

According to the transcript of Patient A's ABE police interview on 27 May 2016, Patient A said that when she was leaning up against a wall, "rocking" in pain, Mr Ndoro said "ooh… if you could twerk, I'll take you to Zimbabwe with me". She replied, "I can't twerk, I'm not a very good dancer me".

Patient A recalled, in her NMC witness statement, that at one occasion she was "wiggling [her] bottom" as she was in a lot of pain. Mr Ndoro said to her, "if you could twerk, I'll take you to Zimbabwe with me". She said in response, "I can't twerk, I'm not a very good dancer".

In his handwritten response to the NMC, Mr Ndoro recalled Patient A enquiring about his country of origin. She then told him that she had been following events in Zimbabwe

and had wanted to go there. She asked if he could point out places to visit; given the time of day, he replied that he would do so once she had made a full recovery. She then proceeded to ask about his culture, food and ethnic dances.

Mr Ndoro went on to state that he spoke with Patient A about Zimbabwe when he was asked where he came from. He said, “Never did I invite the pt [patient] on any other excuse other than when she wanted to tour the country [sic]. This brought about the discussion about our culture, food and dances. The pt mentioned she had seen videos of African girls [twerking]. I agreed with her and told her that in my country, this had been borrowed from the Caribbean culture”.

The panel found Patient A to be a credible and reliable witness and accepted her evidence in respect of this charge. In that regard, the panel accepted her testimony that Mr Ndoro said to her words to the effect of “If you could twerk I’ll take you to Zimbabwe”. The panel was also mindful of Patient A’s oral evidence that Mr Ndoro’s own account in respect of this allegation was “not correct”. The panel was in no doubt that a comment of this nature, made by a nurse to a patient in a nursing environment, would be wholly inappropriate and cross professional boundaries.

Accordingly, the panel found charge 1(b) **proved**.

*c. On 9 or 10 March 2016 said “we’ll meet up” or words to that effect;*

According to the transcript of Patient A’s ABE police interview on 16 April 2016, Patient A said that when Mr Ndoro put his phone number into her mobile phone (as set out in charge 5), he said “oh, we’ll meet up”.

According to the transcript of Patient A’s ABE police interview on 27 May 2016, Patient A explained that when Mr Ndoro put his phone number into her mobile phone, he said “oh, I’ve put my number in there… if you ever want to meet up or anything…” She said,

in the interview, that she had “no idea” what made Mr Ndoro think that she would want to meet up with him; she said, “I’ve not put that into his head I’ve not said anything…”

Patient A said, in her NMC witness statement, that when Mr Ndoro had entered his telephone number into her mobile phone (set out in charge 5), he then said words to the effect of, “oh, we’ll meet up” or “oh, I’ve put my number in there if you ever want to meet up or anything”. She told him that that would not happen. She said, in her witness statement, that she did not “really think anything of it”. She stated, however, that she did not know what made him think that she would meet up with him; she said that she “did not put that into his head”.

Mr Ndoro provided no specific response to this particular allegation.

The panel found Patient A to be a credible and reliable witness and accepted her evidence in respect of this charge. In that regard, the panel accepted her testimony that Mr Ndoro said to her words to the effect of “we’ll meet up”.

The panel carefully considered the context of the discussion in question and determined that Mr Ndoro’s comment crossed professional boundaries. Mr Ndoro took Patient A’s mobile phone, entered his phone number into her phone, and called his number from her phone in order to get her number; all without permission. He then suggested that they “meet up” or words to that effect. The panel accepted Patient A’s evidence that she had no idea why he would think that she would want to meet up with him and did not put this idea into his head. He was, in her mind, her care giver at that time and nothing more. There was no clinical or therapeutic justification for Mr Ndoro’s actions and suggestion that they “meet up”. The panel concluded that his comment had sexual, suggestive and flirtatious undertones, and was thus wholly inappropriate.

Accordingly, the panel found charge 1(c) **proved**.

2. *On 9 March 2016 when rubbing Patient A's back:*
    a. *Inappropriately touched Patient A's skin directly;*
    b. *Inappropriately touched Patient A's lower back/ bottom;*

According to the transcript of Patient A's ABE police interview on 16 April 2016, Patient A recalled an occasion when she had her hands up on a wall and was bouncing up and down in pain. Mr Ndoro then appeared and asked her if she was okay, to which she replied "no, no, no I'm really, really hurting, is there anything else I can have?" He said, "no, no, no, you can't", and started rubbing her back. He then started "rubbing further and further down to [her] panty line and down by [her] coccyx, which [she knew] he shouldn't have been doing". She explained, in the interview, that she "probably should have said 'no'… [and] 'get your hands off me' but it helped".

According to the transcript of Patient A's ABE police interview on 27 May 2016, Patient A described an occasion when she was facing a wall, rocking "in agony" and crying. She said that she was wearing a gown at the time, and was only wearing a training bra and pants underneath the gown. Mr Ndoro started rubbing the middle of her back, and "he goes lower and lower and he's literally…where [my] panty line is… and he's literally got to my bum crack". At this point, Patient A said, "right okay, that's enough" and she asked for some painkillers. He left and then returned with painkillers. She said, in the interview, that his actions, "to start off with [were] soothing", but later made her feel "uncomfortable". She said that whilst his actions helped in relieving her pain, "he shouldn't have gone so far down".

Patient A explained, in her NMC witness statement, that when Mr Ndoro returned with her coffee, she was stood up facing a wall, with her head and hands up against that wall. She was wearing a hospital gown at the time, as she was due to go into surgery; underneath that gown, she was wearing a training bra and underwear. She said that she was "wiggling [her] bottom" as she was in a lot of pain.

Mr Ndoro asked Patient A if she was ok, to which she replied "no, no, no I'm really really

hurting, is there anything else I can have". He replied in the negative, and started to rub the middle of her back. This, according to her, helped ease the pain. She told him the same, but he "went lower and lower, he then started rubbing down to [her] panty line and by [her] coccyx and [the] top of [her] bum crack". She said, in her statement, that she "probably should have said 'no' or 'get your hands off' but it helped the pain and [she] was in so much pain at this point".

When Mr Ndoro "got lower", Patient A said "right, that was enough" and asked for some painkillers. He replied, "yeah that's fine, I'll go and have a look and see what you can and can't have".

The panel found Patient A to be a credible and reliable witness and accepted her evidence in respect of this charge. In that regard, the panel accepted her testimony that, when rubbing her back, Mr Ndoro inappropriately touched her lower back and bottom, and, by inference, touched her skin directly. Whilst she said that his actions "to start off with" had helped relieve her pain, she was in no doubt that he went too far.

The description given by Patient A of Mr Ndoro's actions suggested conduct akin to a massage. She had specifically asked for pain relief from Mr Ndoro. He said 'no' and proceeded to touch her in the manner that he did. In the circumstances as described by Patient A, the panel concluded that there was no clinical or therapeutic justification for Mr Ndoro touching Patient A's lower back and bottom, and, by inference, her skin directly. This view was supported by Ms 1 who said, in her NMC statement, that "there is no medical need for this and it goes against the Code of Conduct for nurses. [It] opens a risk of having allegations made against you". The panel therefore concluded that Mr Ndoro's actions in the circumstances were inappropriate.

Accordingly, the panel found charges 2(a) and (b) **proved**.

3. *On one or more occasion between 9 – 11 March 2016 touched Patient A*

*inappropriately in that you:*

a. *Touched Patient A's hand;*
b. *Stroked Patient A's shoulder;*
c. *Touched Patient A's knee;*
d. *When assisting Patient A to walk to the toilet, touched her skin directly;*
e. *Hugged Patient A;*

According to the transcript of Patient A's ABE police interview on 16 April 2016, Patient A said that Mr Ndoro was "constantly in my room, sat on my bed, talking and he would always be touching my hand, or my shoulder, or touching me round here…" She also said that Mr Ndoro was "stroking" her.

According to the transcript of Patient A's ABE police interview on 27 May 2016, Patient A said that Mr Ndoro "kept rubbing my leg… and he was rubbing my arm…" She went on to say that he "[touched] me all the time…" When asked to describe her reaction to him rubbing her arms and legs, she said, "I didn't like it at all", and she told Mr Ndoro the same.

Patient A also said that when Mr Ndoro "took me to the toilet, I didn't link his arm, he would hold my hand, and he would have… his hand round here. And where, where I had tied up, he'd have his hand round here on my skin… so next time when he had to take me, I made sure that I would tie it all the way around". She went on to say that "I would tuck it all the way round, cos I was actually quite conscious about every time he come through, that it was actually, there was skin".

Patient A further stated that on the Thursday morning, Mr Ndoro came to her bedside, gave her mother a cuddle, went to give her (Patient A's) partner a cuddle, and then leaned over her bed to give her a cuddle.

Patient A said, in her NMC witness statement, that Mr Ndoro was "constantly checking up on me, touching my hand, stroking my shoulder. I felt like he was always there". She

said that he was “in an out so often that although I needed to go to the toilet a lot I didn’t once need to use my buzzer…”

Patient A went on to state that when Mr Ndoro took her to the toilet, she did not link arms with him but that he would hold her hand. She said that he would put his arm around her, where her gown was tied up; as such, he would touch her skin. She explained that she had to make sure that her gown was tied all the way around “to stop him from doing that”.

Patient A also stated that on Thursday evening, Mr Ndoro gave her “a cuddle when [she] was in bed”. She recalled that this occurred in the presence of her mother, her partner and a member of staff.

Patient A further recalled that on one occasion, when she was sat on the bed with her legs crossed under a blanket, she was rocking as she was in a lot of pain and she started crying. Mr Ndoro came over and closed the curtains around the bed. He asked her if she wanted any medication or anything to drink or a coffee. He was rubbing her knee over the blanket and her arm/shoulder. She said that because she had had her drip in, she “felt tied up [she] couldn’t go away”. She further said that she felt “very uncomfortable” by his actions and told him that she had a partner and that she was engaged, “as a way of telling him [Mr Ndoro] not to do it”. She said that he did not seem to care, and simply congratulated her on her engagement.

Patient A, in her oral evidence, disputed Mr Ndoro’s accounts. She denied telling him that she wanted to hug him for relieving her pain and she denied at any stage giving him or inviting him to give a hug. She said that she had “never” offered to hug him.

Patient A went on to state that when Mr Ndoro “took me to the toilet, he had his arm around me, where the gown was open… he was on my right hand side…” When asked if he held her over her gown, she replied “no, it was under my gown”.

Patient A disputed Mr Ndoro's suggestion that she had referred to him as her "special nurse". She also disputed the suggestion that she had extended her arms out towards him, inviting a hug; she said "I was very very poorly that day. I couldn't even lift my head off the bed".

Mrs A gave evidence in respect of this charge. In a statement to the Trust signed and dated 11 March 2016, Mrs A explained that after she had made a complaint about Mr Ndoro being overly friendly towards her daughter (this was disclosed to Mrs A by Patient A), Mr Ndoro came to the patient's cubicle to introduce himself. He greeted Mrs A by pressing the palm of his hand on her back, between her shoulder blades. He greeted Patient A's fiancé by going to shake his hand. He then "embraced [Patient A] with a full upper body hug, wrapping his arms around her and pulling her into him".

Mrs A, in her oral evidence, also disputed Mr Ndoro's accounts. When asked if Patient A did in fact refer to him as her "special nurse", Mrs A could not provide a definitive answer but said, "She probably did, with her eyes open… 'Here's my special nurse' as in 'he's the one who did it to me'. She didn't want to point the finger and say 'he's the one that did it to me'. She wanted to let me know with her 'daughter eyes' that he was the 'special nurse' that looked after [her]".

Mrs A disputed Mr Ndoro's suggestion that Patient A had her arms extended out towards him; she said "no, no, definitely not". She recalled watching him "[give] a big sweep and went over to [Patient A]… sweep with his arms and went over her… I looked at [the auxiliary nurse] as he was giving [Patient A] this big 'vulture' hug…"

In his handwritten response to the NMC, Mr Ndoro recalled that after an occasion when Patient A was "writhing in pain" and he had administered pain relief medication, she said that she wanted to give him a hug for relieving the pain. He then hugged her as a sign of empathy. He also recalled another occasion when Patient A told him that she would hug him to say 'thank you'. He said, "we hugged and went our separate ways".

Mr Ndoro went on to state that the following evening, it had been handed over to him that Patient A had had a 'funny turn' in the morning and had had seizures all day, to the extent that she required special observations. He went to the patient's bedside to see her; Mrs A and Patient A's partner were present. When Patient A saw Mr Ndoro, she exclaimed "here is my special nurse who looked after me", with her arms extended towards him. He hugged her and said that he was sorry to hear that she had not been well. He then greeted Mrs A and Patient A's partner.

The panel found Patient A to be a credible and reliable witness and accepted her evidence in respect of this charge. In that regard, the panel accepted her testimony that on one or more occasion between 9 – 11 March 2016, Mr Ndoro touched Patient A's hand; stroked her shoulder; touched her knee; when assisting her to walk to the toilet, touched her skin directly; and hugged her.

As to the appropriateness of otherwise of Mr Ndoro's actions, the panel carefully considered Patient A's evidence as to the context within which his actions took place.

The panel heard little contextual evidence as regards the circumstances within which Mr Ndoro touched Patient A's hand. In the absence of such context, the panel was unable to assess whether his actions were inappropriate. Touching a patient's hand could, in many instances, be entirely justified, appropriate and necessary.

In respect of charges 3(b), (c), (d) and (e), the panel was mindful of Patient A's evidence as to the frequency and manner in which Mr Ndoro would touch her. She explained that he would close the curtains around her bed every time he went to see her. There was, in the panel's judgement, no clinical or therapeutic justification for Mr Ndoro stroking Patient A's shoulder; touching her knee, touching her skin directly; and hugging her. The panel was thus in no doubt that his actions, in so doing, were inappropriate.

Accordingly, the panel found charges 3(b), (c), (d) and (e) **proved**.

4. *On 9 or 10 March 2016 kissed Patient A:*
    a. *on her cheek;*
    b. *on her lips;*

According to the transcript of Patient A's ABE police interview on 16 April 2016, Patient A said that Mr Ndoro gave her a kiss on the cheek and also kissed her on the lips. She said that when he had kissed her on the lips, "I didn't know where that came from, I didn't expect it… it just happened…"

According to the transcript of Patient A's ABE police interview on 27 May 2016, Patient A repeated that Mr Ndoro had kissed her on the cheek, and that "then it progressed to the lips". By way of context, she said that she was sat on the bed at the time, with her legs crossed, and was rocking back and forth in pain. Mr Ndoro was sitting with her. An alarm was activated elsewhere, which he had to attend to, and as he was leaving "he then kissed me and went…" She said that the incident occurred on her first evening on the Ward. When asked to describe the kiss, she said, "ooh so big. It was just, his face was, it happened… [it was] quick… It wasn't, it wasn't tongues or anything like that, it was, all I remember was those big… lips…" She said that she was taken aback by his actions. She also said that whilst she was a friendly person, she was "not a kissy kissy person like that…" and that "in that profession, that shouldn't happen, he shouldn't be like that… no so I didn't like it".

Patient A said, in her NMC witness statement, that after Mr Ndoro had rubbed her back (as alleged at charge 2), he kissed her on the cheek. She recalled that he was "in and out [of her bed area] as he usually was". She was sat on her bed and he came in and closed the curtains. She asked for painkillers and he responded, "try this one" and kissed her on the cheek once. He then left. She said that the incident "happened so quickly [she] could not react to it".

Patient A went on to say that Mr Ndoro "later on kissed [her] on the lips". She could not recall precisely what time this had happened, but remembered that "it was over the night [she] was admitted". Patient recalled that when one of the bed alarms was activated, Mr Ndoro was about to see to it when, at this point, he kissed her on the lips. She said that this had happened on the Wednesday night. She recalled that the incident happened very quickly. She said that he did not put his hands on her or pull her in. She stated that she was "very shocked and taken aback".

In his handwritten response to the NMC, Mr Ndoro recalled an occasion when Patient A was "writhing in pain". He administered IV morphine and an antiemetic and stood by her bedside for approximately 10 minutes, observing and assessing her. The pain subsided and "The pt [patient] was so thankful and said she wanted to give me a hug for relieving the pain. I hugged her as a sign of empathy and I recall she gave me a… kiss on the cheek which meant nothing".

The panel found Patient A to be a credible and reliable witness and accepted her evidence in respect of this charge. In that regard, the panel accepted her testimony that Mr Ndoro had kissed her on the cheek and on the lips. The panel was also mindful of Patient A's oral evidence that Mr Ndoro's own account in respect of this allegation was incorrect. It is never acceptable for a nurse to kiss a patient, particularly in the circumstances as described by Patient A. It is a serious breach of trust and professional boundaries.

As an aside, the panel considered that if Mr Ndoro were correct in his claim that Patient A had kissed him on the cheek, an incident of this nature would surely have been recorded and reported. There was no such record before the panel.

Accordingly, the panel found charges 4(a) and (b) **proved**.

5. *On 9 or 10 March 2016:*

a. *Entered your telephone number into Patient A's mobile telephone without her permission;*
b. *Used Patient A's mobile telephone to call your own mobile telephone without her permission;*
c. *Sent one or more personal messages to Patient A's mobile telephone;*

According to the transcript of Patient A's ABE police interview on 16 April 2016, Patient A said that Mr Ndoro "put his number on my mobile phone… he put his number in and rang his number, my number, he rang his phone off my phone… so he got my number and then he said, 'Oh, we'll meet up' and I was like, like that isn't gonna happen, but whatever, didn't really think anything of it… then I got a message off him… he came in all like bubbly and run over and just gave us a cuddle when I was in bed where everybody was around and… [he said] 'Did you get my message?' 'Did you get my message?' and I was like 'What message?' So I looked at my phone and he had text me, got a little video message about getting well soon and then another little text message at the bottom of it… So I said, 'Oh…', I haven't replied, I haven't done anything and… he left it as that…"

According to the transcript of Patient A's ABE police interview on 27 May 2016, Patient A recalled an occasion when, after having put her phone down on a nearby table, Mr Ndoro "actually picked it up, put his number in my phone… said he was going to text me, he actually rung his number off my mobile phone… I woke up in the morning… he came in with open arms and flung his arms around me, 'Oh did you get my message?' 'No'. And then obviously when I looked at… my phone, I had had two messages off him. One video message and a text message…" The video message said 'get well soon' with a smiley face emoticon. She said, in the interview, that she thought "it was a little bit creepy". She did not, however, say anything to Mr Ndoro about the messages.

Patient A recalled, in her NMC statement, that after she had placed her mobile phone down onto a nearby table, Mr Ndoro picked it up, put his number into her phone, and rang his mobile phone from her phone so that she would have his number. Patient A

explained that, the following evening, Mr Ndoro came by her bedside, “all bubbly”. He gave her mother an “open handed back rub/stroke” and gave her (Patient A) a cuddle while she was in bed. He then said to her, “did you get my message? Did you get my message?” She checked her phone and saw that he had sent her a video message, via Whatsapp, about getting well soon and another message following that. She said, in her statement, that she “found it very creepy”, and did not reply to the messages.

Patient A said, in her oral evidence, that “when [Mr Ndoro] took my phone, he said I should take his number and we should meet up for a drink. I just left it. I didn’t think anything of it. Because I was so poorly, it didn’t play on my mind. I was never going to save the number, I was going to delete it”.

In his handwritten response to the NMC, Mr Ndoro stated that after Patient A has spoken to him about Zimbabwe, she asked him if he “was on Facebook”. He replied in the negative, but said that he “was on [Twitter] and [Whatsapp] instead”. She asked him if she could contact him when she was ready to go to Zimbabwe. He gave her his mobile number and said that he would send her contacts and website information via Whatsapp. She called his number and, later on, he sent her, via Whatsapp, a “smiley” “hope you get better” message, with the caption “hope your scans goes well [sic]. Get better soon”. He said that he did not save her number on his phone.

The panel found Patient A to be a credible and reliable witness and accepted her evidence in respect of this charge. In that regard, the panel accepted her testimony that Mr Ndoro entered his telephone number into Patient A’s mobile telephone without her permission; used her mobile telephone to call his own mobile telephone without her permission; and sent one or more personal messages to her mobile telephone.

It is never acceptable for a nurse to obtain the contact details of a patient without their permission, particularly in the circumstances as described by Patient A. It is a serious breach of trust and professional boundaries.

Accordingly, the panel found charges 5(a), (b) and (c) **proved**.

6. *On 10 March 2016 administered a suppository to Patient A:*
    a. *When this was not prescribed;*
    b. *Without Patient A's consent;*
    c. *Without documenting the administration;*

Ms 1 gave evidence in respect of this charge. She explained, in her NMC witness statement, that, according to Patient A's Drug Prescription and Administration Record ("PMAR"), Patient A was prescribed Diazepam 10mg as a stat dose. She explained that a "stat dose" was a one-off prescription; it was administered by the consultant at that time. There was no other prescription for Diazepam or other suppositories until 11 March 2016, following a request by Mr Ndoro in the patient's notes.

Ms 1 also said that, according to the PMAR, Diclofenac suppositories were prescribed on 11 March 2016 and it was first recorded as being administered on the same day at 14:00.

Ms 1 explained that Diazepam is a suppository medication, administered through the anus. It is a muscle relaxant and is given to patients with seizures as it relaxes their muscles, reducing the risk of seizures or muscles tensing up during a seizure which can cause damage. She said that whilst it is not a controlled drug, it "should always be prescribed by a Doctor".

Ms 1 stated that the administration of medication "must be recorded on the PMAR. This is so there is a record of the patient's medical care and it helps if a Doctor is prescribing new medication to know if anything the patient has may affect the new medication being given. It is extremely important to keep an accurate record". She also said that "a nurse should never administer a drug that has not been prescribed by a Doctor. A nurse would not know if the drug they are administering would have side effects due to any other

drugs the Patient may be taking". She further stated that whilst nurses would not ordinarily document consent from a patient to administer medication, "we would always obtain verbal consent. We would document consent if there was an issue".

Ms 1 referred to the Trust's Medication policy, which stipulated, at paragraph 6.2.7, "Prior to administration of a medicine, the following must be checked […] patient is ready to receive the medicine". She said that Mr Ndoro did not do that in this case. She also referred to paragraph 6.2.8, which set out that "all medicines administration must be recorded to include details of the signature of the person administering, date, time, medicine, dose and route of administration. In addition, the appropriate site of administration, and batch number should be recorded for all injectable medicines". She again stated that Mr Ndoro did not do that in this case.

The panel had sight of Patient A's prescription chart and noted that Diclofenac suppositories were prescribed on 11 March 2016, the first recorded administration being at 14:00 on the same day. In the column under the date of 10 March 2016, there were 'X's' in the boxes relating to the 08:00, 14:00 and 22:00 administrations of the medication, thus indicating that the suppositories were not administered on 10 March 2016 at these times. This corresponded with Mr Ndoro's entry in Patient A's notes, timed at 05:45 and dated 11 March 2016, in which he said, "cross over doc reviewed the pt's [patient's] analgesia. Nefopam and regular diclofenac suppositories prescribed".

The panel also took into account Ms 2's evidence. In a signed, handwritten statement to the Trust, produced sometime shortly after the event, she reported the following:

"10/03/16… patient [Patient A] did not feel well over night, she had several seizures and looked exhausted. Approximately at midnight (sorry, I do not remember the [exact] time) Rodger [the registrant] came to see the patient following my request, approached the patient, whose [last] seizure just finished, turned her on the left side, pulled her trousers and knickers down and inserted something per rectum. No verbal contact was made with the patient in attempt to gain a consent [sic]. I asked him [what] it was and he

[replied] Diazepam. In the morning Rodger approached to patient [sic] and apologised".

Ms 2's evidence was supported by Patient A's evidence. According to the transcript of Patient A's ABE police interview on 27 May 2016, Patient A recalled a conversation when a nurse had arrived by her bedside to administer medication. The one to one nurse, who was already with Patient A, informed the other nurse that Patient A "doesn't need it, because she's been given medication already". The other nurse responded, "Pardon? Well it's not down on our records". The one to one nurse then said, "No, she'd been given it".

Patient A explained, in her NMC witness statement, that on Thursday morning, she had a "really big" seizure; she was allocated a one to one nurse and, as a result, that nurse stayed with her at all times. On Friday morning a nurse arrived to administer Diclofenac, an anal medication. The one to one nurse informed the other nurse that Patient A had already received that medication. The other nurse noted that this administration had not been recorded.

Patient A said, in her statement, that she did not consent to the administration of medication on the date in question and that she was not aware that it had been given to her.

On the basis of the evidence before it, the panel was satisfied that suppositories were not prescribed for Patient A on 10 March 2016. It further accepted the evidence of Ms 2 (as supported by Patient A) that Mr Ndoro had administered a suppository to Patient A on 10 March 2016, without her consent. Having regard to the patient's prescription chart and medical notes, the panel took note of the absence of any record pertaining to the administration of a suppository to Patient A on 10 March 2016.

The panel had sight of Mr Ndoro's response to this allegation. In his handwritten statement to the NMC, Mr Ndoro denied administering medication without a prescription. He said, "As a nurse, I would not administer anything not prescribed. I did

not administer any suppository. I signed for all the prescribed meds for my patient. Neither would I give anything without pt [patient] consent. Oral Diazepam had been given to the pt by another nurse". Having accepted the evidence presented on behalf of the NMC, the panel rejected Mr Ndoro's account.

Accordingly, the panel found charges 6(a), (b) and (c) **proved**.

7. *Your actions at one or more of charges 1 to 6 were sexually motivated;*

In its consideration of this charge, the panel took account of all the evidence before it.

Patient A told the police, the NMC and this panel that Mr Ndoro was "always" going to see her, touching her, and closing the curtains around her bed every time he went to her bedside. She told the police that he was "always so close" and that he was "being too overly friendly, like I really didn't like it, really really friendly". She described how his behaviour made her feel uncomfortable and that she knew his actions, given that he was a nurse, were wrong. She said that she did not witness this behaviour from him towards any other patient.

Mr Ndoro, on the other hand, said, in his handwritten statement to the NMC, that "I find it very untrue that I have been labelled as over friendly when I was being empathetic and giving the best of care we could give on the ward. I had no other intentions other than the wellbeing of my patient". He went on to say, "I wonder if my gender and creed were taken in the wrong context to seek opportunistic endeavours, at the expense of the pt's [patient's] care".

In respect of charges 1(a), 1(b), 1(c), 2(a), 2(b), 3(b), 3(c), 3(d), 3(e), 4(a), 4(b), 5(a), 5(b), 5(c), 6(a), 6(b) and 6(c), the panel determined that the charges, when considered cumulatively, demonstrated sexually motivated conduct. In the panel's judgement, Mr Ndoro's actions were demonstrable of a course of conduct which was, initially, grooming

in nature (suggestive, flirtatious comments and constant touching), subsequently escalating and developing into explicit and overt sexual behaviour (kissing the patient on her lips and inserting a suppository when it was not prescribed and without recording this administration). The panel found that there was no clinical or therapeutic justification for any of his actions or comments and that his conduct had escalated from inappropriateness to serious breaches of trust and boundaries.

The panel therefore determined that Mr Ndoro's actions in respect of the matters found proved were sexually motivated. Accordingly, the panel found charge 7 **proved**.

*That you a registered nurse:*

8. *On 4 October 2010 failed to declare to MSI Group Ltd. the health condition set out in Schedule 1;*

[PRIVATE]

Accordingly, the panel found charge 8 **proved**.

9. *Your actions at charge 8 above were dishonest in that you knew you suffered from the health condition set out in Schedule 1 and knew you were required to declare it;*

[PRIVATE]

Accordingly, the panel found charge 9 **proved**.

10. *On one or more of the following dates, failed to declare to Thornbury Nursing*

*Services the health condition set out in Schedule 1:*

a. *15 February 2011;*
b. *11 January 2013;*
c. *22 October 2013;*
d. *29 December 2014;*

[PRIVATE]

Accordingly, the panel found charges 10(a), (b), (c) and (d) **proved**.

11. *Your actions at charge 10 above were dishonest in that you knew you suffered from the health condition set out in Schedule 1 and knew you were required to declare it;*

[PRIVATE]

Accordingly, the panel found charge 11 **proved**.

12. *On one or more of the following dates, failed to declare to Your World Agency the health condition set out in Schedule 1:*

a. *30 May 2014;*
b. *16 June 2015;*

[PRIVATE]

Accordingly, the panel found charges 12(a) and (b) **proved**.

13. *Your actions at charge 12 above were dishonest in that you knew you suffered*

*from the health condition set out in Schedule 1 and knew you were required to declare it;*

[PRIVATE]

Accordingly, the panel found charge 13 **proved**.

14. *You worked on one or more of the following dates as a registered nurse in breach of an interim order ("IO"):*
    a. *7 April 2016;*
    b. *8 April 2016;*
    c. *9 April 2016;*
    d. *10 April 2016;*

Ms 8 gave evidence in respect of this charge. In her NMC witness statement, she set out the following chronology of events:

- The referral against Mr Ndoro was made by the Trust on 17 March 2016.
- A Notice of Referral letter was sent to Mr Ndoro on 22 March 2016.
- A Notice of the first interim order hearing in Mr Ndoro's case was sent to him on 29 March 2016. The letter set out that an interim order hearing was due to take place on Thursday 7 April 2016 at 09:00 at an NMC hearing venue in London. The Notice was sent to Mr Ndoro's address as recorded on WISER, the system supporting the NMC's Register.
- Mr Ndoro confirmed, in an email dated 4 April 2016, that he would not be attending the interim order hearing scheduled for 7 April 2016, but that he "would like it to go ahead as planned". He also stated that he was "in the middle of writing a few things just for the panel to consider…"
- An NMC screening case officer sent an email to Mr Ndoro on 6 April 2016 to inform him that his written response would be put in front of the panel at the

interim order hearing.

- The first Investigating Committee Interim Order hearing took place on 7 April 2016, at which Mr Ndoro was made the subject of an 18 month interim suspension order.
- The Investigating Committee interim order hearing decision letter was sent to Mr Ndoro on 11 April 2016. This letter was sent to Mr Ndoro by first class post to Mr Ndoro's registered address, as recorded on WISER.
- Mr Ndoro sent an email to the NMC on 24 April 2016 stating that he had not received the outcome of the interim order hearing on 7 April 2016 and that he was informed by the police that he was currently "under suspension". He then requested a copy of decision letter following the interim order hearing. He confirmed his postal address, which was the same as the address recorded on WISER.
- Mr Ndoro was resent the interim order hearing decision letter on 29 April 2016. This letter was sent by recorded delivery and first class post to his registered address, as recorded on WISER.

In her NMC witness statement, Ms 7 explained that Plan B is a nursing recruitment agency based in London. Mr Ndoro registered with Plan B on 25 September 2015. He had not worked with the agency since April 2016, when it blocked him from taking any further shifts.

Ms 7 confirmed that on 7, 8, 9 and 10 April 2016, Plan B secured a placement for Mr Ndoro at Plymouth Hospitals NHS Trust, Derriford Hospital on the Shaugh Ward (Orthopaedic) (7 and 8 April), Stonehouse Ward (Surgery) (9 April) and Thrushell Unit (Medical Assessment) (10 April). Each shift was a night shift and was conducted in a nursing capacity. Ms 7 exhibited a timesheet for each date, confirming that Mr Ndoro had worked those shifts.

The panel had sight of a document entitled "Agency Backing Report… for Plan B Healthcare Agency"; this document demonstrated that Mr Ndoro worked shifts on 7, 8, 9

and 10 April 2016 from 19:30 to 08:00 at Plymouth Hospitals NHS Trust.

On the basis of the clear documentary evidence before it, the panel found charges 14(a), (b), (c) and (d) **proved**.

15. *Your actions at charge 14 above showed a lack of integrity in that you knew there was an IO hearing on 7 April 2016 where your registration could be restricted and you did not inform yourself of the outcome;*

The panel was satisfied that Mr Ndoro, as a registered nurse, had a duty to enquire as to the outcome of the interim order hearing which he knew was scheduled to take place on 7 April 2016. The Notice of the interim order hearing, dated 29 March 2016, made plain the possible outcomes of the hearing, including the imposition of an interim order. The letter further stated that "if an order is made it will come into force immediately".

One of the 'frequently asked questions' set out in the Notice of the interim order hearing was "can I still work as a nurse before the hearing?", the response to which was "yes". The panel gave careful regard to the chronology of events, as set out above. The interim order hearing took place on 7 April 2016 and Mr Ndoro worked a night shift that very same day. In the panel's judgement, it was not unreasonable, in the circumstances, that Mr Ndoro did not contact the NMC on the same day as his hearing in order to ascertain its outcome. On that basis, the panel was not satisfied that, in respect of 7 April 2016, his actions in working a nursing shift showed a lack of integrity.

In respect of 8, 9 and 10 April 2016, however, the panel considered that Mr Ndoro did have the opportunity to make contact with the NMC to inform himself of the outcome of the interim order hearing. The panel considered that it was reasonable to have expected Mr Ndoro to make such enquiries, at the very least the day after the hearing, and that it was indeed his duty to do so. He did not do so, despite being forewarned, in the Notice, that a possible outcome of the hearing would be the imposition of an interim order,

which would come into force immediately. The panel concluded that his conduct, in failing to make such enquiries, demonstrated a lack of integrity.

Accordingly, the panel found charge 15 **proved**.

16. *You worked on one or more of the following dates as a registered nurse in breach of an IO:*
    a. *15 April 2016;*
    b. *16 April 2016;*
    c. *17 April 2016;*
    d. *18 April 2016;*

In her NMC witness statement, Ms 7 explained that she had been notified, by Plymouth Hospitals NHS Trust, that Mr Ndoro had worked nursing shifts on 15, 16, 17 and 18 April 2016. The panel took note that Ms 7's evidence was supported by an email from Plymouth Hospitals NHS Trust, dated 20 April 2016, setting out that Mr Ndoro had worked night shifts on 15, 16, 17 and 18 April 2016, from 19:30 to 08:00.

On the basis of the clear documentary evidence before it, the panel found charges 16(a), (b), (c) and (d) **proved**.

17. *Your actions at charge 16 were dishonest in that you knew you were subject to an IO which suspended your registration.*

The panel found as a matter of fact, at charge 14, that Mr Ndoro was aware that an interim order hearing in his case was due to take place on 7 April 2016. The panel found proved, at charge 15, that Mr Ndoro, knowing that his registration could be restricted at the interim order hearing, did not inform himself of the outcome and that this demonstrated a lack of integrity. The panel found proved, at charge 16, that Mr Ndoro

worked four nursing shifts in breach of his interim suspension order.

The panel was satisfied that the decision letter, following the interim order hearing, was sent to Mr Ndoro initially on 11 April 2016 and again on 29 April 2016, on both occasions to his registered address as recorded on WISER. Notice of the decision letter was in accordance with the NMC Rules. The panel was thus satisfied that Mr Ndoro knew that he was subject to an interim suspension order, which suspended his registration. The panel was in no doubt that working as a registered nurse in breach of such an order demonstrated conduct which would be regarded as dishonest by the standards of ordinary, decent people.

Accordingly, the panel found charge 17 **proved**.

**Determination on misconduct and impairment**

Following its findings on fact, the panel invited submissions on the matters of misconduct and current impairment.

*Charges 1-7*

Mr Zeitlin submitted that Mr Ndoro's conduct included flirtatious behaviour (charge 1), sexual touching amounting to assault (charge s 2, 3 and 4), breaches of professional boundaries (charge 5) and treatment which carried with it the potential for immense harm and risk to Patient A (charge 6).

Mr Zeitlin contended that an aggravating feature of this case was that Patient A was a vulnerable patient, "at her weakest", having suffered a number of debilitating seizures. He argued that Mr Ndoro abused his position of trust and effectively satisfied his own sexual appetite, putting his own interests above those of Patient A. Mr Zeitlin submitted that taking advantage of such a patient in these circumstances must risk dire

consequences for the patient; he submitted that had Patient A been less strong, Mr Ndoro's conduct could have affected her outlook on life, coloured her view of nurses, and affected her willingness to have treatment in the future.

Mr Zeitlin invited the panel to have regard to the NMC's publication, 'The Code: Professional standards of practice and behaviour for nurses and midwives' (March 2015) ("the 2015 Code"). That being said, he submitted that, regardless of the nature and number of the provisions of the NMC's Code of Conduct engaged in this case, Mr Ndoro's conduct must be regarded as deplorable and that which fell well below the standards expected of a registered nurse.

*Charges 8-13*

Mr Zeitlin submitted that Mr Ndoro's failure to inform a number of nursing agencies of his health condition denied them the opportunity to assess the risk posed by him to patients, and to put in place measures to protect those patients. Mr Zeitlin submitted that Mr Ndoro put his own interests above those of patients.

Mr Zeitlin invited the panel to have regard to the NMC's publications, 'The Code: Standards of conduct, performance and ethics for nurses and midwives' (May 2008) ("the 2008 Code"), and the 2015 Code.

*Charges 14-17*

Mr Zeitlin submitted that a large number of activities of a nurse were liable to constitute assaults. In that regard, he submitted that Mr Ndoro's conduct, in working as a registered nurse whilst subject to an interim suspension order, was in breach of the law of the land. He submitted that practising as a registered nurse without a license to do so was serious; this, he submitted, also had the effect of invalidating any indemnity insurance Mr Ndoro may have had, therefore putting his employer(s) and patients at risk. Mr Zeitlin went on to submit that Mr Ndoro's conduct caused immense damage to

the reputation of the profession.

*Dishonesty charges*

Mr Zeitlin submitted that Mr Ndoro's dishonest conduct must be a fundamental breach of his membership of the nursing profession and his relationship with the NMC, his regulator, which depends on the good sense of nurses, when subject to an interim order, to comply with such an order. He submitted that this trust is fundamental to the system of regulation and thus, Mr Ndoro's conduct was an attack on that trust and on the reputation of the profession.

Mr Zeitlin went on to submit that dishonesty itself was breach of a fundamental tenet of the profession, damaging the relationship with the profession, patients, colleagues, and the wider public.

Mr Zeitlin referred the panel to the approach formulated by Dame Janet Smith in her 5th Report on Shipman, which was cited with approval in the case of *CHRE v (1) NMC (2) Grant* [2011] EWHC 927 (Admin). In so referring, he submitted that Mr Ndoro put patients at unwarranted risk of harm, brought the profession into disrepute, breached a fundamental tenet of the profession, and had acted dishonestly.

Mr Zeitlin submitted that dishonesty and sexually motivated conduct were extremely difficult to remediate. He submitted that Mr Ndoro had demonstrated little or no insight which, when considering the case as a whole, must lead the panel to conclude that there was a high risk of repetition.

In all the circumstances, Mr Zeitlin invited the panel to conclude that Mr Ndoro's behaviour amounted to misconduct and that his current fitness to practise is impaired.

The panel considered whether, on the basis of the matters found proved, Mr Ndoro's fitness to practise is currently impaired by reason of misconduct. In reaching its

decision, the panel had regard to all the oral and documentary evidence before it. It also had regard to the submissions of Mr Zeitlin and it accepted the advice of the legal assessor. The panel was aware that, at this stage of the proceedings, there was no burden or onus of proof. The panel was required to exercise its own professional judgement.

In relation to impairment by reason of misconduct, the panel must engage in a two-stage process: it must first consider whether, on the facts found proved, Mr Ndoro's conduct amounted to misconduct, and secondly, if so, whether his fitness to practise is currently impaired by reason of that misconduct.

The panel was aware that not every instance of falling short from what would be proper in the circumstances, and not every breach of the Code, would be sufficiently serious that it could properly be described as misconduct. Accordingly, the panel had careful regard to the context and circumstances of the matters found proved.

*Charges 1-7*

The relationship between a nurse and a patient is founded and dependent upon confidence and trust; in particular, a patient must be able to trust a registered nurse to act in the patient's interests and not for the nurse's own gratification. It is a fundamental responsibility of a registered nurse not to abuse their privileged position for their own ends. It is imperative that registered nurses maintain clear, professional boundaries so that appropriate care and treatment can be provided without compromising a patient's dignity. Such boundaries are fundamental to establishing therapeutic relationships and a violation of boundaries can be harmful to patients. It is always the responsibility of the registered nurse to maintain professional boundaries.

It is also paramount that a registered nurse must always act with integrity and uphold the reputation of the profession. To that end, it is never acceptable for a registered nurse to engage in a sexually motivated course of conduct with a patient in their care.

Mr Ndoro's conduct was aggravated by the fact that Patient A was, in light of her state of health, highly vulnerable. She was dependent upon Mr Ndoro, as her care giver, to put her interests, health and wellbeing at the forefront of his mind and practice.

Mr Ndoro's professionalism in each case was severely wanting and his comments and behaviour were unbecoming of a registered nurse. He sought to satisfy his own needs, at the expense of Patient A's physical and mental health and wellbeing. In this case, Mr Ndoro breached the fundamental trust placed in him as a registered nurse, and abused his privileged position in the gravest way. The panel was in no doubt that Mr Ndoro's conduct fell far below the standards expected of a registered nurse and was of the kind that other practitioners and the general public would consider deplorable.

The panel determined that, by virtue of his conduct, Mr Ndoro breached the following provisions of the 2015 Code:

***Prioritise people***
*You put the interests of people using or needing nursing or midwifery services first. You make their care and safety your main concern and make sure that their dignity is preserved and their needs are recognised, assessed and responded to. You make sure that those receiving care are treated with respect, that their rights are upheld and that any discriminatory attitudes and behaviours towards those receiving care are challenged.*

*1 Treat people as individuals and uphold their dignity*
*To achieve this, you must:*

*1.1 treat people with kindness, respect and compassion*

*1.2 make sure you deliver the fundamentals of care effectively*

*1.3 avoid making assumptions and recognise diversity and individual choice*

*1.5 respect and uphold people's human rights.*

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

***Practise effectively***

*You assess need and deliver or advise on treatment, or give help (including preventative or rehabilitative care) without too much delay and to the best of your abilities, on the basis of the best evidence available and best practice. You communicate effectively, keeping clear and accurate records and sharing skills, knowledge and experience where appropriate. You reflect and act on any feedback you receive to improve your practice.*

*6 Always practise in line with the best available evidence*
*To achieve this, you must:*

*6.1 make sure that any information or advice given is evidence-based, including information relating to using any healthcare products or services…*

*7 Communicate clearly*

*8 Work cooperatively*
*To achieve this, you must:*

*8.2 maintain effective communication with colleagues*

*10 Keep clear and accurate records relevant to your practice*
*This includes but is not limited to patient records. It includes all records that are relevant to your scope of practice.*
*To achieve this, you must:*

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

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

***Preserve safety***

*You make sure that patient and public safety is protected. You work within the limits of your competence, exercising your professional 'duty of candour' and raising concerns immediately whenever you come across situations that put patients or public safety at risk. You take necessary action to deal with any concerns where appropriate.*

*18 Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations*
*To achieve this, you must:*

*18.1 prescribe, advise on, or provide medicines or treatment, including repeat prescriptions (only if you are suitably qualified) if you have enough knowledge of that person's health and are satisfied that the medicines or treatment serve that person's health needs*

***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 profession from patients, people receiving care, other healthcare 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 honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment*

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

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

*20.6 stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers*

*Charges 8-13*

It is a fundamental requirement of nurses to demonstrate that they are safe to practise. As a registered nurse, Mr Ndoro would have been fully aware of his obligation to ensure that he was safe to practise. In order to satisfy this, he was obliged to disclose his health condition to various nursing agencies through which he was seeking to provide nursing services. The honest and accurate completion of the various forms identified were, in the panel's view, a necessary safeguard to maintain the health and safety of patients as well as the registered nurse themselves.

Mr Ndoro's failure to declare his health condition over a period of six years, despite ample opportunity to do so, was a very serious matter. In submitting false declarations in order to conceal his health condition, Mr Ndoro put his own interests above those of

patients, colleagues and the organisations for whom he worked, and put those groups at risk of harm. This was not a momentary aberration or negligent act on Mr Ndoro's part; rather, his dishonesty was sustained, deliberate, self-serving and designed to mislead, with the purpose of securing and continuing employment with a number of nursing agencies. Mr Ndoro's dishonesty was directly related to his ability to practise as a registered nurse.

In this case, Mr Ndoro breached the fundamental trust placed in him as a registered nurse, and abused his privileged position in the gravest way. The panel was in no doubt that Mr Ndoro's conduct fell far below the standards expected of a registered nurse and was of the kind that other practitioners and the general public would consider deplorable.

The panel determined that, by virtue of his conduct at charges 8, 9, 10, 11 and 12(a), Mr Ndoro breached the following provisions of the 2008 Code:

***The people in your care must be able to trust you with their health and wellbeing***
***To justify that trust, you must:***

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

- *be open and honest, act with integrity and uphold the reputation of your profession.*

*32 You must act without delay if you believe that you, a colleague or anyone else may be putting someone at risk.*

*33 You must inform someone in authority if you experience problems that prevent you working within this code or other nationally agreed standards.*

The panel also determined that, by virtue of his conduct at charges 12(b) and 13, Mr Ndoro breached the following provisions of the 2015 Code:

***Prioritise people***

*You put the interests of people using or needing nursing or midwifery services first. You make their care and safety your main concern and make sure that their dignity is preserved and their needs are recognised, assessed and responded to. You make sure that those receiving care are treated with respect, that their rights are upheld and that any discriminatory attitudes and behaviours towards those receiving care are challenged.*

*1 Treat people as individuals and uphold their dignity*

*To achieve this, you must:*

*1.5 respect and uphold people's human rights.*

***Practise effectively***

*You assess need and deliver or advise on treatment, or give help (including preventative or rehabilitative care) without too much delay and to the best of your abilities, on the basis of the best evidence available and best practice. You communicate effectively, keeping clear and accurate records and sharing skills, knowledge and experience where appropriate. You reflect and act on any feedback you receive to improve your practice.*

*8 Work cooperatively*

*To achieve this, you must:*

*8.5 work with colleagues to preserve the safety of those receiving care*

*8.6 share information to identify and reduce risk…*

***Preserve safety***

*You make sure that patient and public safety is protected. You work within the limits of your competence, exercising your professional 'duty of candour' and raising concerns immediately whenever you come across situations that put patients or public safety at risk. You take necessary action to deal with any concerns where appropriate.*

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

*To achieve this, you must:*

*16.3 tell someone in authority at the first reasonable opportunity if you experience problems that may prevent you working within the Code or other national standards, taking prompt action to tackle the causes of concern if you can*

***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 profession from patients, people receiving care, other healthcare 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*

*20.9 maintain the level of health you need to carry out your professional role,*

*Charges 14-17*

As a registered nurse, Mr Ndoro had a duty to disclose to all those for whom he worked

that his nursing registration was suspended. The panel found that he failed to discharge this obligation. Mr Ndoro failed to make any timely enquiries as to the outcome of the interim order hearing in his case and, in doing so, demonstrated a lack of integrity. Mr Ndoro chose to work a number of nursing shifts in direct contravention of an order which had been imposed to safeguard and protect patients and, in doing so, placed patients at unwarranted risk of harm.

In the panel's judgement, Mr Ndoro's actions represented a disregard of an order of a professional regulator and a disregard for the regulatory process. His dishonesty was directly related to his ability to practise as a registered nurse. He put his own interests above those of patients, the organisations for whom he worked, and the NMC.

In this case, Mr Ndoro breached the fundamental trust placed in him as a registered nurse, and abused his privileged position in the gravest way. The panel was in no doubt that Mr Ndoro's conduct fell far below the standards expected of a registered nurse and was of the kind that other practitioners and the general public would consider deplorable.

The panel also determined that, by virtue of his conduct, Mr Ndoro breached the following provisions of the 2015 Code:

***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 profession from patients, people receiving care, other healthcare 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*

*23.3 tell any employers you work for if you have had your practice restricted or had any other conditions imposed on you by us or any other relevant body.*

Taking the charges found proved, the panel concluded that Mr Ndoro's conduct was a serious departure from acceptable standards so as to amount to misconduct.

The panel then went on to consider the question of impairment. In considering Mr Ndoro's fitness to practise the panel reminded itself of its duty to protect patients and its wider duty to protect the public interest which includes declaring and upholding proper standards of conduct and behaviour, and the maintenance of public confidence in the profession and the regulatory process.

"Impairment of fitness to practise" has no statutory definition. However, the NMC has defined "fitness to practise" as a registrant's suitability to remain on the register without restriction.

The panel was assisted by the observations of Mrs Justice Cox in the case of *Grant*:

*"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."*
[Paragraph 74]

The panel further took into account the approach formulated by Dame Janet Smith in her 5th Report on Shipman, which was cited with approval in the case of *Grant*:

*"Do our findings of fact in respect of the [registrant's] misconduct […] show that [his] fitness to practise is impaired in the sense that [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 [nursing] 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 [nursing] profession; and/or*
d. *has in the past acted dishonestly and/or is liable to act dishonestly in the future."*

The panel was in no doubt that limbs a), b), c) and d) were engaged in this case.

It was Patient A's evidence, in her NMC witness statement, that "since the incident I have been really scared to go back to the Hospital. I needed an operation and I would have to be put under and I was worrying about what they would do to me when I was asleep, knowing that I have made a complaint about a nurse". She said the incidents made her feel that she could no longer trust medical professionals. She told the police that she had "completely [shut herself] away" and was unable "to pull [herself] back out from it again". She also said that she had suffered more seizures after the incidents, and that these seizures were "aggressive", "more intense" and that she could not always control them.

It was Mrs A's evidence that Patient A had stopped having seizures until she was contacted by the NMC in relation to the case against Mr Ndoro.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Mr Ndoro embarked on a sexually motivated course of conduct with a vulnerable patient. He placed his own interests and desires above those of his patient. His actions were entirely unbecoming of a registered nurse. He brought the nursing profession into disrepute and his conduct

was an abuse of his position of power and trust.

It is a fundamental tenet of the profession that registered nurses should act to put the interests of people using or needing nursing services first; make their care and safety their primary concern, preserving their dignity and recognising and responding to their needs; and treating them with respect and ensuring their rights are upheld. Honesty is the bedrock of the nursing profession. Registered nurses must always act with integrity and uphold the reputation of the profession. Mr Ndoro failed in each respect.

Mr Ndoro would have been well aware of his professional role and responsibilities in the circumstances. In respect of each of the three areas of misconduct identified, the panel determined that Mr Ndoro wilfully chose to disregard his professionalism and what was expected of him, in order to satisfy his own interests. The panel was in no doubt that, by virtue of his failures and sexually motivated and dishonest conduct, Mr Ndoro brought the nursing profession into disrepute.

With regard to future risk, the panel considered the questions posed in the case of *Cohen v GMC* [2008] EWHC 581 (Admin), namely whether Mr Ndoro's conduct was easily remediable, whether it had been remedied and whether it was highly unlikely to be repeated. In considering these questions, the panel had particular regard to the issue of insight.

The panel was mindful that to effectively remediate past failings, registered nurses must demonstrate insight into their behaviour and undertake sufficient remedial steps to address the concerns in question. It is often said that attitudinal problems are difficult to remediate. In light of the specific issues raised, namely sexually motivated conduct and dishonest conduct, the panel considered that effective remediation in Mr Ndoro's case primarily required sufficient insight. The panel recognised that the level of insight shown by a practitioner is central to a proper determination of that practitioner's fitness to practise.

In the panel's judgement, misconduct of the kind established in this case, particularly where that misconduct is rooted in a deep-seated and harmful attitudinal problem, is not easily remediable. Notwithstanding this, save for his handwritten letter to the NMC, Mr Ndoro had not engaged in these proceedings in any substantive way and was not in attendance at this hearing. As a consequence, he denied himself the opportunity to present the panel with any evidence of remedial action he may have undertaken to address his misconduct since the events in question.

Mr Ndoro's engagement in the proceedings, specifically in respect of responding to the charges against him, was limited to his handwritten letter to the NMC. In that document, Mr Ndoro referred only to some of the allegations concerning Patient A and went as far as to query whether his "gender and creed were taken in the wrong context to seek opportunistic endeavours". Of note to the panel was the absence by Mr Ndoro of any reference to, or recognition of, the wholly inappropriate and unacceptable nature of his sexually motivated and persistent dishonest conduct, and the adverse impact of such conduct on patients, his fellow practitioners, the profession and the public interest, in respect of confidence in him as a registered nurse and in the wider profession. There was no evidence before the panel to satisfy it that Mr Ndoro acknowledged, recognised and understood the gravity of his overall misconduct. His letter was, in the panel's view, self-serving.

Moreover, the panel was not satisfied that Mr Ndoro had taken full responsibility for his conduct. He had not, at any stage, assessed the incidents objectively and acknowledged what he had done. He had not demonstrated any knowledge of how to act differently in the future to avoid a recurrence of similar conduct.

For all the reasons set out above, the panel determined that Mr Ndoro's written account was demonstrative of a complete lack of insight. It was plain to the panel that he had not demonstrated the depth of insight and remorse necessary to commence effectively the process of remediation.

In the absence of any evidence of remediation or insight, the panel was unable to conclude that Mr Ndoro's misconduct had been remedied, or that it was not likely to be repeated. He has provided no tangible reassurance that his misconduct will not recur in the future. Accordingly, the panel concluded that there remains a significant risk that Mr Ndoro is liable in the future to put patients at unwarranted risk of harm, breach a fundamental tenet of the profession, bring the profession into disrepute and act dishonestly.

The panel had in mind that any approach to the issue of whether fitness to practise should be regarded as impaired must take account, not only of the need to protect members of the public, but also the collective need to maintain confidence in the profession as well as declaring and upholding proper standards of conduct and behaviour.

For this reason, the panel went on to consider whether public confidence in the profession, and the NMC as regulator, would be undermined if a finding of impairment of fitness to practise were not made in the circumstances of this case.

The panel decided that this is a case where a firm declaration of professional standards so as to promote public confidence in the profession is required. The public needs to have trust and confidence in nurses to act with integrity, maintain professional boundaries and uphold the reputation of the profession at all times. Mr Ndoro's conduct constituted an abuse of the power imbalance in a nurse/patient relationship and the inherent vulnerability of Patient A in light of her physical health, and a blatant disregard of his obligations as a registered nurse. The panel was in no doubt that members of public and profession would be outraged and appalled by Mr Ndoro's conduct. In the panel's view, Mr Ndoro's misconduct and lack of professionalism were such a material departure from appropriate nursing standards that a finding of no impairment would fundamentally undermine proper professional standards and public confidence in the profession, and significantly damage the regulatory process.

Accordingly, the panel determined that Mr Ndoro's fitness to practise is currently impaired by reason of his misconduct.

**Determination on sanction**

Following its determination on misconduct and current impairment, the panel invited submissions on the matter of sanction.

In its consideration of the most appropriate sanction in this case, Mr Zeitlin invited the panel to assess the seriousness of the matters found proved; Mr Ndoro's lack of insight; the risk of repetition of Mr Ndoro's misconduct; and the consequences of any repetition. Mr Zeitlin submitted that all the charges found proved demonstrated that Mr Ndoro's conduct put patient safety at issue. He drew the panel's attention to the NMC's online 'Fitness to Practise guidance library'.

Mr Zeitlin went on to invite the panel to consider whether the matters found proved demonstrated a harmful and deep-seated attitudinal problem on Mr Ndoro's part. In respect of charges 1-7, Mr Zeitlin submitted that sexually motivated conduct would tend to suggest the existence of such a problem as it was a matter unlikely to be capable of remediation. Charge 6, in particular, crossed the boundaries of an attitudinal problem (in respect of a sexual offence) and patient safety, [PRIVATE]. Charges 8-13 would also tend to suggest the existence of such a problem [PRIVATE] by continuing to work as a registered nurse without enabling safeguards to be put in place to protect patients and colleagues. Charges 14-17 further tended to suggest the existence of such a problem as, despite a direction from his regulatory body to stop working, Mr Ndoro put himself above the interests of patients and the profession and invalidated his indemnity insurance, thereby breaching the law. Mr Zeitlin also submitted that Mr Ndoro's dishonest conduct reinforced the existence of a harmful and deep-seated attitudinal problem.

In support of his submissions, Mr Zeitlin referred the panel to the following paragraphs in the NMC's guidance library:

*"Dishonesty, even where it does not result in direct harm to patients but is related to matters outside of a nurse or midwife's professional practice can undermine the trust the public place in the profession. Honesty, integrity and trustworthiness are to be considered the bedrock of any nurse or midwife's practice.*

*According to Parkinson v NMC [2010] EWHC 1898 (Admin)*

> *'A nurse found to have acted dishonestly is always going to be at severe risk of having his or her name erased from the register. A nurse who has acted dishonestly, who does not appear before the Panel either personally or by solicitors or counsel to demonstrate remorse, a realisation that the conduct criticised was dishonest, and an undertaking that there will be no repetition, effectively forfeits the small chance of persuading the Panel to adopt a lenient or merciful outcome and to suspend for a period rather than direct erasure.'*

*This does not mean that in dishonesty cases the Fitness to Practise Committee is left with an arbitrary choice between suspension and striking-off, or that in the absence of special circumstances a striking-off order is to be seen as a 'default' outcome. Rather, this decision makes clear that honesty is so integral to the standing of a profession that any departure from it will always risk a striking-off order as a possible outcome.*

*It is nevertheless vital that all Fitness to Practise Committee panels continue to start with the least restrictive sanction, and work upwards in order of restrictiveness. A finding of dishonesty does not remove this responsibility.*

*The nature of the dishonest conduct must be carefully assessed. Not all dishonesty is equally serious. Generally, the forms of dishonesty which are most likely to call into question whether a nurse or midwife should be allowed to remain on the register will*

*involve:*

- *deliberate dishonesty to conceal clinical issues, particularly those causing harm to patients*
- *misuse of power*
- *vulnerable victims*
- *personal financial gain from a breach of trust*
- *direct risk to patients*
- *premeditated, systematic or longstanding deception…"*

Mr Zeitlin addressed the panel on each sanction available. He submitted that taking no further action, a caution order and a conditions of practice order were not appropriate in this case. In respect of a suspension order, he reminded the panel that Mr Ndoro's misconduct dated back to 2010. He also submitted that whilst it could be argued, on the one hand, that there had been no repetition of Mr Ndoro's misconduct, it could be argued, on the other hand, that charges 8-13 pre- and post-dated charges 1-7, and charges 14-17 post-dated all those matters; it could therefore be said that there had been repetition. He further reminded the panel of its finding that Mr Ndoro had demonstrated no insight.

Mr Zeitlin then referred the panel to the appropriateness of a striking-off order and, in particular, submitted that the following considerations were relevant:

- Doing harm to others and behaving in such a way that could foreseeably have resulted in harm to others.
- Abuse of position, abuse of trust, or violation of the rights of patients, particularly in relation to vulnerable patients.
- Dishonesty, especially where persistent or covered up.
- Persistent lack of insight into seriousness of actions or consequences.

As to aggravating and mitigating features in this case, Mr Zeitlin submitted that the following may apply:

*Aggravating*

- Limited engagement in these proceedings.
- Effect upon Patient A of being put through the ordeal of reliving her experiences whilst giving evidence, and the emotional impact as to the prospect of giving evidence during the period of Mr Ndoro's referral up until the time of this hearing. Mr Zeitlin invited the panel to treat this submission with some caution, having regard to the nature of regulatory proceedings.

*Mitigating*

- Some engagement by Mr Ndoro with his regulator.

In closing, Mr Zeitlin submitted that Mr Ndoro's misconduct involved serious departures of the standards expected of a registered nurse, and that the risks of the consequences of harm should the misconduct be repeated were great.

The panel took account of the NMC's online 'Fitness to Practise guidance library'. It had regard to the principle of proportionality, weighing Mr Ndoro's interests against the public interest. The panel bore in mind that the purpose of a sanction is not to be punitive. Although it might have that effect, it is intended to protect patients and serve the wider public interest. The wider public interest includes promoting and maintaining public confidence in the profession and the NMC as its regulator, and promoting and maintaining proper standards of conduct and behaviour.

The panel acknowledged that any sanction imposed must be no more than would be necessary to protect the public and satisfy the public interest.

With regard to aggravating features in this case, the panel determined that the following applied:

- Mr Ndoro's limited engagement in these proceedings.
- Mr Ndoro's misconduct involved an abuse and violation of trust.
- Direct harm was caused to Patient A, a vulnerable patient.
- Mr Ndoro's misconduct was not limited to a single incident and his overall misconduct was demonstrable of a deliberate course of conduct and pattern of behaviour.
- No evidence of insight.
- No evidence of remediation.
- No evidence of remorse.

With regard to mitigating features in this case, the panel determined that the following applied:

- The panel was not informed of any other adverse regulatory findings against Mr Ndoro.

The overall aggravating and mitigating features should be read within the context of the entire determination.

Under Article 29 of the Nursing and Midwifery Council Order 2001 ("the Order"), the panel, when considering sanction, can consider the following courses of action in ascending order, beginning with the least restrictive sanction: take no action, make a caution order for one to five years, make a conditions of practice order for no more than three years, make a suspension order for a maximum of one year or make a striking-off order.

The panel concluded that there were no exceptional circumstances in this case which would justify taking no action. The panel considered that to take no action would be manifestly inappropriate given the serious, sexual and dishonest nature of the misconduct found. Furthermore, the panel considered that taking no action would be

wholly insufficient for the purpose of upholding public confidence in the nursing profession and in the NMC as its regulator.

The panel then considered whether to make a caution order. The panel bore in mind that such an order would not restrict Mr Ndoro's ability to practise. As above, the panel concluded that a caution order would be wholly inappropriate. Such an order would not properly mark the seriousness of the misconduct found, nor would it be sufficient to protect the public or satisfy the wider public interest. This was not a case at the lower end of the spectrum of impaired fitness to practise.

The panel next considered the imposition of a conditions of practice order. The panel noted that this sanction primarily focuses on remedying identifiable areas of concern within a registrant's clinical practice or skills that may require retraining, assessment and supervision. In addition, it requires the potential and willingness of a registrant to respond positively to any conditions imposed.

There was no evidence by Mr Ndoro of any recognition, acknowledgement or acceptance of full responsibility for his overall behaviour. This was compounded by the lack of any evidence of remediation, remorse or insight into the seriousness of his misconduct. The panel had previously determined that Mr Ndoro's misconduct was significant in nature and, in relation to dishonesty, was repeated over a considerable period of time.

The misconduct established in this case, which included sexually motivated conduct, dishonest conduct, and a wilful disregard of the principles and practices of good and safe nursing care, did not call into question Mr Ndoro's clinical competence. The panel therefore determined that workable and practicable conditions could not be devised to address what it found to be evidence of a harmful, deep-seated attitudinal problem.

As to whether there was any evidence of any potential or willingness on Mr Ndoro's part to respond positively to conditions, the panel was mindful of its findings in respect of

charges 14-17, namely that despite his awareness of an interim order hearing in his case, Mr Ndoro made no timely enquiries as to the outcome of that hearing; that he was aware of the imposition of an interim suspension order on his registration; and that he worked as a nurse in contravention of that order.

The panel received no information from Mr Ndoro as to his current employment status, or any references attesting to his professionalism and conduct as a registered nurse or in any other professional capacity.

On the basis of the above, the panel concluded that there was no evidence to demonstrate that Mr Ndoro would be willing to engage or respond positively to a conditions of practice order. Moreover, there was no evidence before the panel that Mr Ndoro had any insight into his health condition and that he would be prepared to agree to abide by conditions in respect of his health.

The panel thus determined that a conditions of practice order would not adequately mark the seriousness of Mr Ndoro's misconduct, nor would it protect the public or satisfy the wider public interest in declaring and upholding standards of behaviour and maintaining public confidence in the profession and its regulator. Accordingly, the panel concluded that a conditions of practice order would be an insufficient sanction in all the circumstances of this case.

The panel next considered imposing a suspension order. A suspension order would convey a message to registrants, the profession and the wider public as to the gravity of misconduct which, in the particular circumstances of a case, falls short of being fundamentally incompatible with continued registration. A period of suspension may also provide a registrant with an opportunity to reflect on the misconduct found, and to take action to commence or complete the process of remediation.

It is a fundamental responsibility of a registered nurse to maintain professional boundaries and not to abuse their privileged position for their own ends. It is also

paramount that a registered nurse puts the health, safety and wellbeing of patients at the forefront of their mind and practice, and always acts with integrity and upholds the reputation of the profession.

Mr Ndoro's misconduct was not limited to a single instance; rather, he engaged in a course of sexual misconduct within the workplace, involving a highly vulnerable patient. Over a six year period, Mr Ndoro sought to conceal his health condition from a number of nursing agencies, thus placing patients and colleagues at risk. Furthermore, Mr Ndoro failed to make timely enquiries as to the outcome of an interim order hearing in his case, which he was aware was taking place on 7 April 2016, and subsequently worked a number of nursing shifts in breach of an interim suspension order.

In its consideration of the nature and seriousness of Mr Ndoro's dishonesty, the panel had regard to the relevant provisions of the NMC's sanction guidance. The panel accepted, as per the guidance, that not all dishonesty is equally serious. In its assessment of Mr Ndoro's dishonest conduct, the panel concluded that there was a deliberate dishonesty to conceal clinical issues, particularly those causing harm to patients; direct risk to patients; and premeditated, systematic and longstanding deception, and personal financial gain arising from this deception. The panel was therefore of the view that Mr Ndoro's dishonesty was serious.

In its consideration of the nature and seriousness of Mr Ndoro's sexual misconduct, the panel, again, had regard to the relevant provisions of the NMC's sanction guidance. The panel accepted, as per the guidance, that this covers a wide range of conduct, from criminal convictions for sexual offences through to sexual misconduct with patients, and that sexual misconduct will be particularly serious where there is an abuse of the special position of trust which the nurse or midwife holds. Sexual misconduct seriously undermines public trust in the profession. The panel found, in its determination on facts, that Mr Ndoro's actions were, initially, grooming in nature, subsequently escalating and developing into explicit and overt sexual behaviour. There was no clinical or therapeutic justification for any of his actions or comments and that his conduct had escalated from

inappropriateness to serious breaches of trust and boundaries. Patient A was at her most vulnerable and Mr Ndoro took advantage of her vulnerability and trust in order to satisfy his own needs and gratification.

In the panel's judgement, Mr Ndoro's sexual misconduct was undoubtedly serious, but, absent of a criminal conviction, was not of the gravest kind.

Mr Ndoro's misconduct was compounded by the absence of any evidence of remediation, remorse, insight or understanding of the seriousness and implications of his behaviour. There was no evidence of any recognition of the significance of his misconduct, that he had placed patients at risk of serious harm, and of the damage he has caused to the reputation of the profession. There was no explanation as to why he had acted in direct contravention of his obligations as set out in the Code. For the reasons set out in the panel's determination on current impairment, there remains a significant risk of recurrence and a real risk of harm to patients if Mr Ndoro's misconduct were to be repeated.

The panel therefore concluded that, in the particular circumstances of this case, a suspension order, even for the maximum period of one year, would not be sufficient to protect patients and satisfy the wider public interest in the maintenance of public confidence in the profession and the declaring and upholding of standards of behaviour and conduct. The panel thus determined that a suspension order would not be an appropriate or proportionate sanction.

It is a bedrock of the nursing profession, and thus an indispensable responsibility, that registered nurses act with integrity at all times and uphold the good standing and reputation of the nursing profession. Mr Ndoro abused his position as a registered nurse and violated the trust that his patients, colleagues and members of the public ought to have been able to place in him. Mr Ndoro's misconduct represented significant and serious departures from the standards expected of him as a registered nurse and as set out in the Code. He deliberately acted in a way that caused actual physical and

emotional harm, and could foreseeably have resulted in harm, to others. Patient A had described feeling mistrust towards medical professionals and had experienced aggressive and incontrollable seizures as a result of Mr Ndoro's actions. Moreover, by failing to declare his health condition to a number of nursing agencies over a significant period of time, Mr Ndoro placed the health, wellbeing and safety of patients and colleagues at serious risk.

This case involves a fundamental abuse of power and violation of the rights of patients. Mr Ndoro's conduct demonstrates a deep-seated and harmful attitudinal problem, manifested by sexually motivated conduct towards a highly vulnerable patient, premeditated and longstanding dishonesty, and a tendency to place his own interests above the interests and safety of patients and the public.

The panel was in no doubt that misconduct of the kind established in this case is fundamentally incompatible with continued registration. For all the reasons set out above, the panel concluded that the only proportionate and appropriate sanction, sufficient to protect the public and maintain confidence in the profession, is a striking-off order.

The panel therefore directs that Mr Ndoro's name be removed from the NMC Register.

The order will take effect 28 days from the date when notice of it is deemed to have been served upon Mr Ndoro.

Mr Ndoro's record in the NMC Register will show that his name has been removed. He may not apply for restoration until five years after the date that this decision takes effect.

**Determination on interim order**

The panel considered whether it was appropriate to impose an interim order to cover

the appeal period before the substantive order takes effect, or to cover any time required for an appeal of the substantive decision in this case to be heard.

Article 31 of the Nursing and Midwifery Order 2001 outlines the criteria for the imposition of an interim order. The panel may make an interim order on one or more of three grounds:

- Where it is satisfied that it is necessary for the protection of members of the public;
- Where it is satisfied that such an order is otherwise in the public interest;
- Where it is satisfied that such an order is in the interests of the registrant.

The panel may make an interim conditions of practice order or an interim suspension order for a maximum period of 18 months.

Mr Zeitlin made an application for the imposition of an interim suspension order for a period of 18 months on the grounds that it was necessary for public protection and that it was otherwise in the public interest. He further submitted that an 18 month interim order was necessary to allow for any appeal process.

In reaching its decision the panel took account of Mr Zeitlin's submissions and it accepted the advice of the legal assessor.

For all the reasons set out in the panel's determination thus far, and in all the circumstances of this case, the panel decided to impose an interim suspension order on the grounds that it was necessary for public protection and otherwise in the public interest. To do otherwise would be wholly inconsistent with its preceding decisions. The panel considered that, in the light of the reasons set out above for imposing a striking-off order, members of the public would be put at real risk of harm, and confidence in the NMC's regulatory process would be damaged if, pending an appeal, there was no interim order preventing Mr Ndoro from working as a registered nurse before the

substantive order takes effect.

The panel was mindful that the interim suspension order currently imposed on Mr Ndoro's registration lapses upon the making of the substantive striking-off order.

The panel first considered an interim conditions of practice order but determined that, for the reasons set out in its determination on sanction, such an order would not be appropriate.

The panel determined that the interim suspension order should run for a period of 18 months to allow for any appeal process. The panel considered this to be an appropriate and proportionate period.

If at the end of the appeal period of 28 days Mr Ndoro has not lodged an appeal, the interim order will lapse and will be replaced by the substantive order. On the other hand, if Mr Ndoro does lodge an appeal, the interim order will continue to run until the conclusion of the appeal.

That concludes these proceedings.