

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

**Substantive Hearing  
Tuesday 9 – Thursday 18 August 2022**

Virtual Hearing

**Name of registrant:** Wayne Bronze

**NMC Pin:** 97E0131E

**Part(s) of the register:** Registered Nurse – Sub Part 1  
Adult Nursing – May 2000  
Community Practitioner Nurse Prescriber –  
October 2010

**Relevant Location:** Essex

**Type of case:** Misconduct

**Panel members:** Deborah Jones (Chair, lay member)  
Catherine Cooper (Registrant member)  
Diane Gow (Registrant member)

**Legal Assessor:** Nigel Pascoe

**Hearings Coordinator:** Catherine Acevedo

**Nursing and Midwifery Council:** Represented by Silas Lee, Case Presenter

**Mr Bronze:** Present and represented by Laura Stockdale,  
Counsel instructed by the Royal College of  
Nursing (RCN)

**Facts proved:** Charges 1a, 1b, 1c, 2a, 2b, 2d, 2e, 3, 4b, 5a and  
charge 6 in relation to 1a, 1c, 2a, 2b, 2e, 3, 4b, 5a

**Facts not proved:** Charges 2c, 4a and charge 6 in relation to 1b, 2c,  
2d, 4a, 5b

**Fitness to practise:** Impaired

**Sanction:** Striking-off order

**Interim order:**

Interim suspension order – 18 months

## **Application for special measures for Patient A, B, C and D**

Mr Lee, on behalf of the Nursing and Midwifery Council (NMC), made an application for special measures to be put in place during the evidence of Patients A, B, C and D. He submitted that these witnesses can be considered vulnerable and due to the nature of the allegations he requested that the witnesses not be able to see you and you not be able to see the witnesses whilst they give evidence.

Ms Stockdale indicated that you did not object to the application.

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

The panel determined that due to the vulnerability of the witnesses and the allegations, it would allow the application for special measures in order for the witnesses to give their best evidence to the panel.

## **Decision and reasons on application to amend charges**

The panel heard an application made by Mr Lee, on behalf of the NMC, to amend the wording of charges 1b, 2a, and 6.

The proposed amendment to charge 1b was to add the words 'or 'looking good for 50'.

*"In November 2016 made inappropriate comments using words to the effect of 'looking good for nearly 50' or '**looking good for 50**'"*

The proposed amendment to charge 2a was to add the word 'to'.

*"During an appointment on 30 November 2016 slid your hand down her back to her jeans and down **to her** underwear".*

It was submitted by Mr Lee that the proposed amendment to charges 1b and 2a would provide clarity and more accurately reflect the evidence.

The proposed amendment to charge 6 was to particularise each of the charges.

*“The allegations in **the following** charges ~~4–5~~ were sexually motivated*

- **1a;**
- **1b;**
- **1c;**
- **2a;**
- **2b;**
- **2c;**
- **2d;**
- **2e;**
- **3;**
- **4a;**
- **4b;**
- **5a;**
- **5b.”**

It was submitted by Mr Lee that the proposed amendment does not change the substance of the charge but would allow the panel to make a decision on each section of the charges. Mr Lee submitted that the position had been agreed with Ms Stockdale in respect of charge 2a and 6.

Ms Stockdale confirmed that she had no objection to the application to amend charges 2a and 6. In respect of charge 1b she submitted that the NMC is seeking to rectify its case in relation to Patient A. Patient A’s evidence has shifted in terms of the dates from before her birthday to after and seeking to amend charge at this stage is unnecessary and creates unfairness to you.

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

In relation to charge 1b, the panel considered that because the charge included '*words to the effect of*' this would cover the mischief of the charge. The panel therefore decided to refuse the application to amend charge 1b because in looking at the charge as drafted, it did not consider the amendment necessary and it was content that charge 1b would capture the mischief of the incident.

In relation to charges 2a and 6, the panel accepted the parties agreed position and decided to allow the amendment. The panel was of the view that such amendments were in the interest of justice. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendments. It was therefore appropriate to allow the amendment to charge 2a and 6.

### **Details of charge as amended**

*That you, a registered nurse employed by Island Surgery:*

1) *In respect of Patient A:*

- a) *In or around 2015 made inappropriate comments using words to the effect of 'that's enough excitement for one day'.*
- b) *In November 2016 made inappropriate comments using words to the effect of 'looking good for nearly 50'.*
- c) *In November 2016 whilst making inappropriate comments made in an inappropriate thrusting gesture.*

2) *In respect of Patient B*

- a) *During an appointment on 30 November 2016 slid your hand down her back to her jeans and down to her underwear.*

- b) *Whilst waiting in the surgery approached her and said words to the effect “I suppose you know why I’ve come this way” and that it was “a perk of the job” whilst looking down her top.*
  - c) *On being informed she was due her smear test rubbed your hands together and said you could do it.*
  - d) *When describing a smear test said words to the effect of ‘It is like the McDonalds’ M, their legs represent the M... then you go in, get what you want and get out’.*
  - e) *During the course of appointments looked at Patient B in an inappropriate manner*
- 3) *In respect of Patient C stared at her chest and looked down her top thereby looking at her inappropriately.*
- 4) *In respect of Patient D during an appointment on 26 January 2016;*
- a) *administered the contraceptive injective in her bottom rather than her hip when it was not clinically necessary to do so.*
  - b) *following administration of the contraceptive injection slapped her bum, and said words to effect of ‘make it spread quicker’*
- 5) *In respect of patient E*
- a) *During the course of an appointment when discussing breast cancer checks said words to the effect, ‘this is my lucky day’ and ‘a lovely pair of tits’ and rubbed your hands together*

b) *On 15 September 2017 sent an inappropriate message via Facebook stating ‘allo sexy’.*

6) *The allegations in the following charges were sexually motivated*

- 1a;
- 1b;
- 1c;
- 2a;
- 2b;
- 2c;
- 2d;
- 2e;
- 3;
- 4a;
- 4b;
- 5a;
- 5b.

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

### **Decision and reasons on facts**

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

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will





that your blood pressure was raised when Patient A had her top off and was in her bra and you were placing stickers on her chest for an ECG. It was also alleged that you made a thrusting gesture and said "Looking good for nearly 50" at the same time towards Patient A. Patient A reported the incident to the Surgery on 19 October 2017.

## **Patient B**

On 30 November 2016 during an appointment with Patient B you allegedly listened to her back with the stethoscope, then you slid your hand down her back, to her jeans and down to her underwear.

Patient B described an incident where she alleged you purposefully walked over to her, while she was in the waiting room at the Surgery and looked down her top at her chest and said "*I suppose you know why I have come this way*". Patient B replied to you by saying "*Yes, because you are a dirty bastard looking at my tits*". You allegedly responded with "*It's the perks of the job*".

Patient B alleged that during an appointment that she attended, accompanied by Patient C, you made inappropriate comments about smear tests. When Patient B said she was due her smear test, your reaction was to rub your hands together and say that you could do it. During the same appointment, it is alleged that you described how smear tests are done by saying "*It is like the McDonalds' M, their legs represent the M when they are lying on the table. Then you go in, get what you want and get out*".

Patient B alleged that you made inappropriate comments towards her and looked at her inappropriately during many of her appointments.

## **Patient C**

Patient C had accompanied Patient B to an appointment: at the time Patient C would have been 14 years old. Patient C said that she noticed you were allegedly staring at her chest. This was noticed by Patient B.

## **Patient D**

On 26 January 2016 Patient D alleged that during an appointment to administer the contraceptive injection you slapped her 'bum' and said "*back in the olden days they used to slap your bum to make it spread quicker*", after you had injected her in the top of her 'bum'.

## **Patient E**

Patient E alleged that during the course of discussing breast cancer checks you rubbed your hands together saying "*this is my lucky day*" and also commented that she has "*a lovely pair of tits*".

On 15 September 2017 you are alleged to have sent Patient E inappropriate Facebook messages saying 'allo sexy' and asked her if she would be a character witness for your NMC hearing.

You deny all of the allegations.

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

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

## **Charge 6**

The panel made its determination in relation to charge 6 and sexual motivation under the heading of each charge.

### **Charge 1a**

*In respect of Patient A:*

- a) *In or around 2015 made inappropriate comments using words to the effect of 'that's enough excitement for one day'.*

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

In reaching this decision, the panel took into account the evidence of Patient A and your evidence.

Your evidence to the panel was that you do not remember Patient A at all and that you would never use language like this to anyone because you were brought up to be respectful to everyone.

Patient A gave an account by telephone to the Surgery on 19 October 2017 which would have been closer to the time of the incident. The note of the telephone conversation stated that *"Patient A said that she came to see Wayne for a BP check which was high. She said Wayne took her to the treatment room to do an ECG. He asked her to remove her top and then said something like "that's enough excitement for one day".* Patient A's NMC witness statement is consistent with this and stated *'I think Wayne's comment was "That's enough excitement for one day"'*.

The panel found Patient A to be credible and consistent in her evidence. It noted that in her oral evidence to the panel she could not recall exactly the wording used by you but was adamant that the word 'excitement' was used. However, the panel bore in mind the passage of time and considered that Patient A did not have any reason to lie in the account she gave.

During your oral evidence you recalled offering Patient A a chaperone for this procedure but stated that she had declined, stating words to the effect that being in her bra was like being on the beach wearing a bikini. You also recalled that Patient A had mentioned to you that she had been experiencing palpitations. The panel noted that this was contrary to your earlier assertion that you had no recollection of Patient A or the appointment.

The panel accepted Patient A's detailed and consistent account of the incident. The panel considered this comment to be inappropriate from a nurse to a patient in the context of a healthcare setting where the patient had just been asked to remove her top for an ECG. It determined that, on the balance of probabilities, you made an inappropriate comment to Patient A using words to the effect of 'that's enough excitement for one day'. The panel therefore found charge 1a proved.

In relation to charge 6 and whether your actions at charge 1a were sexually motivated, the panel considered that for you to use words to the effect '*that's enough excitement for one day*' was a sexualised comment after having Patient A remove her top for an ECG. The panel determined that the allegation in charge 1a was sexually motivated. It therefore found charge 6 in relation to charge 1a proved.

### **Charge 1b**

*In respect of Patient A:*

*b) In November 2016 made inappropriate comments using words to the effect of 'looking good for nearly 50'*

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Patient A and your evidence.

Your evidence is that you do not remember Patient A at all and do not remember the comment. You told the panel that you may have commented on Patient A's age but that it would have been said as a compliment in a friendly manner.

Patient A said in her NMC witness statement that this was the last appointment she had with you and she thought it had taken place before her 50<sup>th</sup> birthday and that you had said to her "*Looking good for nearly 50*". During Patient A's oral evidence she accepted that the appointment could have been after her 50<sup>th</sup> birthday and the word 'nearly' might not have been used.

The panel had sight of Patient A's patient records which showed that her last appointment with you at the Surgery had been after the date of her 50<sup>th</sup> birthday.

The panel took into account Ms Stockdale's submission that Patient A's evidence was inconsistent because she was unclear whether the appointment was before or after her 50<sup>th</sup> birthday and whether the word 'nearly' was used. The panel considered that the mischief of the charge was whether the comment was made at all and not the date of the appointment.

It also took into account Ms Stockdale's submission that if this incident had occurred then Patient A would have reported it straight away. The panel noted Patient A's evidence that she did not report it because she just wanted to get out of the Surgery and away from the situation. The panel was of the view that this type of incident would be difficult to report and accepted that Patient A would not have wanted to stay in the Surgery for a longer period of time to make a complaint and this was not an indication that her account regarding your comment was untruthful. The panel also bore in mind the passage of time and considered that Patient A did not have any reason to lie in the account she gave.

The panel considered this comment to be inappropriate from a nurse to a patient in a healthcare setting.

Having found Patient A's evidence to be credible, consistent and sufficiently detailed, the panel accepted her account of the incident. It determined that, on the balance of probabilities, you made inappropriate comments to Patient A using words to the effect of *'looking good for nearly 50'*. The panel therefore found charge 1b proved.

In relation to charge 6 and whether your actions at charge 1b were sexually motivated, the panel considered that you used words to the effect *'looking good for nearly 50'* in reference to Patient A's appearance. Although the panel considered the comment to be inappropriate for a nurse to make to a patient in a healthcare setting, the panel determined that the allegation in charge 1b was not sexually motivated. It therefore found charge 6 in relation to charge 1b not proved.

### **Charge 1c**

*In respect of Patient A:*

- c) In November 2016 whilst making inappropriate comments made in an inappropriate thrusting gesture.

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

In reaching this decision, the panel took into account the evidence of Patient A and your evidence.

Your position is that you have no recollection of Patient A at all and that you deny making this gesture to Patient A. You told the panel that you would not have been able to make such a gesture because you would have been sitting down at your computer.

Patient A stated in her NMC witness statement *"Wayne made a thrusting gesture and said "looking good for nearly 50" at the same time. He made this gesture by putting his hands in fists, with his arms bent and he thrust his hips forward and pulled his arms back at the*

*same time.*” Patient A also visually demonstrated the gesture to the panel during her oral evidence.

Having found Patient A’s evidence to be credible, consistent and sufficiently detailed, the panel accepted her account of the incident. The panel considered this comment and gesture made together was inappropriate from a nurse to a patient in a healthcare setting. It determined that, on the balance of probabilities, whilst making inappropriate comments you made an inappropriate thrusting gesture. The panel therefore found charge 1c proved.

In relation to charge 6 and whether your actions found proved at charge 1c were sexually motivated, the panel considered that by making an inappropriate comment in combination with making an inappropriate thrusting gesture was a clear sexual gesture. The panel determined that the allegation in charge 1c was sexually motivated. It therefore found charge 6 in relation to charge 1c proved.

## **Charge 2a**

*In respect of Patient B*

- a) *During an appointment on 30 November 2016 slid your hand down her back to her jeans and down to her underwear.*

**This charge is found proved.**

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

Your position is that you have no memory of Patient B whatsoever or any of the appointments or incidents involving Patient B.

Patient B informed the panel in her evidence that she had been diagnosed [PRIVATE]. This would have been the position at the time of the alleged events. The panel accepted her evidence on this matter.

Patient B said during her evidence that you initially were friendly during appointments and made her feel relaxed but that later you started to make 'crude' and 'dirty' comments during her appointments which got worse and worse.

Regarding this allegation, Patient B said in her NMC witness statement *"Wayne put the stethoscope down the front of my top to listen to my chest, then he asked if he could listen to the back of my chest. I was already sitting down, so I leant forward over the chair and lifted the back of my top up so Wayne could listen to my back. Wayne listened to my back with the stethoscope then he slid his hand down my back, through my jeans and down to my underwear"*. Patient B also stated, *"When this happened, I jumped up, out of my chair, and said 'Oi, my fucking lungs don't hang that low' to Wayne"*. This account was consistent with her oral evidence to the panel.

Ms Stockdale submitted on your behalf that Patient B's evidence is unreliable due to her disclosed health conditions. She submitted that there are inconsistencies in Patient B's recollection of the appointment and whether her daughter Patient C had been present. Ms Stockdale also submitted that if this incident had occurred then Patient B would have reported it straight away and she did not.

The panel found Patient B to be credible and consistent in her evidence. She gave a clear account of the appointment, and the panel were impressed with her candour when describing her genuine shock regarding the incident. The panel accepted Patient B's evidence that she had not been suffering from any health conditions at the time of the incidents [PRIVATE]. The panel also considered that whether Patient C had been present for the appointment or not was irrelevant to Patient B's credibility. The panel was of the view that this type of incident is difficult to report and accepted Patient B's evidence that she did not report this because she did not think the Surgery would believe her and this



was not an indication that her account regarding the incident was untruthful. The panel noted, from Patient B's medical records that she had no further appointments with you after this incident.

The panel therefore accepted Patient B's detailed account of the incident. The panel determined, on the balance of probabilities, that during an appointment on 30 November 2016 you slid your hand down Patient B's back to her jeans and down to her underwear. The panel therefore found charge 2a proved.

In relation to charge 6 and whether your actions at charge 2a were sexually motivated, the panel considered that there was no clinical justification for you to have put your hand down Patient B's back and down to her underwear. The panel was satisfied that your actions at charge 2a were sexually motivated. It therefore found charge 6 in relation to charge 2a proved.

## **Charge 2b**

*In respect of Patient B*

- b) Whilst waiting in the surgery approached her and said words to the effect "I suppose you know why I've come this way" and that it was "a perk of the job" whilst looking down her top.

**This charge is found proved.**

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

Your position is that you have no memory of Patient B whatsoever or any of the appointments or incidents involving Patient B but that you would have no reason to go into the waiting room in the way Patient B had described. However, during questioning you accepted you had treated Patient B on a number of occasions.

Patient B stated in her NMC witness statement *“Whilst I was waiting in the waiting room. Wayne came out of his room and down the corridor to the waiting room area. Wayne was going to the female nurse’s consulting room and instead of walking round the chairs and in front of reception and this notice board, he headed for the middle of the two rows of chairs, which is where I was sitting... Wayne stopped with his back facing the first row of chairs, so instead of walking in front of the chairs, which is easier, he had walked between the rows. When Wayne stopped, he looked down my top at my chest and said “I suppose you know why I have come this way” I replied to Wayne by saying “Yes, because you are a dirty bastard looking at my tits”. I think Wayne responded with “It’s the perks of the job”. Then Wayne continued walking to the female nurse’s consulting room”.*

Ms Stockdale submitted that if this incident had occurred Patient B would have made a complaint and there would have been witnesses to corroborate her account.

The panel found your recollection of Patient B to be unreliable as you had initially stated in your oral evidence that you did not remember Patient B then this changed to you being able to recall having treated her in the past.

Having found Patient B’s evidence to be credible, consistent and sufficiently detailed, the panel preferred her account of the incident. The also panel accepted Patient B’s reason for not reporting the incident straight away. The panel also determined that it would be implausible for Patient B to have asked others who had been present to be witness to the incident for her.

The panel determined, on the balance of probabilities, that whilst waiting in the surgery you approached Patient B and said words to the effect *“I suppose you know why I’ve come this way”* and that it was *“a perk of the job”* whilst looking down her top. The panel therefore found charge 2b proved.

In relation to charge 6 and whether your actions at charge 2b were sexually motivated, the panel considered that there was no other explanation for you to have looked down Patient B's top and make the inappropriate comments other than it being sexually motivated. The panel was satisfied that your actions at charge 2b were sexually motivated. It therefore found charge 6 in relation to charge 2b proved.

### **Charge 2c**

*In respect of Patient B*

- c) *On being informed she was due her smear test rubbed your hands together and said you could do it.*

**This charge is found not proved.**

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

Your position is that you have no memory of Patient B whatsoever or any of the appointments or incidents involving Patient B. However, during questioning you accepted you had treated Patient B on a number of occasions.

Patient B said in her witness statement *"During the appointment we got on to the subject of smear tests and I told Wayne that I was due to have a smear test done soon. Wayne's reaction to this was to rub his hands together and said he could do it. This made me feel sick and I cannot remember if I responded"*.

The panel noted that this allegation is not mentioned in Patient B's police statement and it was not explored in great detail during Patient B's oral evidence.

The panel determined that the NMC had not provided sufficient evidence and it was not satisfied that this charge had been made out. The panel therefore found charge 2c not proved.

In relation to charge 6 and whether the allegation at charge 2c was sexually motivated, the panel took into account its finding that charge 2c was not proved. It therefore followed that the charge 6 in relation to charge 2c could not be proved.

### **Charge 2d**

*In respect of Patient B*

d) *When describing a smear test said words to the effect of 'It is like the McDonalds' M, their legs represent the M... then you go in, get what you want and get out".*

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

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

Your position was you have no recollection of Patient B or Patient C. You said that this incident would not have occurred as you would not have needed to explain the procedure of a smear test to Patient B who had undergone previous smear tests. You added that Patient C was too young to need any such explanation. The panel noted that Patient C was 14 years old at the time.

Ms Stockdale's submission was that Patient B and Patient C had discussed the incident and had concocted the story together.

Patient B stated "*Then Wayne described how women ready for a smear test. Wayne said "it is like the McDonalds M, their legs represent the M when they are lying on the table. Then you go in, get what you want and get out"*". This account was consistent with her

police statement and her oral evidence. Patient B also said in her oral evidence that you would say things to get a reaction and you liked getting a reaction from your comments.

Patient C corroborated that she had heard you say this in her NMC witness statement *“Wayne also described doing smear tests as the McDonalds ‘M’ sign. Wayne said “the M for McDonalds is just like the woman’s legs, you go in, get what you want and you go out again”*”. This was consistent with her oral evidence.

Having found Patient B’s evidence to be credible and consistent and detailed, the panel preferred her account of the incident. The panel found that both Patient B and Patient C were convincing and persuasive witnesses during detailed cross-examination and their accounts remained consistent. The panel was of the view that Patient B and Patient C would have discussed the incident, given their relationship to each other but it saw no evidence of malicious intent in their accounts.

The panel determined that, on the balance of probabilities, when describing a smear test to Patient B you said words to the effect of *‘It is like the McDonalds’ M, their legs represent the M... then you go in, get what you want and get out’*. The panel therefore found charge 2d proved.

In relation to charge 6 and whether your actions at charge 2d were sexually motivated, the panel considered that your description of a smear test to Patient B was appalling and completely inappropriate. However, it did not consider the description to be sexually motivated but was satisfied with Patient B’s evidence that you enjoyed shocking people and getting a reaction from things that you said. The panel determined that your actions at charge 2d were not sexually motivated. It therefore found charge 6 in relation to charge 2d not proved.

## **Charge 2e**

*In respect of Patient B*

e) *During the course of appointments looked at Patient B in an inappropriate manner*

**This charge is found proved.**

In reaching this decision, the panel took into account Patient B and your evidence.

Your position is that you have no memory of Patient B whatsoever or any of the appointments or incidents involving Patient B and you deny this allegation. The panel also noted Ms Stockdale's submission that you could not have been looking at Patient B inappropriately and making her uncomfortable if she chose to continue booking in appointments with you.

Patient B said in her NMC witness statement *"Wayne was inappropriate in most of our appointments and he would usually make corr noises whilst he looked at my chest. It was sometimes just the way he looked at you and he would not have to speak. This would make me uneasy because he looked at me as if he was undressing me."* She also stated *"In some appointments Wayne would make lip smacking noises, as if he was tasting something. He would do this when I walked into the room at the start of the appointment. Wayne's eyes would also bulge and his face would light up when he saw my boobs as I walked into the room. He reminded me of a fruit machine when you win the jackpot. I cannot think of any specific appointments or dates because this happened so often"*. This was consistent with Patient B's police statement and oral evidence.

Having found Patient B's evidence to be credible and consistent and detailed, the panel accepted her account of your behaviour during your appointments with her and how it made her feel uncomfortable and uneasy. It also accepted Patient B's explanation that she carried on seeing you for her appointments because she would have her appointment with whoever was available at the time. The panel considered that the way you had looked at her had been inappropriate for a nurse looking at a patient and in the context of a healthcare setting.

The panel determined that on the balance of probabilities, you had looked at Patient B in an inappropriate manner during the course of appointments. The panel therefore found charge 2e proved.

In relation to charge 6 and whether your actions at charge 2e were sexually motivated, the panel considered that there was no other explanation for you to have made 'corr noises' and 'your face lighting up' when you saw Patient B's chest other than it being sexually motivated. The panel was satisfied that your actions at charge 2e were sexually motivated. It therefore found charge 6 in relation to charge 2e proved.

### **Charge 3**

*In respect of Patient C stared at her chest and looked down her top thereby looking at her inappropriately.*

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

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

Patient C said in her NMC witness statement "*Whilst I was sitting in the waiting room area of the Surgery with my mum, Wayne came over, stood directly in front of me and looked straight down my top. At this point, I was sitting down, hunched over and comfortable, looking down at my mobile phone. I was wearing a black, low-cut, vest, crop top with the word 'selfie' written around the waistband*" She also stated "*I realised Wayne's behaviour and was not normal and said "what are you doing". Wayne then stuttered saying "Err err I was reading your top". At this point I was sat upright and the word 'selfie' was visible. The wording on my top was not visible before due to the way I was sitting down, hunched over, so Wayne would not have been able to read the word 'selfie'. This was consistent with Patient C's oral evidence. During her evidence, Patient C also showed the panel the crop top she had been wearing at the time of the incident.*

The panel took into account Ms Stockdale's submission that as Patient C was hunched over and you could have been looking at the back of her top. She also submitted that there were inconsistencies with Patient C's accounts to the NMC and to the police and so her evidence was unreliable.

The panel found Patient C to be wholly credible and entirely consistent in her evidence. She gave a clear and plausible account regarding how she had been sitting in the waiting room and her interaction with you. She also gave strong, articulate and convincing evidence during cross-examination. The panel considered the submission that Patient B and Patient C were supporting each other's accounts. It considered that Patient C gave strong, independent evidence and it would have been quite normal for Patient B and Patient C to have discussed the incident because of their relationship to each other but it saw no evidence of malicious intent in their accounts.

The panel considered that staring at Patient C's chest and looking down her top was inappropriate given your position as a nurse in the context of a healthcare setting. The panel therefore accepted Patient C's account of the incident. The panel determined that on the balance of probabilities, you had stared at Patient C's chest and looked down her top thereby looking at her inappropriately. The panel therefore found charge 3 proved.

In relation to charge 6 and whether your actions at charge 3 were sexually motivated, the panel considered that there was no other explanation for you to have stared at Patient C's chest and looked down her top other than it being sexually motivated. The panel was satisfied that your actions at charge 3 were sexually motivated and found charge 6 in relation to charge 3 proved.

#### **Charge 4a**

*In respect of Patient D during an appointment on 26 January 2016;*



a) *administered the contraceptive injective in her bottom rather than her hip when it was not clinically necessary to do so.*

**This charge is found not proved.**

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

Your position is that you have no recollection of Patient D or of this appointment. You were clear in your evidence about where a contraceptive injection should be administered.

The panel noted that Patient D's account of where she had been injected had varied throughout her evidence and that it had not been provided with any corroborating evidence. The panel could not determine where the contraceptive injection had been administered.

The panel determined that the NMC had not provided sufficient evidence to demonstrate that you had administered the contraceptive injection to Patient D in an incorrect place and it was not satisfied that this charge had been made out. The panel therefore found charge 4a not proved.

In relation to charge 6 and whether the allegation at charge 4a was sexually motivated, the panel took into account its finding that charge 4a was not proved. It therefore followed that the charge 6 in relation to charge 4a could not be proved.

**Charge 4b**

*In respect of Patient D during an appointment on 26 January 2016;*

b) *following administration of the contraceptive injection slapped her bum, and said words to effect of 'make it spread quicker'*

**This charge is found proved.**

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

Your position is that you have no recollection of Patient D or the appointment and that you deny that you would have done this.

The panel took into account Ms Stockdale's submission that Patient D's account of the sequence of events was inconsistent and was not true because she had not reported it at the time.

Patient D stated in her NMC witness statement "*Wayne proceeded to do the injection and he injected me in the top of my bum. Wayne then said "back in the olden days they used to slap your bum to make it spread quicker". Wayne then slapped my bum and put cotton wool on the injection site to stop it bleeding, then put a plaster over the area*". This was consistent with her oral evidence and police statement.

The panel found Patient D to be credible and consistent in her evidence in relation to this part of the incident. The panel considered Patient D's recall of the exact sequence of events irrelevant and did not diminish the credibility of her account. The panel noted that Patient D was 16 years old at the time. The panel was of the view that this type of incident is difficult to report and accepted Patient D's evidence that she did not want to report this because thought she would have to see him again. In the panel's view this was not an indication that her account regarding the incident was untruthful.

The panel therefore preferred Patient D's account of events. It determined that, on the balance of probabilities, that you had slapped Patient D's bum, and said words to effect of 'make it spread quicker' following the administration of the contraceptive injection. The panel therefore found charge 4b proved.

In relation to charge 6 and whether your actions at charge 4b were sexually motivated, the panel considered that slapping of the bottom was a sexualised action. It considered that there was no other explanation for you to have slapped Patient D's bum other than it being sexually motivated. The panel was satisfied that your actions at charge 4b were sexually motivated and found charge 6 in relation to charge 4b proved.

### **Charge 5a**

*In respect of Patient E*

a) *During the course of an appointment when discussing breast cancer checks said words to the effect, 'this is my lucky day' and 'a lovely pair of tits' and rubbed your hands together*

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

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

Your initial account is that you did not know who Patient E was until you saw her during her oral evidence at the hearing. You told the panel during your oral evidence that in order to demonstrate the breast examination that you had used something to represent the nipple and demonstrated the examination on a wooden desk.

The panel took into account Ms Stockdale's submission that you had only recently provided a statement to the NMC despite them making earlier requests for you to do so.

The panel had sight of a note of a meeting dated 20 September 2017 by Ms 1 which detailed Patient E's initial account of the incident. It stated "*Wayne asked her if she checked her breasts. Patient E showed him how she does it and he said that she wasn't doing it correctly. He asked her to take her top off and get on the bed. Whilst she did that he rubbed his hands together saying 'this is my lucky day'. Patient E said that he also*

*commented that she has “a lovely pair of tits”*. Patient E gave oral evidence to the panel and was consistent in her account.

Patient E told the panel that she had known you in a professional capacity and you had encountered one another when you were a district nurse and she was working as a carer in the community. She said that she trusted you as her nurse following your appointment to the Surgery.

The panel found Patient E to be credible and consistent in her evidence. She gave a clear account of the appointment. She was clear in her evidence that the examination was demonstrated on her and not on the desk. The panel considered her evidence to be fair and balanced. It noted Patient E acknowledged she knew you as a colleague previously and that she initially felt relaxed during her appointments with you. However, she started to feel increasingly uncomfortable after discussing with her neighbour what had occurred during her appointments. Patient E gave a detailed explanation as to her personal circumstances and why she had not provided a statement to the NMC sooner. The panel considered her explanation to be entirely reasonable in the circumstances that she described.

The panel accepted Patient E’s account of the incident. It determined that, on the balance of probabilities, you said to Patient E, words to the effect, ‘this is my lucky day’ and ‘a lovely pair of tits’ and rubbed your hands together during the course of an appointment when discussing breast cancer checks. The panel therefore found charge 5a proved.

In relation to charge 6 and whether your actions at charge 5a were sexually motivated, the panel considered that your comments using words to the effect of ‘this is my lucky day’ and ‘a lovely pair of tits’ and rubbing your hands together were sexualised actions. It considered that there was no other credible explanation for you to have behaved in this way other than it being sexually motivated. The panel was satisfied that your actions at charge 5a were sexually motivated and found charge 6 in relation to charge 5a proved.

## **Charge 5b**

*In respect of Patient E*

*b) On 15 September 2017 sent an inappropriate message via Facebook stating 'allo sexy'.*

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

In reaching this decision, the panel took into account Patient E's evidence and your evidence as well as screen shots of the Facebook messenger messages.

You accepted in your evidence that you sent the Facebook message to Patient E but you said that you thought of her as a friend and you told the panel that it was normal for you to refer to your friends as 'sexy' or 'gorgeous' as a term of endearment.

Patient E's evidence was that when you had messaged her, she had not been to the Surgery for over a year because she felt uncomfortable from her last appointment with you involving the breast cancer check. She said when she received the message she instinctively knew what you were talking about and it confirmed to her that she was right in how she had been feeling about your inappropriate behaviour towards her. Patient E accepted that she had known you in a professional capacity, but told the panel that you had never seen each other socially.

The panel noted that it was accepted by both you and Patient E that you were 'friends' on Facebook.

The panel had sight of screen shots of the message which read "allo sexy" where you also asked Patient E to be a character witness for you in relation to sexually motivated accusations being made against you.

Having found Patient E's evidence to be credible and consistent, the panel accepted her account of the incident. The panel considered the message to be wholly inappropriate because you had been seeing Patient E as a patient since you had joined the Surgery four years previously. It was also inappropriate because you had referred to Patient E as 'sexy' and asked her to be a character witness for you in relation to allegations of sexual misconduct involving a patient. The panel considered that although you may have considered Patient E a friend, she did not feel the same way.

The panel determined that the message you had sent to Patient E on 15 September 2017 via Facebook stating 'allo sexy' was inappropriate. The panel therefore found charge 5b proved.

In relation to charge 6 and whether your actions at charge 5b were sexually motivated, the panel considered that although it found the Facebook message to be wholly inappropriate, it accepted your evidence that you had used 'allo sexy' as a term of endearment in this instance and not in a sexualised way. The panel was therefore not satisfied that your actions at charge 5b were sexually motivated and found charge 6 in relation to charge 5b not proved.

### **Fitness to practise**

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

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

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

### **Submissions on misconduct and impairment**

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

Mr Lee invited the panel to take the view that the facts found proved amount to misconduct and referred the panel to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code). Mr Lee identified the specific, relevant standards where he submitted that your actions amounted to misconduct.

Mr Lee submitted that the panel has found 8 sub-sections of the charges proved and also sexually motivated. He submitted each of these sub-charges constitute a breach of the fundamental tenets of the nursing profession and amount to misconduct. He submitted that two of the patients in question were children at the time of the events.

Mr Lee submitted that in terms of charge 1b, 2d and 5b, the panel found your actions were inappropriate but not sexually motivated. However, it is the NMC's position that your comment at 1b together with the thrusting gesture was inappropriate and amounted to misconduct.

Mr Lee submitted that your comments at charge 2d in relation to the smear test that were made in the presence of Patient B and Patient C, were found to be inappropriate and

caused risk of harm by potentially deterring patients from seeking treatment and amounted to misconduct.

Mr Lee submitted that your conduct in relation to charge 5b and the Facebook messages you sent was inappropriate given the context of the NMC proceedings and amounted to misconduct.

Mr Lee moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body.

Mr Lee submitted that the allegations in this case raise public protection concerns as your conduct breached professional requirements and standards and did not involve mistakes or omissions which could be remedied with supervision or training. He submitted that your conduct involved sexualised behaviour towards numerous female patients during multiple appointments over a period of time.

Mr Lee submitted that there was ongoing risk of harm to the public and therefore a finding of impairment was necessary on the grounds of public protection. Mr Lee submitted that a finding of impairment on public interest grounds is also required to maintain public confidence in the nursing and midwifery professions and uphold the proper professional standards.

Mr Lee referred the panel to a previous NMC finding made against you. The panel was provided with the determination of the substantive hearing dated September 2017, where the outcome was a suspension order for a period of 9 months and an interim suspension order was made for 18 months.

Mr Lee submitted that when the panel conducts its own deliberation on misconduct and impairment it should not rely on the decision on misconduct and impairment of that panel



at the substantive hearing held in September 2017. However, he submitted the panel can take into account the decision on facts of that panel in 2017 when conducting its risk assessment at this hearing. He submitted that although a risk assessment is forward looking the panel should take account of your past conduct.

Ms Stockdale informed the panel that she would not be making any submissions on your behalf in relation to misconduct and impairment. She referred the panel to your reflective statement setting out your insight and to your testimonials. She confirmed the position with regards to the previous findings against you from 2017 and that the panel should disregard those findings in relation to misconduct and impairment when making its decision on matters before it today.

The panel accepted the advice of the legal assessor.

### **Decision and reasons on misconduct**

When determining whether the facts found proved amount to misconduct, the panel referred to guidance provided by the Professional Standards Authority (PSA) in respect of sexual misconduct and fitness to practise, and was mindful of the following:

That the relationship between a professional and the patient, or service user, is unique and often intimate due to the types of procedures and treatments involved.

Health professionals have a position of unique trust and virtuousness, providing services predicated on trust and confidence.

A healthcare professional who displays sexualised behaviour towards a patient or carer breaches that trust and acts unprofessionally. Sexual misconduct is highly damaging in terms of confidence in healthcare professionals, and leads to a diminution in trust between patients, their families and healthcare professionals.

Harm resulting to patients from serious boundary transgressions can be extensive and long-lasting. Sexual boundary transgressions by healthcare professionals diminish confidence in regulated professionals.

The panel also had regard to the terms of the Code.

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

*“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*

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

*To achieve this, you must:*

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

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

*20.10 use all forms of spoken, written and digital communication (including social media and networking sites) responsibly, respecting the right to privacy of others at all times”*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that your actions and comments involved numerous incidents affecting a number of women over a period of time during multiple appointments.

In relation to the charges found proved where the panel also found sexual motivation, it considered that your behaviour was inappropriate, involving unwanted sexualised behaviour towards women in your care. This occurred on occasions during procedures which were intimate in nature and also involved two patients who were minors at the time of events. The panel considered that you demonstrated a worrying pattern of behaviour towards women. It noted that some of the patients decided to stop receiving treatment at the Surgery because they did not want to see you, which put them at risk of harm.

The panel determined that the charges found proved, where it also found sexual motivation, were serious and fell far short of the conduct and standards expected of a nurse and amounted to misconduct.

In relation to the charges found proved where the panel did not find your actions to be sexually motivated, the panel considered that your behaviour was wholly inappropriate and far removed from the way a nurse should conduct themselves towards a patient in a healthcare setting. The panel found that your actions fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

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

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

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

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) in reaching its decision. In paragraph 74, she said:

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

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

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

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*

*b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*

*c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*

*d) ...'*

The panel found limbs a, b and c engaged in the *Grant* test. The panel found that patients were put at risk and were caused harm as a result of your misconduct. The panel found that your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel considered your reflective statement dated 17 August 2022 that you provided for this stage of the hearing. The panel noted that in this reflection you demonstrated an understanding of how your actions caused harm to patients, why what you did was wrong and how this impacted negatively on the reputation of the nursing profession. The panel noted you had also shown remorse in your reflective statement and apologised for your behaviour. The panel then took into account your oral evidence at the facts stage. It considered that you had demonstrated a lack of insight into your behaviour toward patients in your oral evidence which was at odds with your recent reflective statement, noting that you told the panel during your oral evidence that you did not think your behaviour was inappropriate. The panel was of the view that it could not be satisfied that you had developed insight due to the disconnect between your oral evidence and written reflection.

The panel was of the view that the misconduct in this case is more difficult to remedy. The panel carefully considered the evidence before it in determining whether or not you had taken steps to strengthen your practice. The panel took into account of the testimonials you had provided. However, it did not have any evidence of the professional boundaries training you said you had undertaken in order to address the concerns. The panel also

took into account the previous NMC finding. It noted that a number of the charges found proved at that hearing in 2017 were of a similar nature to the matters being considered at this hearing. The panel was aware that the matters at this hearing were prior to, or contemporaneous with, the matters considered in September 2017 and did not postdate them.

The panel was of the view that there is a risk of repetition based on your lack of insight and the lack of evidence that you have strengthened your practice. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that a finding of impairment on public interest grounds is required because public confidence in the profession would be undermined if a finding of impairment were not made in this case.

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

## **Sanction**

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

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

### **Submissions on sanction**

The panel heard evidence from you under affirmation. You told the panel that you have not been employed in a healthcare setting in any capacity since you were dismissed from the Surgery in 2017 but you have made numerous unsuccessful attempts to gain employment as a healthcare assistant and as a phlebotomist. You told the panel that you were unsuccessful because you were candid with prospective employers and disclosed that you were under suspension. You said since 2017 and the present time you have only managed to obtain occasional employment outside of the healthcare sector as a fork lift truck driver and DJ but that this has been impacted by the pandemic.

You informed the panel that you had completed a professional boundaries course on 3 May 2018 and you were prompted to undertake that course after your initial NMC hearing. You said unfortunately you did not get the chance to put into practise what you learned because you were suspended. You also said you completed a phlebotomy course on 24 March 2022. You told the panel of the efforts you have made to maintain your clinical knowledge in nursing through online searches. You said you had learned that you were probably being over familiar with some patients and that not everyone will like your personality but you accepted that what you did was not appropriate in that you had crossed professional boundaries and you are determined not to do it again.

[PRIVATE].

When asked what changes, if any, you would make to your behaviour, you said you would just keep your discussions to what your patient has come to you for. You said if you are lucky enough to keep your registration you would like to work on a respiratory ward

because that is what you are familiar with. You said you like looking after people and you are passionate about nursing.

Mr Lee informed the panel that the NMC's sanction bid is that of a strike-off. He referred the panel to the agreed facts and the chronology provided by the parties. He outlined sections of the SG to the panel for its consideration which included the guidance on considering sanctions for serious cases involving sexual misconduct. He outlined what the NMC considered to be the aggravating and mitigating features of this case.

Mr Lee asked the panel to take into account your interests and the impact on you caused by the delay in proceedings although it was agreed by parties that it was not unreasonable. Mr Lee submitted that your insight remains limited and the principle reason for that is that you have not addressed the concerns about sexual motivation. In respect of the testimonials submitted by you, Mr Lee submitted that there was no reference in the testimonials to the allegations which involved sexual motivation.

Mr Lee submitted that a conditions of practice order would not be appropriate and would not properly protect the public or maintain public confidence in the professions. He reminded the panel of the previous NMC case where a number of breaches of an interim conditions of practice order were found proved in relation to a chaperone not being provided or being offered. The panel was asked to also bear in mind that the charges found proved are harder to rectify. He submitted that a suspension order is temporary and would not be sufficient to protect the public given the nature of the seriousness of the charges in this case. He submitted that only a strike off order would be sufficient given the nature of the charges found proved.

Ms Stockdale referred the panel to the SG. She submitted that the same approach to sanction applies in sexual misconduct cases as in any other case. She submitted that proportionality is key to any decision in sanctions of sexual misconduct cases. She submitted that she accepted this is a serious case but a proportionate sanction in the



circumstances, particularly taking into account the delay in this case, is that of a sanction less than a striking-off order.

Ms Stockdale submitted that sexual misconduct, similarly to cases of dishonesty, fall on a spectrum and the sexual misconduct in this case has occurred as a consequence of blurring of professional boundaries. She submitted this is a less serious category than some other types of sexual misconduct. She submitted that the evidence paints a picture of your friendly nature which, over time, crossed professional boundaries and had simply gone too far.

Ms Stockdale referred the panel to the previous NMC findings in 2017.

Ms Stockdale referred the panel to the positive testimonials from other women who have known you as a nurse. Two of those women are former female patients and one is a former female student. She submitted that the testimonials demonstrate that you have had and can have in the future, positive relationships with women that are very different from the relationships that the panel have heard about in these proceedings.

Ms Stockdale referred to the case of Okeke in particular paragraphs 45 – 47. She submitted that the panel should adopt the principles highlighted in those paragraphs.

Regarding insight, she submitted that in your reflective statement you have demonstrated insight and that disconnect referred to by the panel in the findings of impairment could be explained by the delay in the hearings process as referenced in Okeke.

The panel accepted the advice of the legal assessor.

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

Having found your fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any

sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- You abused your position of trust.
- Your limited insight into your misconduct.
- You demonstrated a pattern of misconduct over a period of time.
- Your misconduct put patients at risk of harm.

The panel also took into account the following mitigating features:

- Personal mitigation, including;
  - the delay in proceedings, although the panel noted that both parties agree it was not an unreasonable delay
  - The personal impact to your health and the financial impact.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would not protect the public nor be in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *‘the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.’* The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate

in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining. It also noted that you had previously breached an interim conditions of practice order on 17 occasions. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public.

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

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel determined that this was not a single instance of misconduct but involved numerous incidents affecting a number of women over a period of time during multiple appointments. The panel considered the deeply concerning behaviour you had demonstrated was evidence of harmful deep-seated attitudinal problems. The panel did not accept Ms Stockdale's submission that your misconduct was just an issue of a blurring of professional boundaries. It considered the disrespect you showed towards women at times went well beyond your own description of your behaviour as harmless banter or friendliness. Your behaviour, in that respect, at times was deeply offensive. The panel

considered that in your oral evidence you were minimising the impact that your behaviour had on these patients.

The panel determined that you had demonstrated a lack of insight into your behaviour toward patients, in that your oral evidence remained at odds with your recent reflective statement. The panel noted, in your reflective statement you wrote:

*“I realise how easily I violated the boundaries by not maintaining a professional manner and attitude. I was naive in thinking that I was trying to put the patients at ease and reduce their stress. I am ashamed that, after completing the Professional Boundaries course, how I was able to recognise how I had blurred the lines and strayed away from the professional /client relationship in trying to be friends, which ultimately resulted in causing more stress and anxiety rather than my preventing it”.*

However, in your oral evidence today you continued to deny that you had done anything wrong saying that you thought it was all ‘ridiculous’. The panel was of the view that it could not be satisfied that, although there was no evidence that you had repeated your misconduct, you would not pose a significant risk of repeating your misconduct in the future.

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

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

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

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

Your actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with you remaining on the register. The panel was of the view that the findings in this particular case demonstrate that your actions were serious and to allow you to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

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

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

This decision will be confirmed to you in writing.

### **Interim order**

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the

protection of the public, is otherwise in the public interest or in your own interest until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

### **Submissions on interim order**

The panel took account of the submissions made by Mr Lee. He submitted that an interim order is necessary in the circumstances.

The panel also took into account that Ms Stockdale did not object to the application for an interim order.

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

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

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to cover the period of appeal.

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

That concludes this determination.