

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

**Substantive Hearing**

Nursing and Midwifery Council  
2 Stratford Place, Montfichet Road, London, E20 1EJ  
**Monday, 5 – Thursday, 8 December 2022**

Virtual Hearing  
**Friday, 9 – Tuesday, 13 December 2022**  
**Thursday, 15 – Monday, 19 December 2022**

Virtual Hearing

|                                       |   |
|---------------------------------------|---|
| <b>Name of Registrant:</b>            | <b>Enock Mhindurwa</b>  |
| <b>NMC PIN</b>                        | 9817884E  |
| <b>Part(s) of the register:</b>       | RNMH: Mental health nurse,<br>level 1 (23 February 2002)  |
| <b>Relevant Location:</b>             | Coventry  |
| <b>Type of case:</b>                  | Misconduct  |
| <b>Panel members:</b>                 | Nicholas Rosenfeld (Chair, lay member)<br>Catherine Cooper (Registrant member)<br>Claire Rashid (Registrant member) |
| <b>Legal Assessor:</b>                | Ian Ashford-Thom  |
| <b>Hearings Coordinator:</b>          | Catherine Acevedo   |
| <b>Nursing and Midwifery Council:</b> | Represented by Jasraj Sanghera, Case<br>Presenter   |
| <b>Mr Mhindurwa:</b>                  | Not present and not represented   |
| <b>Facts proved:</b>                  | 1a, 1b, 1c, 1d, 1e, 1f, 1g, 1h, 2a, 2b, 2c, 2d, 3a,<br>3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 5, 6, 7, 8,<br>9 |
| <b>Facts not proved:</b>              | 4   |

**Fitness to practise:**

Impaired

**Sanction:**

Striking-off order

**Interim order:**

Interim suspension order (18 months)

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Mr Mhindurwa was not in attendance and that the Notice of Hearing letter had been sent to Mr Mhindurwa's registered email address by secure email on 7 November 2022.

Mr Sanghera, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and venue of the hearing and, amongst other things, information about Mr Mhindurwa's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In the light of all of the information available, the panel was satisfied that Mr Mhindurwa has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

## **Decision and reasons on proceeding in the absence of Mr Mhindurwa**

The panel next considered whether it should proceed in the absence of Mr Mhindurwa. It had regard to Rule 21 and heard the submissions of Mr Sanghera who invited the panel to continue in the absence of Mr Mhindurwa. He submitted that Mr Mhindurwa had voluntarily absented himself.

Mr Sanghera referred the panel to the email correspondence from Mr Mhindurwa dated 15 November 2022 which stated:

*“This serves to notify you of my decision not to attend or participate in further discussions. I clarified that I was voluntarily removing myself from the NMC register. Therefore, I have no further dealings with the organisation and its entirety. This is not an admission to a guilty plea, but I intend not to be on the NMC register”.*

A further email response from the same day stated:

*“I think I made it very clear that I have no intentions of continuing with NMC dealings. What’s the point of anyone representing me when I don’t want to be on your register anymore? Therefore, nobody will attend from my end. I hope this suffices”.*

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is one that should be exercised *‘with the utmost care and caution’* as referred to in the case of *R v Jones (Anthony William)*\_(No.2) [2002] UKHL 5.

The panel decided to proceed in the absence of Mr Mhindurwa. In reaching this decision, the panel considered the submissions of Mr Sanghera and the advice of the legal assessor. It had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mr Mhindurwa;
- There is no reason to suppose that adjourning would secure his attendance at some future date;
- Seven witnesses have been warned to attend to give live evidence;

- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred in 2019;
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mr Mhindurwa in proceeding in his absence. He will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on his own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Mr Mhindurwa's decisions to absent himself from the hearing, waive his rights to attend, and/or be represented, and to not provide evidence or make submissions on his own behalf.

In these circumstances, the panel decided that it was in the interests of justice and expedition of this matter to proceed in the absence of Mr Mhindurwa. The panel will draw no adverse inference from Mr Mhindurwa's absence in its findings of fact.

### **Details of charge (as amended)**

That you, a registered nurse, whilst working at the [PRIVATE], between 20 August 2019 and 23 October 2019:

1. In respect of Colleague A
  - a) Told Colleague A "You do what I ask and not what you want to do", or words to that effect, in a threatening manner

- b) Told Colleague A that if she wasn't happy you would find someone to replace her, or words to that effect, in a threatening manner
- c) Told Colleague A or Colleague A and others that she/they should do things your way or should look elsewhere for jobs, or words to that effect, in a threatening manner
- d) Told Colleague A that you preferred her to be blonde, or words to that effect
- e) Asked Colleague A if she could show you photographs of her tattoos, on her phone
- f) Told Colleague A that staff thought she was going into his office to get off with him or words to that effect
- g) Said to Colleague A "Imagine what people would think when we come out of this cupboard" or words to that effect
- h) Showed Colleague A a photograph on your phone which was an image of you wearing a sleeveless top and pyjama trousers, or similar

2. In respect of Colleague B

- a) Asked Colleague B why she had shown you her underwear the previous day, or words to that effect
- b) Took a lollipop from the mouth of Colleague B and placed it in your own mouth
- c) Said to Colleague B "That's a shame I thought we could have a bottle of wine at mine and chill for the weekend", or words to that effect
- d) Said to Colleague B "It's not just my car that is big", or words to that effect, in a sexually suggestive manner

3. In respect of Colleague C

- a) On one or more occasions came into the office of Colleague C without business or clinical justification
- b) Commented in a meeting that Colleague C reminded you of someone that wants to make him fall asleep and pretended to be asleep

- c) Asked Colleague C about her partner
  - d) Asked Colleague C whether she was happy in her relationship
  - e) Suggested to Colleague C that if she was not happy in her relationship maybe she should try going out with him
  - f) On one or more occasions you looked at the chest of Colleague C and looked her up and down
  - g) Said to Colleague C, "I've got a big black one for you in my car", or words to that effect, in a sexually suggestive manner
  - h) Gestured to Colleague C that you were watching her by pointing at her from your eyes
  - i) During a telephone conversation concerning authorisation to book agency staff you asked Colleague C to go out with you at the weekend
  - j) Suggested to Colleague C that you would be able to get her the job of her manager who was off sick
  - k) On one or more occasions you stood too close to Colleague C
  - l) On one or more occasions you gazed at the chest of Colleague C
4. And your conduct as specified in Charge 1 d) and/or e) and/or f) and/or g) and/or h) was sexually motivated in that you intended to pursue a future sexual relationship with Colleague A
5. And your conduct as specified in Charge 1 d) and/or e) and/or f) and/or g) and/or h) amounted to sexual harassment of Colleague A
6. And your conduct as specified in Charge 2 a) and/or b) and/or c) and/or d) was sexually motivated in that you intended to pursue a future sexual relationship with Colleague B
7. And your conduct as specified in Charge 2 a) and/or b) and/or c) and/or d) amounted to sexual harassment of Colleague B

8. And your conduct as specified in Charge 3 a) and/or c) and/or d) and/or e) and/or f) and/or g) and/or h) and/or i) and/or j) and/or k) and/or l) was sexually motivated in that you intended to pursue a future sexual relationship with Colleague C
9. And your conduct as specified in Charge 3 a) and/or c) and/or d) and/or e) and/or f) and/or g) and/or h) and/or i) and/or j) and/or k) and/or l) amounted to sexual harassment of Colleague C

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

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

The panel heard an application made by Mr Sanghera, on behalf of the NMC, to amend the wording of charges numbers 8 and 9.

The proposed amendment was to incorporate the words '**and/or k) and/or l)**' to charges 8 and 9. It was submitted by Mr Sanghera that to allow the proposed amendments was in the interests of justice. He submitted that Mr Mhindurwa has known about the charges in advance of this hearing and has indicated that he does not wish to participate in proceedings. Mr Sanghera submitted that this is not an application to include a new charge but to incorporate an aspect of an already existing charge into another already existing charge so would not cause unfairness to Mr Mhindurwa.

#### Charge 8

And your conduct as specified in Charge 3 a) and/or c) and/or d) and/or e) and/or f) and/or g) and/or h) and/or i) and/or j) **and/or k) and/or l)** was sexually motivated in that you intended to pursue a future sexual relationship with Colleague C

#### Charge 9



And your conduct as specified in Charge 3 a) and/or c) and/or d) and/or e) and/or f) and/or g) and/or h) and/or i) and/or j) **and/or k) and/or l)** amounted to sexual harassment of Colleague C

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

The panel was of the view that such an amendment, as applied for, was in the interests of justice. The panel was satisfied that there would be no prejudice to Mr Mhindurwa and no injustice would be caused to either party by the proposed amendment being allowed. It therefore determined that it was appropriate to allow the amendment.

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

The panel of its own volition considered whether to hold parts or the entirety of the hearing in private on the basis that proper exploration of Mr Mhindurwa's case involves reference to information which may identify vulnerable witnesses giving live evidence at the hearing. This was considered to pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Sanghera informed the panel that the NMC opposed the hearing being held entirely in private. He submitted that the NMC did not oppose parts of the hearing being held in private. He submitted that reference to any identifying information can be redacted from the determination and transcript and the names of all witnesses can be anonymised.

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

Having heard that there will be reference to information that may identify the witnesses in this case, the panel directed that the names of all witnesses involved be anonymised and that any reference to the hospital, department and job titles be redacted in the transcript and written determination in order to maintain the anonymity of the vulnerable witnesses.

## **Background**

The NMC received a referral from [PRIVATE] (“the Hospital”) on 3 March 2020. At the time, Mr Mhindurwa was working at the Hospital on a fixed term contract as an interim hospital manager.

The referral identified one regulatory concern: the inappropriate use of language and conduct, in a sexually motivated manner, towards Colleagues A, B and C between 21 August and 22 October 2019.

It is alleged that Mr Mhindurwa used inappropriate language and behaviour that was sexually motivated towards those colleagues at work. The alleged behaviour included:

- Commenting on personal appearance - e.g. hair, tattoos
- Showing photos of himself in a tight top/pyjamas
- Making sexual innuendos – e.g. about the size of his car, and pens etc
- Often stating that people thought he was “getting off” with the female staff members – one such incident occurred when he was alone in a maintenance cupboard with a female colleague
- Body language – gazing at breasts and standing overly close
- The women described the registrant’s behaviour as ‘predatory’ and ‘flirtatious’

Mr Mhindurwa has made it clear in his correspondence to the NMC that he does not admit any of the charges.

## **Decision and reasons on facts**



The NMC case officer emailed Mr Mhindurwa on 12 December 2022 to inform him *“The panel are currently deliberating on facts. The hearing will resume tomorrow and we have decided to hear the remainder of the hearing virtually due to train strikes and weather disruptions. If you change your mind and decide you wish to attend any of the hearing dates, please see below joining details”*.

Mr Mhindurwa responded on 13 December 2022 *“This case stressed me. What time can I attend to answer questions if there are any?”*

The NMC case officer replied to Mr Mhindurwa on 13 December 2022 *“The panel will be resuming the hearing at 12pm today. Before they hand down their decision on the facts of the case, they are willing to hear anything further you may wish to say. Please can you confirm whether you are able to and will attend the hearing at 12pm? I look forward to hearing from you as soon as possible”*.

Mr Mhindurwa replied *“Thank you for your email. Apart from the statements I submitted, I have nothing further to say. I took up a Hospital with poor performance history, which needed a massive system change following two deaths of service users and the subsequent bad media publicity. I maintain my innocence. Since the panel is already deliberating, I have nothing further to say but protest my innocence. I will wait to hear the outcome and will not join at 12”*.

The panel therefore resumed its consideration of the disputed charges and made the following findings.

### **Charge 1a, 1b and 1c**

In respect of Colleague A

- a) Told Colleague A “You do what I ask and not what you want to do”, or words to that effect, in a threatening manner

- b) Told Colleague A that if she wasn't happy you would find someone to replace her, or words to that effect, in a threatening manner
- c) Told Colleague A or Colleague A and others that she/they should do things your way or should look elsewhere for jobs, or words to that effect, in a threatening manner

**These charges are found proved.**

In reaching this decision, the panel took into account the evidence of Colleague A.

Colleague A said in her witness statement *"[Mr Mhindurwa] would also request to speak to me away from the ward. He was verbally threatening and would say "you do what I ask and not what you want to do".*

Colleague A also wrote in her local statement dated 7 December 2019 *"[Mr Mhindurwa] advised that if I didn't want to do the things he was asking then he could always get an agency worker in but I would lose my job".*

Colleague A's written evidence was consistent with her oral evidence. Colleague A told the panel how she and her colleagues felt threatened with their jobs by Mr Mhindurwa. Ms 1 also told the panel that a number of people had been threatened with their jobs by Mr Mhindurwa.

The panel also heard from other witnesses that Mr Mhindurwa was unprofessional and had a mocking personality. It also heard that Mr Mhindurwa would use his powerful position as leverage.

Mr Mhindurwa was not asked about these allegations in the local investigation nor does he refer to them in his reflective statement.

The panel found Colleague A to be a credible and reliable witness with no reason to fabricate her account of these allegations. The panel accepted Colleague A's evidence and determined that it was more likely than not that Mr Mhindurwa had acted in a threatening manner towards her as described in the charges. The panel therefore found charges 1a, 1b and 1c proved.

### **Charge 1d**

d) Told Colleague A that you preferred her to be blonde, or words to that effect

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

In reaching this decision, the panel took into account the evidence of Colleague A and Mr Mhindurwa.

Colleague A detailed in her witness statement *"[Mr Mhindurwa] commented on my hair colour changing. I had changed my hair colour from blonde to silver. He asked why I had changed it and he said preferred me to be blonde. I didn't really know what to say or where to look. I tried to concentrate on my paperwork"*. Colleague A also describes in the local investigation how Mr Mhindurwa would comment on her hair colour and he asked why she had changed the colour as he preferred her blonde.

Colleague A's oral evidence was also consistent with the written evidence. The panel particularly noted that Colleague A stated that since these incidents she has never been blonde again because she does not want to attract unwanted attention.

Mr Mhindurwa's response in investigation interview was *"[Mr Mhindurwa] said that there were conversations about [Colleague A's] hairstyles and tattoos, but that these were initiated by [Colleague A]. [Colleague A] had changed her hairstyle a number of times and she showed [Mr Mhindurwa] photographs on her phone and discussed them with him. [Mr Mhindurwa] spoke clearly and confidently about the importance he sees in keeping a*

*distance between the professional and the personal when dealing with staff. [Mr Mhindurwa's] view is that he may have commented on [Colleague A's] appearance, but it was in the context of a discussion she had initiated".*

When asked to comment on Mr Mhindurwa's response Colleague A called it 'nonsense'.

Having found Colleague A to be a credible and reliable witness the panel accepted her clear and detailed account of the incident. The panel preferred Colleague A's account to Mr Mhindurwa's and determined that it was more likely than not that he had said to Colleague A that he preferred her to be blonde. The panel therefore found charge 1d proved.

### **Charge 1e**

- e) Asked Colleague A if she could show you photographs of her tattoos, on her phone

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

In reaching this decision the panel took into account the evidence of Colleague A and Mr Mhindurwa's responses.

Mr Mhindurwa said in his local investigation responses that conversations about Colleague A's appearance were all initiated by Colleague A, which she refuted.

Colleague A said in her witness statement *"There were other times where [Mr Mhindurwa] would comment on my tattoos. The tattoos could be seen at the top of my back which come onto my neck. He said "I can see you have a tattoo on your neck" and asked if I had any pictures on my phone that I could show him. [Mr Mhindurwa] asked me to have a look and I told him they are just for me. He made a childish noise to sound like I was getting snappy with him".*

*Colleague A's local statement stated "I was in his office one afternoon and he asked me about my tattoos. He asked if I had a tattoo on my back. I said yes. He wanted to know if I had any pictures and if he could see them".*

Colleague A's oral evidence was also consistent with her written evidence. She told the panel *"He was flirtatious showing pictures and asking to see pictures of my body" and "He was a stranger making comments about my body and hair, no one should have to tolerate that".*

Having found Colleague A to be a credible and reliable witness the panel preferred her clear and detailed account of the incident to Mr Mhindurwa's account. The panel determined that it was more likely than not that Mr Mhindurwa asked Colleague A to show him photographs of her tattoos. The panel therefore found charge 1e proved.

### **Charge 1f and 1g**

- f) Told Colleague A that staff thought she was going into his office to get off with him or words to that effect
- g) Said to Colleague A "Imagine what people would think when we come out of this cupboard" or words to that effect

### **These charges are found proved.**

In reaching this decision the panel took into account the evidence of Colleague A and Mr Mhindurwa's responses.

Mr Mhindurwa completely denied these allegations in the local investigation. *"[Mr Mhindurwa] accepted that his relationship with [Colleague A] was at times difficult as she wasn't happy with the work he was asking her to do. [Mr Mhindurwa] said that "getting off with" is not a phrase he uses and there was no conversations with [Colleague A] of these*



*kinds*". In response to this in her oral evidence Colleague A stated "He said it far too often for me to have forgotten".

Colleague A said in her statement "There were a couple of occasions where I would go into [Mr Mhindurwa's] office and he would say that other colleagues thought I was going into his office to get off with him. This means kissing each other. He said at one point that we both had colds and that it would appear we were getting off with each other because of this".

She further stated "There was one incident in which I cannot recall the date. We needed to go into the small room for the fax machines. It was an archiving cupboard with many boxes on the shelves. I asked [Mr Mhindurwa] what he wanted to do with the fax machines. He asked me to show him. I recall the door closed behind us and he said "imagine what people would think when we come out of this cupboard".

Colleague A's oral evidence was consistent with her written evidence. She stated that Mr Mhindurwa would ask her to have the door closed even though there was an open door policy and that she did what she was asked to do. She said she felt claustrophobic and stressed at work. Regarding the incident in the store cupboard Colleague A described being trapped with Mr Mhindurwa blocking the only exit. She was concerned that her personal alarm would not work in the cupboard and that no one knew where she had gone.

The panel preferred the account of Colleague A who it considered a credible and reliable witness. It found her account to be detailed and consistent in her written and oral evidence and in the local investigation. The panel determined that it was more likely than not that Mr Mhindurwa told Colleague A that staff thought she was going into his office to 'get off with him' or words to that effect and the he said "Imagine what people would think when we come out of this cupboard". The panel therefore found charge 1f and 1g proved.

## **Charge 1h**

- h) Showed Colleague A a photograph on your phone which was an image of you wearing a sleeveless top and pyjama trousers, or similar

**These charges are found proved.**

In reaching this decision the panel took into account the evidence of Colleague A and Mr Mhindurwa's responses.

At the local investigation Mr Mhindurwa stated that he never showed Colleague A any photographs of himself. He said that he showed a staff member a photo of himself in front of patients, but that was in workout clothing – not pyjamas. Mr Mhindurwa was certain that he had never shown Colleague A a photograph of himself on his phone.

Colleague A said in her statement *"There was another time in which [Mr Mhindurwa] showed me photographs on his phone of him just wearing a sleeveless top and pyjama trousers"*.

In Colleague A's local witness statement she wrote *"He then mention my clothes and asked what I where(sic) at the weekend. I advised something usually more comfortable than work wear. He mentioned that he wears Pyjamas and then he showed me pictures of himself on his phone in his pyjamas"*.

Colleague A's oral evidence was consistent with her written evidence. She told the panel that she can still see the image and its not an image she wants to see. When asked why she thinks Mr Mhindurwa showed her this photograph she said she thinks he might have wanted a reaction but she did not understand what his train of thought was and it made her feel very uncomfortable.

The panel preferred the account of Colleague A who it considered a credible and reliable witness. It found her account to be detailed and consistent in her written and oral evidence

and in the local investigation. The panel determined that it was more likely than not that Mr Mhindurwa had shown Colleague A a photograph of him wearing a sleeveless top and pyjama trousers or something similar. The panel therefore found charge 1h proved.

## **Charge 2a**

In respect of Colleague B

Asked Colleague B why she had shown you her underwear the previous day, or words to that effect

**This charge is found proved.**

In reaching this decision the panel took into account the evidence of Colleague B and Mr Mhindurwa's responses.

Colleague B's witness statement *"[Mr Mhindurwa] would call me into his office. He said "Why did I show my underwear yesterday"*.

In Colleague B's local statement she detailed *"[Mr Mhindurwa] stated "why did you seduce me the other day" I stated "I don't get what you mean", then again stated "you pulled your skirt up in front of me the other day", I replied "like I said was wearing trousers that day, and this isn't a very professional conversation"*.

Colleague B's oral evidence was consistent with her written evidence. She told the panel that she had not shown Mr Mhindurwa her underwear the day before he asked her this.

When asked in the local investigation Mrs Mhindurwa agreed that he asked Colleague B the question.

The panel found Colleague B to be a credible and reliable witness. It found her written and oral accounts to be broadly consistent. It therefore accepted her evidence. It accepted that Mr Mhindurwa did not appear to dispute that he had asked Colleague B this question. The panel determined that it was more likely than not that Mr Mhindurwa asked Colleague B why she had shown him her underwear. The panel therefore found charge 2b proved.

### **Charge 2b**

Took a lollipop from the mouth of Colleague B and placed it in your own mouth

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

In reaching this decision, the panel took into account the evidence of Colleague B and Mr Mhindurwa.

In the local investigation interview Mr Mhindurwa stated that Colleague B would eat lollipops in the office which he found unprofessional. He said he would never eat that sweet food and he had never taken a lollipop from Colleague B.

Colleague B said in her witness statement *“I had a lollipop in my mouth. I went to speak with a managerial lead and she had her back towards me in the room. I cannot recall her name. [Mr Mhindurwa] came in and took the lollipop out of my mouth and put it in his mouth”*. In her local statement she wrote *“I was eating a sweet lolly pop, [Mr Mhindurwa] called me out of my office and asked me into a separate office where another colleague the lolly out of my mouth, out it in his and walked out of the office”*.

Colleague B’s oral evidence was consistent with her written evidence. Her evidence was that he was flirting and made her feel dirty

Having found Colleague B to be a credible witness with consistent accounts of this incident, the panel preferred Colleague A’s account to Mr Mhindurwa’s. The panel

determined that it was more likely than not that Mr Mhindurwa had taken a lollipop from the mouth of Colleague B and placed it in his own mouth. The panel therefore found charge 2b proved.

### **Charge 2c**

Said to Colleague B “That’s a shame I thought we could have a bottle of wine at mine and chill for the weekend”, or words to that effect

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

In reaching this decision the panel took into account the evidence of Colleague B and Mr Mhindurwa.

Colleague B said in her witness statement *“[Mr Mhindurwa] asked me what I was doing at the weekend. I told him that I would be relaxing at home. He said “that’s a shame I thought we could have a bottle of wine at mine and chill for the weekend”.*

In her local statement, Colleague B wrote *“[Mr Mhindurwa] called me on my office phone and asked me to go to his office [Mr Mhindurwa] then asked “what are we doing this Friday?” I stated “well we will be working as usual” he then asked then asked “what are we doing this weekend?” I stated “I will be relaxing at home” he then asked “what wine do you drink?” at this point I said “I thought you called me into your office to discuss engagement and observation forms?” I then walked out of the office”.*

Mr Mhindurwa was not asked about these allegations in the local investigation nor does he refer to them in his reflective statement.

Having found Colleague B to be a credible witness with consistent accounts of this incident, the panel accepted Colleague B’s evidence. The panel determined that it was more likely than not that Mr Mhindurwa said to Colleague B “That’s a shame I thought we

could have a bottle of wine at mine and chill for the weekend”, or words to that effect. The panel therefore found charge 2c proved.

### **Charge 2d**

Said to Colleague B “It’s not just my car that is big”, or words to that effect, in a sexually suggestive manner

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

In reaching this decision the panel took into account Colleague B and Mr Mhindurwa’s evidence.

Mr Mhindurwa’s said in his local investigation *“After being reminded of some of the detail of the allegation, [Mr Mhindurwa] did remember a conversation about his car and reference to the size of it. [Mr Mhindurwa] said that it was [Colleague B] who first mentioned his car and commented on the size of it. [Mr Mhindurwa] replied by saying that he preferred big cars. As far as [Mr Mhindurwa] was concerned the conversation was simply about cars – there was no innuendo. [Mr Mhindurwa’s] recollection is that [a colleague] from the admin office was also present”.*

Colleague B said her witness statement *“I was downstairs taking the rubbish out with a colleague... [The colleague] was at the door holding the door open. [Mr Mhindurwa] was outside and asked “Do you like my car”. I said “it’s a big car”. [Mr Mhindurwa] said “Its not just my car that is big. He was making reference to his genitalia which made me feel very uncomfortable”* In the local investigation Colleague B stated *“I and a fellow colleague was walking down to the communal bin area, we met [Mr Mhindurwa] on the stairs, he walked with us and followed us out the doors, and he then asked “do you like my car?” I stated “it’s a bit too big for me” he then stated “I’m not that big if you know what I mean”.*

Colleague B's oral evidence was consistent with her written evidence. She was clear to the panel that this was a sexual remark and that Mr Mhindurwa was talking about his genitalia not about the size of his car.

Having found Colleague B to be a credible witness with consistent accounts of this incident, the panel preferred Colleague B's account to Mr Mhindurwa's. The panel determined that it was more likely than not that Mr Mhindurwa said to Colleague B "It's not just my car that is big", or words to that effect. The panel was also satisfied that Mr Mhindurwa has said this in a sexually suggestive manner. The panel therefore found charge 2d proved.

### **Charge 3a**

In respect of Colleague C

- a) On one or more occasions came into the office of Colleague C without business or clinical justification

**This charge is found proved.**

In reaching this decision the panel took into account the evidence of Colleague C and Mr Mhindurwa.

Colleague C said in her witness statement *"I wouldn't need to have that much involvement with a Hospital Manager apart from meetings etc. He would linger around my office and in my office. He would let himself into my office and there was no reason for him to be there. I would ask him often if I could help him with something and he would say no just making sure everything is ok"*.

Colleague C's oral evidence was consistent with her written evidence. She said that she felt very intimidated. She said that Mr Mhindurwa would smirk at her and made her feel

very uncomfortable. She said there was no reason for Mr Mhindurwa to come into her office to check everything was okay, he could have emailed. She said he would let himself in to her office a couple of times a day and he would stand too close to her.

The panel found Colleague C to be a credible witness with detailed and consistent accounts of this incident, it therefore accepted her account. The panel determined that it was more likely than not that Mr Mhindurwa came into Colleague C's office without business or clinical justification. The panel therefore found charge 3a proved.

### **Charge 3b**

- b) Commented in a meeting that Colleague C reminded you of someone that wants to make him fall asleep and pretended to be asleep

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

In reaching this decision the panel took into account the evidence of Colleague C and Mr Mhindurwa.

In Colleague C's witness statement she said *"During the meeting he made a comment and said I reminded him of someone that wants to make him fall asleep. He tried to imitate being asleep. He was expecting people to find this funny but they didn't"*. The record of the local interview stated *"[Mr Mhindurwa] said that she reminded him of one of those boring people in meetings who make him feel like falling asleep. [Mr Mhindurwa] then mimicked snoring"*.

The record of the local investigation interview stated *"[Colleague C] explained that she first met [Mr Mhindurwa] in a staff meeting, and her first experience of him was not a positive one. [Colleague C] described [Mr Mhindurwa] as being rude to staff in the meeting and came across as 'egotistical'. After [Colleague C] had made a contribution in the meeting [Mr Mhindurwa] asked if she could guess who she reminded him of. When [Colleague C]*



*said that she couldn't, [Mr Mhindurwa] said that she reminded him of one of those boring people in meetings who make him feel like falling asleep. [Mr Mhindurwa] then mimicked snoring. Another colleague joined the meeting and made a contribution to which [Mr Mhindurwa] replied "you are just like her" (indicating [Colleague C]) and pretended to snore again".*

Colleague C's oral evidence was detailed and consistent with the written evidence. She said that she felt humiliated, shocked and upset by Mr Mhindurwa's behaviour in the meeting.

The record of investigation interview with Mr Mhindurwa stated "*[Mr Mhindurwa] said that he would not have been in a meeting with Colleague C and never used language like "you are boring me" or "you are sending me to sleep". [Mr Mhindurwa] simply didn't recognise that account of his behaviour and denied it had happened".*

Having found Colleague C to be a credible witness with consistent accounts of this incident, the panel preferred her evidence to Mr Mhindurwa's. The panel determined that it was more likely than not that Mr Mhindurwa commented in a meeting that Colleague C reminded him of someone that wants to make him fall asleep and pretended to be asleep. The panel therefore found charge 3b proved.

### **Charge 3c, 3d and 3e**

- c) Asked Colleague C about her partner
- d) Asked Colleague C whether she was happy in her relationship
- e) Suggested to Colleague C that if she was not happy in her relationship maybe she should try going out with him

**These charges are found proved.**

In reaching this decision the panel took into account the evidence of Colleague C and Mr Mhindurwa.

Colleague C said in her witness statement to the NMC *“On the way to a ward, he asked about my partner. I don’t recall the date. He also asked if I was happy in my relationship and if I wasn’t then I should try going out with other people and then there was a pause and he said and then maybe I should try going out with him. It was a really awkward conversation”*.

The record of Colleague C’s Investigation interview stated *“When [Colleague C] and [Mr Mhindurwa] were alone, [Mr Mhindurwa] asked her if she was happy with her partner and said that if she wasn’t totally happy with him then she could try going out with [Mr Mhindurwa].”*

Colleague C’s oral evidence was consistent with the written evidence. She said Mr Mhindurwa started asking her personal questions about her relationship, whether she was happy or not and she thought it was unprofessional. She said she thought Mr Mhindurwa was attracted to her on a personal level.

Having found Colleague C to be a credible witness with consistent accounts of this incident, the panel accepted her evidence. The panel determined that it was more likely than not that Mr Mhindurwa asked questions about Colleague’s C relationship and suggested to her that if she was not happy in her relationship maybe she should try going out with him. The panel therefore found charge 3c, 3d and 3e proved.

### **Charge 3f**

- f) On one or more occasions you looked at the chest of Colleague C and looked her up and down

**This charge is found proved.**

In reaching this decision the panel took into account the evidence of Colleague C.

Colleague C said in her witness statement *“When he would talk to me, he would look at my chest and then look up and then down and up and down. It was obvious that he was looking at my chest”*

The record of Colleague C’s local investigation interview stated *“[Colleague C] felt that he [Mr Mhindurwa] would invade her personal space by standing too close to her, comment on her physical appearance and that his gaze would often be focused on her chest or figure when he was speaking to her”*.

Colleague C’s oral evidence was consistent with the written evidence. She said Mr Mhindurwa was always looking at her chest, he was creepy and made her feel uncomfortable. She also said that she thought Mr Mhindurwa was a sexual predator. Colleague B also made reference to Mr Mhindurwa staring at female members of staff. Her investigation interview states *“[Colleague B] was often aware of Mr Mhindurwa obviously looking at her body and the bodies of other women in the office”*.

Mr Mhindurwa was not asked about these allegations in the local investigation nor does he refer to them in his reflective statement.

Having found Colleague C to be a credible witness with consistent accounts of this incident, the panel accepted her evidence. The panel determined that it was more likely than not that Mr Mhindurwa looked at Colleague C’s chest and looked her up and down. The panel therefore found charge 3f proved.

### **Charge 3g**

- g) Said to Colleague C, “I’ve got a big black one for you in my car”, or words to that effect, in a sexually suggestive manner

**This charge is found proved.**

In reaching this decision the panel took into account the evidence of Colleague C.

The record of Mr Mhindurwa's local interview stated "*[Mr Mhindurwa] explained that he had branded stationary (including pens) with the details of his limited company on them. [Mr Mhindurwa] said that gave these pens to lots of people and will have given them to [Colleague C] at some point. [Mr Mhindurwa] said that he knew nurses couldn't use blue ink at work so may have offered [Colleague C] black ones instead. [Mr Mhindurwa] was very clear that he did not treat [Colleague C] any differently to other staff by giving her pens, and that any suggestion that this behaviour was flirtatious or inappropriate was a complete misreading of an innocent gesture*".

Colleague C said in her witness statement to the NMC "... *he told us about a consultancy firm he had. I cannot recall the date. He pulled a pen out of his top pocket and he said he has loads of these pens in his car. He said that "its my consultancy firm". I said oh, ok, well done. He said I've got a big black one for you in my car. I was uncomfortable and felt disgusted*"

Colleague C's Record of interview stated "*[Colleague C] also talked about an example of [Mr Mhindurwa] leaving some blue pens on her desk as a 'gift'. Apparently, [Mr Mhindurwa] was known for giving "special pens" to people. As a registered nurse, [Colleague C] could not use blue pens but [Mr Mhindurwa] had also left a note to the effect of "if you would prefer a black one, I have one in the car if you would like to come down and get it."* [Colleague C] was in no doubt that this was a sexual innuendo relating to the fact that [Mr Mhindurwa] is a black man and was clear that an offer to go to his car was a sexual advance".

Colleague C's oral evidence was consistent with the written evidence.

The panel preferred the evidence of Colleague C. It found her oral and written evidence to be credible and consistent. The panel does not accept Mr Mhindurwa's explanation of the conversation. The panel determined that it was more likely than not that he used this sexually suggestive language toward Colleague C. The panel therefore found charge 3g proved.

### **Charge 3h**

- h) Gestured to Colleague C that you were watching her by pointing at her from your eyes

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

In reaching this decision, the panel took into account the evidence of Colleague C.

The record of Mr Mhindurwa's local investigation interview stated *"[Mr Mhindurwa] said that this didn't happen and he could not imagine why he would ever have spoken to somebody that way. In the face to face interview [Mr Mhindurwa] was able to reproduce a commonly used gesture (pointing to the eyes and then to another person) but said that it was not a gesture he used personally"*.

Colleague C said in her witness statement *"As he walked across the front of the lounge, he was looking at me. He was pointing at me from his eyes, like he's watching me. I didn't understand what this meant"*.

The record of Colleague C's local investigation interview stated *"After leaving the ward on one occasion, [Mr Mhindurwa] turned back to [Colleague C] and said "I'm watching you and made a gesture by pointing to his eyes and then at her"*.

Colleague C's oral evidence was consistent with the written evidence. Colleague C said that Mr Mhindurwa was walking across the lounge and looked back at her watching her

and made an intimidating gesture with his fingers. She said that Mr Mhindurwa watching her was predatory and made her feel uncomfortable.

The panel preferred the evidence of Colleague C. It found her oral and written evidence to be detailed, credible and consistent. The panel did not accept Mr Mhindurwa's explanation of the conversation. The panel determined that it was more likely than not that Mr Mhindurwa gestured to Colleague C that he was watching her by pointing at her from his eyes. The panel therefore found charge 3h proved.

### **Charge 3i**

- i) During a telephone conversation concerning authorisation to book agency staff you asked Colleague C to go out with you at the weekend

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Colleague C.

*Colleague C said in her witness statement "[Mr Mhindurwa] answered the phone and I recall there was a lot of music on in the background. I couldn't hear, so asked if he could turn the music down a little. He said don't be like that, I'm having a party. I said I needed to hear what you're saying, can I have authorisation. He said why don't you come over, then asked if I would go out with him at the weekend".*

The record of Colleague C's local investigation interview stated *"In addition to all of this on one occasion when I was hospital coordinator on a Sunday evening [Mr Mhindurwa] was on call and I needed to call him about securing nurses for mon through to thurs that week due to sickness of staff and that was the new protocol. During the call [Mr Mhindurwa] seemed to be intoxicated and there was loud music in the background I explained my professional request and [Mr Mhindurwa] was all playful in his language and verbal*

*conversation- he stated just wait there I'll ask ... ([PRIVATE] [Mr Mhindurwa's] boss as I am here at a party with him – you can come over when you have finished work if you like.*

*This made me more uncomfortable and I became very stressed and anxious at work ot(sic) was at this point I didn't want to be at work any longer due to the fear of seeing him. Another occasion is that he used to catch me after morning meetings on the stair well whilst I was alone and confront me with sexual innuendo's(sic)".*

This was consistent with Colleague C's oral evidence. She was clear from her oral evidence that Mr Mhindurwa was trying to leverage his position to get Colleague C to socialise with him.

The panel accepted the evidence of Colleague C. It found her oral and written evidence to be detailed, credible and consistent. The panel determined that it was more likely than not that during a telephone conversation concerning authorisation to book agency staff Mr Mhindurwa asked Colleague C to go out with him at the weekend. The panel therefore found charge 3i proved.

### **Charge 3j**

Suggested to Colleague C that you would be able to get her the job of her manager who was off sick

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

In reaching this decision, the panel took into account the evidence of Colleague C.

Colleague C said in her witness statement *"[Mr Mhindurwa] would say that he could get my manager [Manager]'s.. job as she was off sick. I told him you don't know when she may be coming back. He said he would sort it out".*

The record of Colleague C's local interview stated "[Colleague C] described [Mr Mhindurwa's] behaviour whilst the ward manager [Manager] was away from work on sick leave. [Mr Mhindurwa] stood very close to [Colleague C] and said "I'm going to get that job for you". [Colleague C] replied that they didn't know what would happen with the ward manager role as [Manager] may be coming back and [Mr Mhindurwa] said "it doesn't matter and that he would sort it out".

Colleague C's oral evidence was consistent with the written evidence. She said Mr Mhindurwa had told her how well she was doing and wanted to talk to me about getting the manager's job. When she said that she was not interested he said "Come on you know you'd be good at it".

Mr Mhindurwa was not asked about these allegations in the local investigation. He said in his reflective statement that he promoted Colleague C [PRIVATE].

The panel accepted the evidence of Colleague C. It found her oral and written evidence to be detailed, credible and consistent. The panel determined that it was more likely than not that Mr Mhindurwa suggested to Colleague C that he would be able to get her the job of her manager who was off sick. The panel therefore found charge 3j proved.

### **Charge 3k and 3l**

- k) On one or more occasions you stood too close to Colleague C
- l) On one or more occasions you gazed at the chest of Colleague C

**These charges are found proved.**

In reaching this decision, the panel took into account the evidence of Colleague C.

Colleague C stated in her witness statement "[Mr Mhindurwa] would stand too close. Gaze often on my chest. This was multiple times. I wear formal work wear and wouldn't have



*been suggestive in any way. His behaviour was flirtatious and creepy. When he would come into the office, he would come right behind my chair. He would be really close to me. When speaking with him, he would walk and come really close. I would need to step back”.*

This was consistent with Colleague C’s oral evidence. She recalled that her desk was in the corner and Mr Mhindurwa was standing too close and she had to move her chair. She said Mr Mhindurwa was always looking at her chest.

The record of Colleague C’s local investigation interview *“Although there was no physical contact, [Colleague C] felt that he would invade her personal space by standing too close to her, comment on her physical appearance and that his gaze would often be focussed on her chest or figure when he was speaking to her. This behaviour made [Colleague C] feel stressed and unwell”.*

The panel accepted the evidence of Colleague C. It found her oral and written evidence to be detailed, credible and consistent. The panel determined that it was more likely than not that on one or more occasions Mr Mhindurwa stood too close to Colleague C and gazed at her chest. The panel therefore found charges 3k and 3l proved.

#### **Charge 4**

And your conduct as specified in Charge 1 d) and/or e) and/or f) and/or g) and/or h) was sexually motivated in that you intended to pursue a future sexual relationship with Colleague A

**This charge is found not proved.**

In reaching this decision, the panel took into account the evidence of Colleague A.

Colleague A said in her witness statement *“There were a few sexual remarks which he made which I found to be extremely upsetting and uncomfortable”*. She also stated *“[Mr Mhindurwa] was extremely flirtatious and inappropriate almost every day. I felt uncomfortable and didn’t want to be harassed at work. For some reason I thought it was because of my appearance”*.

Colleague A said in her oral evidence that she felt afraid and felt that she could not argue with what Mr Mhindurwa wanted. She said she felt stressed mentally because she did not know what was going to happen each day. However, when asked what she thought was the reason for Mr Mhindurwa’s behaviour she said she did not know.

Although inappropriate and sexually motivated, the panel did not consider that Mr Mhindurwa’s behaviour in charges 1d – h was sexually motivated to the extent that he intended to pursue a future sexual relationship with Colleague A. It acknowledged the negative effect that his behaviour had on Colleague A.

The panel was of the view that Mr Mhindurwa demonstrated behaviour with the intention to intimidate and control Colleague A. It determined that Mr Mhindurwa wanted to make Colleague A do what he wanted by exerting his power, influence and authority on her, someone who described herself as vulnerable. However, it did not have sufficient evidence to determine that his behaviour towards Colleague A was sexually motivated in that he intended to pursue a future sexual relationship with her. The panel therefore found charge 4 not proved.

### **Charge 5**

And your conduct as specified in Charge 1 d) and/or e) and/or f) and/or g) and/or h) amounted to sexual harassment of Colleague A

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Colleague A.

The panel considered the NMC guidance in respect of harassment including sexual harassment:

*“Harassment is defined by the Equality Act 2010 as someone engaging in unwanted conduct that's related to a protected characteristic or is of a sexual nature. The behaviour has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. It's necessary to take the perception of the person who's the subject of the conduct and any other circumstances into account. As well as harassment linked to a protected characteristic as defined by the Equality Act, harassment can also be unwanted conduct that is unrelated to a protected characteristic which someone finds offensive or which makes someone feel intimidated or humiliated”.*

The panel accepted the submission of Mr Sanghera and the advice of the legal assessor that the High Court decision in the case of *Professional Standards Authority for Health and Social Care v (1)Health and Care Professions Council (2) Leonard Ren-Ye Yong [2021] EWHC 52 (Admin)* was relevant in this case. The panel took into account that the NMC is a “public authority” within the meaning of the Equality Act 2010. Accordingly, the definition of sexual harassment within Section 26 of that Act is applicable to this case;

**“26 Harassment**

(1) A person (A) harasses another (B) if—

(a) A engages in unwanted conduct related to a relevant protected characteristic, and

(b) the conduct has the purpose or effect of—

(i) violating B's dignity, or

(ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

(2) A also harasses B if—

- (a) A engages in unwanted conduct of a sexual nature, and **Judgment**
  - (b) the conduct has the purpose or effect referred to in subsection (1)(b).
- (4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account—
- (a) the perception of B;
  - (b) the other circumstances of the case;
  - (c) whether it is reasonable for the conduct to have that effect.
- (5) The relevant protected characteristics are—  
...sex;...”

The panel took into account the effect on Colleague A of Mr Mhindurwa’s behaviour towards her. Colleague A said in her witness statement that Mr Mhindurwa was “*verbally threatening*” and “*I did feel threatened by [Mr Mhindurwa]. He told me on occasion if I wasn’t happy then he would find someone to replace me. I would say [Mr Mhindurwa] used threatening language most days. He would often talk down to colleagues in front of the whole office and threaten them with their jobs*”. She also stated “*There were a few sexual remarks which he made which I found to be extremely upsetting and uncomfortable*”.

Colleague A said she felt that she was experiencing panic attacks going into work because she felt so stressed about Mr Mhindurwa’s behaviour towards her. With regards to her appearance, she told the panel that she had loved her previously long hair and that since he commented on it so much and she felt so violated that she felt she had no option but to cut it off and change hair colour to make the attention from him stop. She said she could not go back to being blonde because of this experience.

The panel also took into account the evidence of Ms 1 who stated “*I do remember her [Colleague A] saying that she felt incredibly uncomfortable around the Registrant and did not want to come into the office because of this and his behaviour. [Colleague A] also felt scared*”.

The panel determined that Mr Mhindurwa's behaviour toward Colleague A was unwanted and he intended to violate her dignity and created an intimidating, humiliating and offensive environment. The panel considered that Mr Mhindurwa appeared to single out Colleague A because she was vulnerable and he used his power to intimidate and influence her.

The panel determined that Mr Mhindurwa's behaviour found proved in charges 1d-h, individually and cumulatively, amounted to sexual harassment of Colleague A. It therefore found charge 5 proved.

### **Charge 6**

And your conduct as specified in Charge 2 a) and/or b) and/or c) and/or d) was sexually motivated in that you intended to pursue a future sexual relationship with Colleague B

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

In reaching this decision, the panel took into account the evidence of Colleague B.

The panel took into account that it had found charges 2a – d proved.

Colleague B said in her witness statement *"I definitely felt like [Mr Mhindurwa] was pursuing me. He was very flirtatious. It was certainly not banter. The things he would say, it was more than banter and to me he was flirting. The impression I got is that he was in a high position and he could have anybody(sic) to have sexual relations with anyone he wanted"*.

The record of the local investigation interview stated *"[Colleague B] was very clear that [Mr Mhindurwa] was playing a game and being deliberately suggestive. [Colleague B] went as*

*far as using the term “sexual predator” to describe [Mr Mhindurwa] and was in no doubt that he was attempting to initiate a sexual encounter”.*

The panel considered that Mr Mhindurwa’s comments about Colleague B’s underwear, sharing a bottle of wine with him at his place on the weekend and the innuendo about his ‘big car’ were suggestive and sexually motivated. It also considered that Mr Mhindurwa taking a lollipop out of Colleague B’s mouth and placing it in his own mouth was an intimate action, suggestive and sexually motivated.

The panel determined that Mr Mhindurwa’s behaviour in charges 2a - d was sexually motivated in that he intended to pursue a future sexual relationship with Colleague B. The panel therefore found charge 6 proved.

### **Charge 7**

And your conduct as specified in Charge 2 a) and/or b) and/or c) and/or d) amounted to sexual harassment of Colleague B

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Colleague B.

Colleague B said in her witness statement *“He was making reference to his genitalia which made me feel very uncomfortable” and “Generally, [Mr Mhindurwa] would close his office door when speaking with me... it made me feel very uncomfortable”.* Colleague B also stated *“[Mr Mhindurwa] made me feel really uncomfortable and I felt like I couldn’t work with him anymore due to his behaviour. I felt like it was impacting my work. I would often stay later in the office but couldn’t do this anymore at the risk of [Mr Mhindurwa] being there. I didn’t feel safe. I didn’t want to be on my own with him. It made me think it was me, or I was doing something wrong”.*

Colleague B was consistent in her oral evidence about the harassment she experienced from Mr Mhindurwa. She said that Mr Mhindurwa did not take no for an answer in his pursuit of her. She described him as a sexual predator.

The panel determined that Mr Mhindurwa's behaviour toward Colleague B was unwanted and he intended to violate her dignity and created an intimidating, humiliating and offensive environment. It determined that Mr Mhindurwa wanted to pursue a sexual relationship with Colleague B and would exert his power and authority on her to that end.

The panel determined that Mr Mhindurwa's behaviour found proved in charges 2a – d, individually and cumulatively, amounted to sexual harassment of Colleague B. It therefore found charge 7 proved.

### **Charge 8**

And your conduct as specified in Charge 3 a) and/or c) and/or d) and/or e) and/or f) and/or g) and/or h) and/or i) and/or j) and/or k) and/or l) was sexually motivated in that you intended to pursue a future sexual relationship with Colleague C

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

In reaching this decision, the panel took into account the evidence of Colleague C.

Colleague C said in her witness statement "*[Mr Mhindurwa] would stand too close. Gaze often on my chest. This was multiple times. I wear formal work wear and wouldn't have been suggestive in any way. His behaviour was flirtatious and creepy*" and "*I believe [Mr Mhindurwa] was a sexual predator and was pursuing me. His actions were inappropriate for the workplace and could not be classified as banter or joking. The way he would look at me and size me up would make me cringe*".

Colleague C's oral evidence was consistent with her written evidence. She said that Mr Mhindurwa was always looking at her chest. She said she believed he was a sexual predator and wanted to make her feel uncomfortable. She told the panel that he made her feel awful, humiliated shocked and upset. She said she thought he was interested in her on a personal level and was trying to find out about her personal life.

The panel determined that Mr Mhindurwa invaded Colleague C's personal space and looked at her inappropriately. He asked about her relationship and suggested that she should try going out with him and made other inappropriate comments. In the panel's view Mr Mhindurwa's behaviour can only be described as sexually motivated.

The panel determined that Mr Mhindurwa's behaviour in charges 3a, 3c – 3l was suggestive and sexually motivated in that he intended to pursue a future sexual relationship with Colleague C. The panel therefore found charge 8 proved.

### **Charge 9**

And your conduct as specified in Charge 3 a) and/or c) and/or d) and/or e) and/or f) and/or g) and/or h) and/or i) and/or j) and/or k) and/or l) amounted to sexual harassment of Colleague C

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

In reaching this decision, the panel took into account the evidence of Colleague C.

Colleague C stated in her witness statement *"The atmosphere was really uncomfortable", and "I would always have a knot in my stomach and I would feel sick coming into work"*. She also stated *"I felt threatened and uneasy around him"*.

The record of Colleague C's local interview stated *"[Colleague C] felt that he [Mr Mhindurwa] would invade her personal space by standing too close to her, comment on*



*her physical appearance and that his gaze would often be focused on her chest or figure when he was speaking to her. This behaviour made [Colleague C] feel stressed and unwell”.*

This was consistent with Colleague C’s oral evidence. She said she found everything Mr Mhindurwa did was predatory and grooming.

Mr Mhindurwa’s stated in his reflective piece *“On retrospect I should have a few members from other [Hospital] Units deployed to help me during the transformation period and also to dilute the toxic culture. In attempt to ease the situation I was too friendly with staff, but others mistook my openness and friendliness for sexual innuendos thereby wrongly interpreting my kindness for sexual moves. On the other hand task orientation and the desire to achieve KPIs and stipulated targets under tight deadlines from the regulatory and commissioning bodies made me to concentrate more on task and negated the fact that I was dealing with junior staff not well equipped/trained to embrace the required transformation(sic)”.*

The record of interview stated *“[Mr Mhindurwa] explained that the manager he replaced was “invisible” and stayed in his office. Given the serious situation at [the Hospital], [Mr Mhindurwa] wanted to be very visible and bring some energy to the team. This meant he did try and talk to people and have a positive motivational impact. [Mr Mhindurwa’s] view is that some of this may have been misinterpreted (as people weren’t used to it) and when combined with the threat to their jobs that they saw from [Mr Mhindurwa] this has resulted in false allegations being made”.*

The panel rejected Mr Mhindurwa’s explanation that his behaviour was misinterpreted by his colleagues. Colleague C said his behaviour could not be kindness that had been misinterpreted. She said it was direct interaction which was sexually related and made her feel humiliated and uncomfortable with control and power in the body language.

The panel determined that Mr Mhindurwa's behaviour toward Colleague C was unwanted, and he intended to violate her dignity and create an intimidating, humiliating and offensive environment. It determined that Mr Mhindurwa wanted to pursue a sexual relationship with Colleague C and would exert his power and authority on her to that end.

The panel determined that Mr Mhindurwa's behaviour found proved in charges 3a, 3c – 3l, individually and collectively, amounted to sexual harassment of Colleague C. It therefore found charge 9 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 Mr Mhindurwa's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's 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, Mr Mhindurwa's fitness to practise is currently impaired as a result of that misconduct.

### **Submissions on misconduct**

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

Mr Sanghera invited the panel to take the view that the facts found proved amount to misconduct. He referred the panel to the terms of ‘The Code: Professional standards of practice and behaviour for nurses and midwives (2015)’ (the Code) and identified the specific, relevant standards where the NMC consider Mr Mhindurwa’s actions amounted to misconduct.

Mr Sanghera submitted that Mr Mhindurwa’s conduct was not isolated and occurred over a number of months and occurred despite much of his conduct being unwanted. He submitted that a significant proportion of Mr Mhindurwa’s conduct was sexually motivated and amounted to sexual harassment.

Mr Sanghera submitted that Mr Mhindurwa’s conduct fell significantly and seriously short of what was expected in the circumstances and so both individually and collectively does amount to serious misconduct.

### **Submissions on impairment**

Mr Sanghera 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. This included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Mr Sanghera submitted that the first three limbs of the *Dame Janet Smith* test are engaged, from both a past and forward-looking perspective. He submitted that Mr

Mhindurwa's conduct had the potential to put patients at unwarranted risk of harm because his conduct left his colleagues feeling that they no longer wanted to come into work. Therefore, Mr Mhindurwa's conduct had the potential to leave the hospital short staffed and patients without care. Mr Sanghera submitted that Mr Mhindurwa's conduct was sexually motivated and amounted to sexual harassment of colleagues. It, therefore, brought the nursing profession into disrepute. Mr Sanghera submitted that Mr Mhindurwa had breached a significant number of different provisions of the NMC's Code and so had breached fundamental tenets of the nursing profession.

Mr Sanghera submitted that Mr Mhindurwa remains liable to put patients at unwarranted risk of harm, to bring the profession into disrepute and to breach fundamental tenets of the profession. He submitted that Mr Mhindurwa has shown limited and insufficient insight and remorse. Mr Mhindurwa has not attended the hearing and has not given any evidence on oath to the panel. In cases of serious misconduct, a panel should expect to see comprehensive insight, remorse and strengthened practice from an early stage which addresses the specific concerns raised. For the reasons set out above, Mr Mhindurwa has not shown those essential elements and so there remains a real risk of repetition which carries with it serious risk of significant harm.

Mr Sanghera therefore invited the panel to find Mr Mhindurwa's fitness to practise currently impaired on both public protection and public interest grounds.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. This included: *Nandi v General Medical Council* [2004] EWHC 2317 (Admin).

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

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

The panel was of the view that Mr Mhindurwa actions did fall significantly short of the standards expected of a registered nurse, particularly one acting in a responsible position as interim hospital manager, and that his actions amounted to breaches of the Code.

Specifically:

*“9.3 deal with differences of professional opinion with colleagues by discussion and informed debate, respecting their views and opinions and behaving in a professional way at all times*

*Promote professionalism and trust*

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

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

*To achieve this, you must:*

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

*20.2 act with 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*

*20.10 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.

In relation to charge 1a- 1h involving Colleague A, the panel first considered the charges individually. It considered that some of the conduct found proved was not serious enough to amount to misconduct taken in isolation. The panel considered that Mr Mhindurwa's comments and questions about Colleague A's appearance and him showing Colleague A a photo of himself in pyjama trousers could not be considered deplorable. The panel therefore determined that the conduct displayed at charges 1d, 1e and 1h was not serious enough to amount to misconduct individually.

However, the panel was of the view that Mr Mhindurwa's conduct at charges 1a, 1b, 1c, 1f and 1g was serious and amounted to misconduct. Mr Mhindurwa used his position of power as interim hospital manager and displayed a pattern of threatening behaviour and sexual harassment towards Colleague A which was sustained over a period of time. It considered that he used body language and verbal language to intimidate and control Colleague A to get her to do as he wanted which impacted negatively on Colleague A. Whilst it found that some individual elements of charge 1 did not amount to misconduct, the panel found that Mr Mhindurwa's actions at charge 1, collectively, fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

In relation to charge 2a – 2d involving Colleague B, the panel considered all of the conduct displayed by Mr Mhindurwa at each charge individually and collectively was serious. Mr Mhindurwa used his position of power as interim hospital manager and displayed a pattern of degrading behaviour and sexual harassment towards Colleague B which was sustained over a period of time. The panel had found Mr Mhindurwa's conduct to be sexually motivated. He acted inappropriately by taking a lollipop out of Colleague B's mouth and putting it in to his own and used sexual innuendos and comments towards her with the intention of pursuing a future sexual relationship with her. Colleague B told the panel that his advances had made her feel uncomfortable and 'dirty'. The panel therefore found that all Mr Mhindurwa's actions at charge 2, fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

In relation to charge 3a – 3l involving Colleague C, the panel first considered each of the charges individually. It considered that some of the conduct was not serious enough to amount to misconduct. The panel considered that Mr Mhindurwa's conduct by coming into Colleague C's office without business (3a) and by standing too close to her (3k) was inappropriate but could not be considered deplorable by fellow practitioners and did not amount to misconduct. It also considered that asking Colleague C about her partner (3c) and whether she was happy in her relationship (3d) was again inappropriate but not serious enough to amount to misconduct. The panel considered that Mr Mhindurwa gesturing to Colleague C that he was watching her by pointing at her from your eyes (1h) was inappropriate behaviour but was not serious enough to amount to misconduct. Finally, the panel considered that Mr Mhindurwa suggesting to Colleague C that he would be able to get her the job of her manager who was off sick (3j) was not so serious as to amount to misconduct individually.

However, the panel was of the view that Mr Mhindurwa's conduct at charges 3b, 3e, 3f, 3g, 3i, and 3l fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct. The panel considered that Mr Mhindurwa's behaviour in the meeting by pretending to be asleep (3b) was bullying and was intended to intimidate and humiliate Colleague C. The panel found Mr Mhindurwa's other conduct to be serious and sexually motivated. He acted inappropriately by suggesting to Colleague C that if she was not happy in her relationship maybe she should try going out with him (3e). He also made comments which were sexually suggestive towards Colleague C (3g) and gazed at her chest (3l) with the intention of pursuing a future sexual relationship with her. Finally, the panel considered that during a telephone conversation concerning authorisation to book agency staff (3i) Mr Mhindurwa used his position of power as the interim hospital manager as leverage to try and get Colleague C to go out with him. The panel found this charge particularly concerning as by denying authorisation for agency staff, in the circumstances within which this incident occurred, Mr Mhindurwa potentially put patients at risk of harm.

The panel determined that Mr Mhindurwa displayed a pattern of degrading behaviour and sexual harassment towards Colleague C which was sustained over a period of time. It

considered that Mr Mhindurwa behaved in a way that made Colleague C feel violated, shocked and upset and he used behaviour to bully and intimidate her. Whilst it found that some individual elements of charge 3 did not amount to misconduct, the panel found that Mr Mhindurwa's actions at charge 3, collectively, fell seriously short of the conduct and standards expected of a nurse, particularly in the position he held within the hospital, and amounted to misconduct.

The panel went on to consider misconduct in respect of charges 5, 6, 7, 8 and 9.

The panel considered that charges 5, 7 and 9 involving the sexual harassment of Colleagues A, B and C was a serious departure from the conduct and standards expected of a registered nurse and was conduct that would be considered deplorable by fellow practitioners.

The panel considered that charges 6 and 8 in relation to Mr Mhindurwa's conduct being sexually motivated in that he intended to pursue future sexual relationships with Colleague B and Colleague C was a serious departure from the conduct and standards expected of a registered nurse and was conduct that would be considered deplorable by fellow practitioners.

The panel bore in mind the written evidence from Mr Mhindurwa that his openness and friendliness was wrongly interpreted for sexual moves. The panel rejected Mr Mhindurwa's explanation and determined that his conduct went beyond friendliness and was not misinterpreted, and he exploited an imbalance of power for his own benefit and was sexually motivated.

The panel therefore found Mr Mhindurwa's actions at charge 1, 2, 3, 5, 6, 7, 8 and 9 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, Mr Mhindurwa's 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 *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

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

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

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

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

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

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

*d) ...'*

The panel found limbs a, b and c engaged in the *Grant* test. The panel found that patients were put at risk of harm as a result of Mr Mhindurwa's misconduct, particularly where he refused to authorise agency staff for the coming week. The panel found Mr Mhindurwa's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel took into account Mr Mhindurwa's reflective statement. He has not provided a detailed response to the charges and has continually denied the conduct found proved. He has not demonstrated an understanding of how his actions affected his colleagues and could have impacted on patient safety. The panel saw no evidence that Mr Mhindurwa has an understanding of why what he did was wrong and how this impacted negatively on the reputation of the nursing profession. The panel determined that Mr Mhindurwa has not sufficiently demonstrated how he would adjust his behaviour in the future. It considered that Mr Mhindurwa had demonstrated very little insight into his misconduct.

The panel considered that the concerns in this case are attitudinal and more difficult to put right. The panel carefully considered the evidence before it in determining whether or not Mr Mhindurwa has taken steps to address the misconduct identified. The panel took into account the evidence of learning provided to the panel. The panel followed the training hyperlinks provided by Mr Mhindurwa. It considered that spending a few minutes on a module on professional boundaries between staff and patients was not relevant in the

circumstances of this case, nor was it sufficient to demonstrate he has remediated the concerns.

The panel had regard to the references provided by Mr Mhindurwa which all dated back to 2020 which described him as sometimes presenting as *“jovial which could be misinterpreted”* and also having *“Bunter(sic) on the ward with staff as a way to break the ice and relate to staff.”* However, the panel was satisfied that his behaviour in this case did not fall into the category of ‘jovial’ or ‘banter’.

The panel was of the view that there is a risk of repetition based on the limited insight and lack of evidence of remediation. 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 concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Mr Mhindurwa’s fitness to practise impaired on the grounds of public interest. The panel determined that a fully informed member of the public would be shocked if a finding of current impairment was not made for a registrant who had behaved in this way.

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

## **Sanction**

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

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

### **Submissions on sanction**

Mr Sanghera submitted that the NMC is seeking a striking-off order. He outlined what the NMC considered to be the aggravating and mitigating features of this case. He also referred the panel to the NMC guidance on cases involving sexual misconduct

Mr Sanghera submitted that when considering which sanction to impose, the panel should start with the least restrictive before arriving at the appropriate one. He submitted that to take no further action or impose a caution order would not be appropriate as it would not address the seriousness of the case or protect the public. He submitted that a conditions of practice order was not appropriate or sufficient to protect patients or service users or to address any concerns about public confidence or proper professional standards and conduct.

Finally, he submitted that a suspension order would not be sufficient in this case. He submitted that Mr Mhindurwa's conduct raises fundamental questions about his professionalism and is fundamentally incompatible with continuing to be on the register. As a result, public confidence in nurses, midwives and nursing associates cannot be maintained if he is not removed from the register. He submitted that a period of suspension would not be sufficient to protect patients, public confidence in nurses, midwives or nursing associates, or professional standards. He therefore submitted that the appropriate sanction in this case is a striking off order.

## Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Mr Mhindurwa abused his position of trust as hospital manager.
- Mr Mhindurwa's lack of insight and remorse into misconduct.
- Little evidence that Mr Mhindurwa has adequately addressed his misconduct or strengthened his practice.
- Mr Mhindurwa's misconduct was not isolated, involved a number of acts in relation to three different colleagues over a number of months and occurred very quickly on his arrival to the hospital.
- Mr Mhindurwa's conduct put patients at risk of suffering harm.

The panel was of the view that there are no mitigating features in this case.

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 neither protect the public nor be in the public interest to take no further action.

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

*was unacceptable and must not happen again.*' The panel considered that Mr Mhindurwa's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

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

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that a 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 considered that Mr Mhindurwa's misconduct was not a single instance but involved a number of acts in relation to three different colleagues over a number of months. There is evidence of deep-seated attitudinal problems as his misconduct was sexually motivated and involved sexual harassment as well as bullying and intimidation. The panel saw no evidence that he has repeated his behaviour since these incidents but because of his lack of insight and remediation he poses a serious risk of repeating his

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

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

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

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

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

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Mr Mhindurwa's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct himself, the panel has concluded that nothing short of this would be sufficient in this case. The panel had no specific information as to any adverse effects,

whether financial or otherwise, of a striking-off order on Mr Mhindurwa. However, the panel was satisfied that Mr Mhindurwa's own interests were substantially outweighed by the public interest.

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 Mr Mhindurwa 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 Mr Mhindurwa's own interests until the striking-off order 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 Sanghera. He submitted that an interim suspension order was necessary for the protection of the public and is in the wider public interest in order to cover the appeal period. He submitted that the length of the interim order is a matter for the panel.

### **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 appeal period.

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

That concludes this determination.