

# Nursing and Midwifery Council Fitness to Practise Committee

**Substantive Meeting  
21 – 24 March 2022**

## **Virtual Meeting**

**Name of registrant:** Alfred Muvheni Mavurayi

**NMC PIN:** 05F2239E

**Part(s) of the register:** RNMH: Mental Health Nurse (July 2006)

**Area of registered address:** Milton Keynes

**Type of case:** Misconduct

**Panel members:** Bryan Hume (Chair, lay member)  
Lorna Taylor (Registrant member)  
Keith Murray (Lay member)

**Legal Assessor:** Alain Gogarty

**Hearings Coordinator:** Sherica Dosunmu

**Facts proved:** Charges 1a, 1b, 1c, 1d, 1e(i), 1f, 1g, 1h, 2a, 2b, 2c(i), 2c(ii), 3a, 3b, 3c, 3d, 4, 5, 6b, 7

**Facts not proved:** Charges 1e(ii), 1i, 6a, 8

**Fitness to practise:** Impaired

**Sanction:** **Striking-Off Order**

**Interim order:** **Interim Suspension Order (18 months)**

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

On 23 July 2021 Mr Mavurayi was asked whether he wished his case to be dealt with at a hearing or at a meeting. There was no response from Mr Mavurayi in relation to this request. On 23 July 2021 a panel of the Fitness to Practise Committee considered this issue and determined that Mr Mavurayi's case should be referred to a meeting. The reasons for this were set out in the Notice of Meeting dated 14 February 2022. There has been no response from Mr Mavurayi to the Notice of Meeting dated 14 February 2022, but there is an email from Mr Mavurayi dated 1 March 2018, in which he stated that he was not presently working in health care and was exploring options in retraining for another career.

The panel noted that the Notice of Meeting had been sent to Mr Mavurayi's registered email address by secure email on 14 February 2022.

The panel took into account that the Notice of Meeting provided details of the allegation, all of the evidence related to this matter, and informed Mr Mavurayi that this meeting would take place on or after 21 March 2022. Mr Mavurayi was also asked to provide comments by using the response form attached to the Notice of Meeting, if he had anything that he wanted the panel to take account of in considering this matter. This response form was not returned by Mr Mavurayi.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Mavurayi has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

## Details of charge

That you a registered nurse, whilst working as a Band 7 Ward Manager of the Psychiatric Intensive Care Unit (PICU), Cambridgeshire and Peterborough NHS Foundation Trust

1. On one or more occasions between September 2016 and October 2017:
  - a. inappropriately asked Colleague A on a date and/or to go out with you; [PROVED]
  - b. continued to ask Colleague A to go out with you, despite her telling you no on more than one occasion; [PROVED]
  - c. made inappropriate comments about Colleague A's body and/or bottom; [PROVED]
  - d. said to Colleague A that her "bum looked amazing" or words to that effect; [PROVED]
  - e. when Colleague A asked you to stop making comments about her body you:
    - i) laughed and/or smirked; [PROVED]
    - ii) told Colleague A to "lighten up" or words to that effect and walked away; [NOT PROVED]
  - f. inappropriately looked and/or stared at Colleague A' body [PROVED]
  - g. asked Colleague A to come to your office without any clinical justification [PROVED]
  - h. did not attempt to stop the rumours that you and Colleague A were in a relationship and/or having sex; [PROVED]
  - i. did not attempt to discourage and/or stop inappropriate sexual conversations taking place in the ward room [NOT PROVED]
2. Your actions at one or more of charges 1(a) – 1(i) amounted to harassment of Colleague A in that:
  - a. Your conduct was unwanted; [PROVED]
  - b. Your conduct related to Colleague A's sex; [PROVED]
  - c. Your conduct had the purpose or effect of:
    - i) Violating Colleague A's dignity, or [PROVED]

- ii) Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague A [PROVED]
- 3. On one or more occasions between September 2016 and October 2017, whilst in the presence of Colleague B:
  - a. made inappropriate comments towards women and/or about female colleagues [PROVED]
  - b. inappropriately stared and/or leered at one or more women and/or female colleagues [PROVED]
  - c. on an unknown date in Summer/Autumn 2017 said “if Colleague C was not pregnant I would fuck her and I’m going to smash that” or words to that effect [PROVED]
  - d. on an unknown date in Summer/Autumn 2017, during a conversation with Colleague B about you wearing linen trousers, you said “if I did, you would see my cock swinging because it is so big” or words to that effect [PROVED]
- 4. On an unknown date in September 2017, called Colleague B and said you “wanted to see and/or touch Colleague B’s pum pum” or words to that effect; [PROVED]
- 5. On an unknown date in September 2017, called Colleague B and asked “if she wanted you, as you wanted her” or words to that effect [PROVED]
- 6. On an unknown date in 2017 at a staff awards night:
  - a. put your hands on Colleague B’s bottom; [NOT PROVED]
  - b. asked Colleague B if she wanted to go to a hotel room with you. [PROVED]
- 7. Your actions at one or more charges 1 - 6 breached professional boundaries. [PROVED]
- 8. Your actions as set out in charges 1, 3 - 6 were sexually motivated in in that you sought sexual gratification. [NOT PROVED]

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

## **Background**

The Nursing and Midwifery Council (NMC) received a referral from Cambridgeshire and Peterborough NHS Foundation Trust (the Trust) on 25 January 2018. At the time of the concerns raised in the referral, Mr Mavurayi was working at the Trust as a Ward Manager of the Psychiatric Intensive Care Unit (PICU). Mr Mavurayi was employed by the Trust as Ward Manager of the PICU from 16 September 2016 and had previously been employed as the Deputy Ward Manager.

The referral alleges that in 2017 complaints were raised that Mr Mavurayi had made various inappropriate comments to and behaved inappropriately with, junior staff and other colleagues. It is alleged that these comments were inappropriate due to their sexual nature and made colleagues at the Trust feel uncomfortable.

The concerns regarding Mr Mavurayi's behaviour were investigated by the Trust and Mr Mavurayi was suspended during the ongoing investigation. The referral alleges that during the local investigation, Mr Mavurayi suggested that his comments were '*harmless banter*' but appeared to accept that his comments could be considered inappropriate.

A disciplinary hearing was held in Mr Mavurayi's absence on 22 February 2018, which resulted in his dismissal on the grounds of gross misconduct.

## **Decision and reasons on facts**

In reaching its decisions on the facts, the panel took into account all the documentary evidence adduced in this case.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel had regard to the written statements of the following witnesses on behalf of the NMC:

- Colleague A: Trainee Nursing Associate, on the PICU at the Trust;
  
- Colleague B: Ward Manager, on the Recovery Ward at the Trust;
  
- Colleague D: Directorate Head of Nursing in the Children and Families directorate at the Trust, who assisted the Trust's disciplinary investigation.

The panel also had regard to Mr Mavurayi's detailed responses to the allegations made during the course of the Trust's investigation meeting on 18 October 2017, in which he denied all the allegations but appeared to accept the allegation in relation to his failure to stop rumours.

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

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

### **Charge 1a**

1. On one or more occasions between September 2016 and October 2017:
  - a. inappropriately asked Colleague A on a date and/or to go out with you;

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Colleague A, which included Colleague A's written witness statement; the Trust's Investigation Meeting Minutes held on 29 September 2017; and a contemporaneous statement written by Colleague A a week before the Trust's investigation. The panel also considered the documentary evidence exhibited by Colleague D for the Trust's investigation, which

included an investigative interview held with Mr Mavurayi on 18 October 2017 and Mr Mavurayi's detailed denials.

The panel noted the following evidence from Colleague A, which indicated that Mr Mavurayi asked her to go out with him on more than one occasion:

*'Roughly a couple of months after Alfie started working on PICU he started asking me out. I have tried put these incidents out of my mind so I cannot remember a lot of details but I do recall him asking me out directly on two occasions i.e. just me and him. It is difficult to describe, but it is very clear that he was asking me out because he was interested in me either romantically or sexually. There were a lot of indirect comments about us going out as well. He would suggest meeting up but I would just stare at him in response; he would then try to make out like he did not mean just me and him but the whole team as well. It was so long ago I cannot remember how he used to ask me.*

*I felt that Alfie was crossing boundaries by asking me out. He was meant to be my manager but he was asking to meet outside work as if we were friends. I wondered I was supposed to see him as my manager in work if we were meeting up outside work. I felt he was very flirty and it not make me feel comfortable going to him in a professional capacity. Based on the nature of the conversations with Alfie it just felt wrong, like he wanted to date me. I am not saying one cannot be friends with one's manager; we were all very friendly with our previous manager and would do things as a team. However with Alfie I had a gut feeling that something was not quite right because of the content of our conversations; he was flirty and would make comment about my appearance.'*

The panel considered that Colleague A's witness statement was consistent with her account given at the Trust's investigation meeting on 29 September 2017 and the contemporaneous statement she wrote a week before the Trust's investigation.

The panel accepted Colleague A's evidence that Mr Mavurayi did ask her to go out with him and determined that, on the balance of probabilities, Mr Mavurayi done so on more than one occasion between September 2016 and October 2017.

The panel considered that the context which Mr Mavurayi asked Colleague A to go out with him was clearly identified by Colleague A as either *'romantically or sexually'*. The panel was therefore of the view that Mr Mavurayi breached professional boundaries in the context he asked Colleague A to go out with him and done so inappropriately.

Accordingly, the panel finds charge 1a proved.

### **Charge 1b**

1. On one or more occasions between September 2016 and October 2017:
  - b. continued to ask Colleague A to go out with you, despite her telling you no on more than one occasion;

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Colleague A, which included Colleague A's written witness statement; the Trust's Investigation Meeting Minutes held on 29 September 2017; and a contemporaneous statement written by Colleague A a week before the Trust's investigation.

The panel noted the following evidence from Colleague A, which indicated that Mr Mavurayi asked her to go out with him on more than one occasion despite her telling him no:

*'Alfie's constant comments and asking me out made me feel uncomfortable. I had it in my mind that I did not want to go out with him in that sense because he was my manager and I was also in a very happy relationship already. It made things awkward because I did not want to be rude. It was almost as though he was using his position to try and get me to meet him outside of work because he knew I am friendly and bubbly person plus with him being my manager it was harder to say no to him. With the number of times I told him no it did not make any sense that he continued to try.'*

*[...] I think at the time I had already started or was looking to start my nursing associate role so I just wanted to keep my head down and do my work.'*

The panel further noted that in the Trust's investigation meeting on 29 September 2017, in response to being asked if she has ever challenged Mr Mavurayi to stop asking her to go out, Colleague A stated the following:

*'Yes when he was talking mid-sentence I would say stop it and go to walk off because I didn't want to get in a dispute with my manager.'*

The panel was of the view that Colleague A's evidence was clear in indicating that she had told Mr Mavurayi to stop when he would ask, but remained fearful of a conflict due to her junior position to Mr Mavurayi as a manager.

The panel bore in mind its reasoning in charge 1a, that it accepted Colleague A's evidence that Mr Mavurayi did ask her to go out with him on more than one occasion. The panel therefore determined that, on the balance of probabilities, Mr Mavurayi was told no on more than one occasion, but continued to ask Colleague A to go out due to his senior position as a manager.

The panel therefore finds charge 1b proved.

### **Charge 1c**

1. On one or more occasions between September 2016 and October 2017:
  - c. made inappropriate comments about Colleague A's body and/or bottom;

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Colleague A. The panel also considered the documentary evidence exhibited by Colleague D for the Trust's investigation, which included the Trust's investigative interview held with Mr Mavurayi on 18 October 2017 and Mr Mavurayi's detailed denials.

The panel noted the following evidence from Colleague A, which indicated that Mr Mavurayi made comments about her body on more than one occasion:

*‘As mentioned previously, Alfie would make comments about my body. I cannot remember exactly when he started doing this; I would say maybe three to four months after he began working on PICU. The comments would always be about my bum. An example would be where I would go into his office to access the keybox; if he was on his own he would often comment e.g. ask me if I had been doing squats because my bum was looking amazing. I cannot remember a lot of the details but they were mostly about my bum.*

*[...]*

*[...] he made comments about my legs. I think I was either wearing a dress or a skirt and he said something about me having nice legs. It was unwanted attention and made me uncomfortable.’*

The panel noted that Mr Mavurayi denied making comments on Colleague A’s body at the Trust’s local investigation interview. However, the panel considered that Colleague A provided a detailed account of the things Mr Mavurayi said about her body, which it regarded as persuasive. The panel accepted Colleague A’s evidence as credible and determined that, on the balance of probabilities, Mr Mavurayi commented on Colleague A’s body on more than one occasion between September 2016 and October 2017.

The panel determined that any comment on a fellow professional’s body as depicted by Colleague A, would be inappropriate.

Accordingly, the panel finds charge 1c proved.

#### **Charge 1d**

1. On one or more occasions between September 2016 and October 2017:
  - d. said to Colleague A that her “bum looked amazing” or words to that effect;

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Colleague A. The panel also considered the documentary evidence exhibited by Colleague D for the Trust's investigation, which included the Trust's investigative interview held with Mr Mavurayi on 18 October 2017 and Mr Mavurayi's detailed denials.

The panel had regard to its reasoning in charge 1c. It accepted the evidence of Colleague A, which indicates that Mr Mavurayi made inappropriate comments about Colleague A's body on more than one occasion between September 2016 and October 2017.

For all the reasons given in charge 1c, the panel concluded that, on the balance of probabilities, it is more likely than not that Mr Mavurayi said to Colleague A that her '*bum looked amazing*' or words to that effect.

The panel therefore finds charge 1d proved.

### **Charge 1e(i)**

1. On one or more occasions between September 2016 and October 2017:
  - e. said to Colleague A that her "bum looked amazing" or words to that effect;
  - i) laughed and/or smirked;

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

In reaching this decision, the panel took into account the evidence of Colleague A. The panel also considered the documentary evidence exhibited by Colleague D for the Trust's investigation, which included the Trust's investigative interview held with Mr Mavurayi on 18 October 2017 and Mr Mavurayi's detailed denials.

The panel had regard to its reasoning in charge 1d. It accepted the evidence of Colleague A, which indicated that Mr Mavurayi said to Colleague A that her '*bum looked amazing*' or words to that effect.

The panel noted the following evidence from Colleague A, in which she stated that Mr Mavurayi would smirk or laugh after he commented on her body:

*‘Alfie only ever made these comments when we were on our own, usually when I was coming in and out of the office. I do not remember him saying anything in front of others.*

*[...]*

*I had this difficulty in my mind that if I said something rude to my manager I could get in trouble. The few times that I did tell him to stop he would just smirk or laugh or say things like telling me to lighten up. It made me feel paranoid and I would question myself a lot. I felt objectified, like a piece of meat, when I was there to do a job.’*

The panel concluded that, on the balance of probabilities, Mr Mavurayi would laugh and/or smirk when he said to Colleague A that her *‘bum looked amazing’* or words to that effect.

Accordingly, the panel finds charge 1e(i) proved.

### **Charge 1e(ii)**

1. On one or more occasions between September 2016 and October 2017:
  - e. said to Colleague A that her “bum looked amazing” or words to that effect;
    - ii) told Colleague A to “lighten up” or words to that effect and walked away;

**This charge is found NOT proved.**

In reaching this decision, the panel took into account the evidence of Colleague A. The panel also considered the documentary evidence exhibited by Colleague D for the Trust’s investigation, which included the Trust’s investigative interview held with Mr Mavurayi on 18 October 2017 and Mr Mavurayi’s detailed denials.

The panel had regard to its reasoning in charge 1d. It accepted the evidence of Colleague A, which indicated that Mr Mavurayi said to Colleague A that her '*bum looked amazing*' or words to that effect.

The panel noted the following evidence from Colleague A, in which she stated that Mr Mavurayi would tell her to lighten up after he commented on her body and she would walk away:

*'I think I told him to stop a few times but the way I dealt with it was just to walk away.'*

However, the panel also noted that it was not presented with any evidence indicating that Mr Mavurayi '*walked away*' after making such comment, as charged.

The panel determined that although there is plausible evidence to substantiate Colleague A's account that Mr Mavurayi would tell her to '*lighten up*' or words to that effect, it was not presented with any evidence to support that Mr Mavurayi '*walked away*' when he done so.

Therefore, in the absence of any further evidence, the panel finds charge 1e(ii) not proved.

### **Charge 1f**

1. On one or more occasions between September 2016 and October 2017:
  - f. inappropriately looked and/or stared at Colleague A's body

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

In reaching this decision, the panel took into account the evidence of Colleague A, which included Colleague A's written witness statement; the Trust's Investigation Meeting Minutes held on 29 September 2017; and a contemporaneous statement written by Colleague A a week before the Trust's investigation. The panel also considered Colleague B's written witness statement and Mr Mavurayi's detailed denials.

The panel noted the following evidence from Colleague A, which indicated that Mr Mavurayi inappropriately looked/stared at her body on more than one occasion:

*'Another thing that Alfie used to do was look at my body. This would usually happen at the same time when I was going to get the keys from the keybox. The keybox was a bit high up and I am really short so I had to stand on my tiptoes to reach it. I would sense that he was staring at me from behind so I would turn around to say hello to be polite and see him looking at me. When I turned around his eyes would have come up to my face because he would be staring at my bum area. He would scan my body slowly. He was not discreet; it was very obvious. It was almost as though he wanted me to know that he had been 'checking me out', as if trying to flirt with me.'*

The panel further noted that in the Trust's investigation meeting on 29 September 2017, Colleague A stated the following:

*'I haven't put specific incidents because as bad as it sounds it happened quite often. He would make comments and I felt he was looking at my body, looking me up and down. It just didn't make me feel comfortable.'*

The panel considered that Colleague A's witness statement was consistent with her account given at the Trust's investigation meeting on 29 September 2017 and the contemporaneous statement she wrote a week before the Trust's investigation. The panel was of the view that Colleague A provided very detailed accounts of the way Mr Mavurayi looked/stared at her body, which it regarded as persuasive.

The panel also took into account that Colleague A spoke to various colleagues about the way Mr Mavurayi looked/stared at her body. Further, the panel observed that Colleague B's written witness statement described instances of a similar nature, where Mr Mavurayi would look/stare at female colleagues in an inappropriate manner.

The panel considered that Colleague A clearly identified that it made her feel uncomfortable and determined that the way Mr Mavurayi looked and/or stared at Colleague A's body would be of an inappropriate nature to incite feelings of discomfort.

The panel accepted Colleague A's evidence as credible and determined that, on the balance of probabilities, Mr Mavurayi inappropriately looked and/or stared at Colleague A's body on more than one occasion between September 2016 and October 2017.

The panel therefore finds charge 1f proved.

### **Charge 1g**

1. On one or more occasions between September 2016 and October 2017:
  - g. asked Colleague A to come to your office without any clinical justification

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

In reaching this decision, the panel took into account the evidence of Colleague A. The panel also considered the documentary evidence exhibited by Colleague D for the Trust's investigation, which included the Trust's investigative interview held with Mr Mavurayi on 18 October 2017 and Mr Mavurayi's detailed denials.

The panel noted the following evidence from Colleague A, which indicated that Mr Mavurayi would ask her to his office without any clinical justification:

*'Alfie would also call me into his office during the day for no reason. This would happened two or three times a week. He would call the ward phone and other staff would tell me that Alfie needed me. Initially, I thought he wanted to talk about the shift so would sit down and then he would say things like "I want to talk, chill out, how are you?" When I would return to the ward other staff would ask what Alfie had wanted and I would say that he just wanted to talk. It got to a point where I did not want to go but was concerned that it was something work related, however nine times out of ten he just wanted a chat.'*

The panel considered that Colleague A's witness statement was consistent with her account given at the Trust's investigation meeting on 29 September 2017 and the contemporaneous statement she wrote a week before the Trust's investigation.

The panel noted that Mr Mavurayi denied asking Colleague A to his office without clinical justification at the Trust's local investigation interview.

The panel accepted Colleague A's evidence and determined that on the balance of probabilities, that Mr Mavurayi would ask Colleague A to his office without any clinical justification on more than one occasion between September 2016 and October 2017.

Accordingly, the panel finds charge 1g proved.

### **Charge 1h**

1. On one or more occasions between September 2016 and October 2017:

- h.* did not attempt to stop the rumours that you and Colleague A were in a relationship and/or having sex;

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

In reaching this decision, the panel took into account the evidence of Colleague A, which included Colleague A's written witness statement; the Trust's Investigation Meeting Minutes held on 29 September 2017; and a contemporaneous statement written by Colleague A a week before the Trust's investigation. The panel also considered the documentary evidence exhibited by Colleague D for the Trust's investigation, which included an investigative interview held with Mr Mavurayi on 18 October 2017 and Mr Mavurayi's detailed account.

The panel noted the following evidence from Colleague A, which indicated that Mr Mavurayi did not attempt to stop the rumours that he and Colleague A were in a relationship and/or having sex:

*'I did speak to Alfie about these rumours on a couple occasions. The first time I think I jokingly asked if he had heard what was going around. He asked what and I told him that we were apparently sleeping together. I do remember him laughing and I said it was kind of funny because it was not true but asked if he was helping*

*by letting people know it was not happening. His response was to laugh; he did not appreciate how much it was affecting me. I note that at questions 91 to 93 of Exhibit CF/2 [the Trust's investigation meeting] I said Alfie had been the one approaching me about the rumours. Having been so long ago I cannot remember who approached who but we did speak about it.*

*I continued to hear the rumours for another one or two months. I remember one time I was having really bad day and I heard the rumour again. I went to Alfie and told him that it was getting ridiculous now in terms of the rumours of us being intimate. Alfie did not take me seriously; he was just smirking. I do not remember what he said, if anything. From my recollection there was not a lot said; he just kind laughed and I walked out.*

*My concern with Alfie's response to these rumours was that it was so unprofessional. I would expect more from any staff member with regard to putting a stop to it, let alone my manager because of what it sparked. It was not put to bed; it got worse and worse to the point that felt bullied.'*

The panel considered that Colleague A's witness statement was consistent with her account given at the Trust's investigation meeting on 29 September 2017 and the contemporaneous statement she wrote a week before the Trust's investigation.

The panel further noted that in the investigative interview held with Mr Mavurayi on 18 October 2017, Mr Mavurayi admitted that he did not attempt to address the rumours, in which he stated:

*'It's difficult to address the rumours because I didn't know where they... who started it and who's been saying what, and I didn't want to sort of, you know, kind of fuel the rumour by going on and making it an issue. So, I just ignored it.'*

The panel concluded that this was supported evidence to indicate that Mr Mavurayi did not attempt to stop the rumours that he and Colleague A were in a relationship and/or having sex. The panel concluded that Mr Mavurayi failed to address the rumours on more than one occasion between September 2016 and October 2017.

The panel therefore finds charge 1h proved.

### **Charge 1i**

1. On one or more occasions between September 2016 and October 2017:
  - i. did not attempt to discourage and/or stop inappropriate sexual conversations taking place in the ward room;

### **This charge is found NOT proved.**

In reaching this decision, the panel took into account the evidence of Colleague A, which included Colleague A's written witness statement; the Trust's Investigation Meeting Minutes held on 29 September 2017; and a contemporaneous statement written by Colleague A a week before the Trust's investigation. The panel also considered the documentary evidence exhibited by Colleague D for the Trust's investigation, which included an investigative interview held with Mr Mavurayi on 18 October 2017 and Mr Mavurayi's detailed denials.

The panel determined that it was not presented with any evidence indicating that inappropriate sexual conversation took place in a '*ward room*' as charged, and that this was not a location mentioned in any evidence. The panel also took into account that there is no evidence presenting an explanation as to what a '*ward room*' is.

Therefore, in the absence of any further evidence, the panel finds charge 1i not proved.

### **Charge 2a)**

2. Your actions at one or more of charges 1(a) – 1(i) amounted to harassment of Colleague A in that:
  - a. Your conduct was unwanted;

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

In reaching this decision, the panel took into account the evidence of Colleague A and Mr Mavurayi's detailed denials. The panel also considered the documentary evidence exhibited by Colleague D for the Trust's investigation, which included the Trust's Dignity at Work Policy.

The panel considered the Trust's Dignity at Work Policy, which provides the following definition for harassment:

*'Harassment is defined as unwanted conduct related to a relevant protected characteristic which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.'*

The panel bore in mind its reasoning for Mr Mavurayi's actions found proved in charges 1(a) – 1(i). The panel accepted the evidence of Colleague A, which clearly indicates that Mr Mavurayi's behaviour towards her was unwanted and on more than one occasion made Colleague A feel uncomfortable.

In particular, the panel noted following evidence from Colleague A:

*'Alfie's constant comments and asking me out made me feel uncomfortable. I had it in my mind that I did not want to go out with him in that sense because he was my manager and I was also in a very happy relationship already. It made things awkward because I did not want to be rude. It was almost as though he was using his position to try and get me to meet him outside of work because he knew I am friendly and bubbly person plus with him being my manager it was harder to say no to him. With the number of times I told him no it did not make any sense that he continued to try.'*

*I did confide in a colleague about Alfie's comments, a fellow nursing associate called [...]. This is because I was not sure if I was being overly sensitive about things so I wanted to speak with her as a supervisor to see if I was justifiably annoyed and anxious. [...] agreed it was inappropriate and we agreed that being quite early on in Alfie's time with us we would monitor his behaviour, with me being*

*very assertive with him. Alfie's time with us we would monitor his behaviour, with me being very assertive with him. Alfie is a really likeable person so I felt guilty for taking it further and potentially jeopardising his position. After speaking with [...] I did not speak to anyone else about it because I think it continued to the point where I had got used to Alfie doing it. I think at the time I had already started or was looking to start my nursing associate role so I just wanted to keep my head down and do my work.'*

The panel concluded that one or more of Mr Mavurayi's actions found proved in charges 1(a) – 1(i) amounted to harassment of Colleague A and was unwanted conduct.

Accordingly, the panel finds charge 2a proved.

### **Charge 2b**

2. Your actions at one or more of charges 1(a) – 1(i) amounted to harassment of Colleague A in that:

b. Your conduct related to Colleague A's sex;

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

In reaching this decision, the panel took into account the evidence of Colleague A and Mr Mavurayi's detailed denials. The panel also considered the documentary evidence exhibited by Colleague D for the Trust's investigation, which included the Trust's Dignity at Work Policy.

The panel considered the Trust's Dignity at Work Policy, which provides the following definition for harassment:

*'Harassment is defined as unwanted conduct related to a relevant protected characteristic which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.'*

The panel bore in mind its reasoning for Mr Mavurayi's actions found proved in charges 1(a) – 1(i). The panel accepted the evidence of Colleague A, which clearly demonstrates conduct from Mr Mavurayi relating to Colleague A's sex.

In particular the panel noted following evidence from Colleague A:

*'As mentioned previously, Alfie would make comments about my body. I cannot remember exactly when he started doing this; I would say maybe three to four months after he began working on PICU. The comments would always be about my bum. An example would be where I would go into his office to access the keybox; if he was on his own he would often comment e.g. ask me if I had been doing squats because my bum was looking amazing. I cannot remember a lot of the details but they were mostly about my bum.'*

The panel also noted that at the Trust's investigation meeting on 29 September 2017, Colleague A stated:

*'Yes. To me and about others. It just seemed to be about any females but then PICU had that joke that Alfie took a shine to me and I used to think it was because I was a girl, women generally.'*

The panel concluded that one or more of Mr Mavurayi's actions found proved in charges 1(a) – 1(i) amounted to harassment of Colleague A and related to Colleague A's sex.

Accordingly, the panel finds charge 2b proved.

### **Charge 2c**

2. Your actions at one or more of charges 1(a) – 1(i) amounted to harassment of Colleague A in that:

- c. Your conduct had the purpose or effect of:
  - i) Violating Colleague A's dignity, or

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Colleague A and Mr Mavurayi's detailed denials. The panel also considered the documentary evidence exhibited by Colleague D for the Trust's investigation, which included the Trust's Dignity at Work Policy.

The panel considered the Trust's Dignity at Work Policy, which provides the following definition for harassment:

*'Harassment is defined as unwanted conduct related to a relevant protected characteristic which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.'*

The panel bore in mind its reasoning for Mr Mavurayi's actions found proved in charges 1(a) – 1(i). The panel accepted the evidence of Colleague A, in which she explains that that Mr Mavurayi's actions made her feel so uncomfortable that it contributed to her leaving the Trust.

In particular, the panel noted following evidence from Colleague A's Leaver's Questionnaire from the Trust dated 6 October 2017:

*'The culture of PICU ward was one of sexual harassment and constant innuendo. There was no clear leadership and poor working relationship with the senior management.'*

The panel concluded that one or more of Mr Mavurayi's actions found proved in charges 1(a) – 1(i) amounted to harassment of Colleague A and had the effect of violating Colleague A's dignity while she was employed by the Trust.

Accordingly, the panel finds charge 2c(i) proved.

**Charge 2c**

2. Your actions at one or more of charges 1(a) – 1(i) amounted to harassment of Colleague A in that:
  - c. Your conduct had the purpose or effect of:
    - ii) Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague A

**This charge is found proved.**

The panel found charge 2c(i) proved in that Mr Mavurayi's actions violated Colleague A's dignity. Therefore, the panel finds that the entirety of charge 2 is proved on the basis of 2c(i), as the charge is in the alternative.

**Charge 3a**

3. On one or more occasions between September 2016 and October 2017, whilst in the presence of Colleague B:
  - a. made inappropriate comments towards women and/or about female colleagues

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Colleague B, which included Colleague B's written witness statement; the Trust's Investigation Meeting Minutes held in September 2017; and a contemporaneous statement written by Colleague B for the Trust's investigation. The panel also considered Mr Mavurayi's detailed denials.

The panel noted the following evidence from Colleague B, which indicated that Mr Mavurayi inappropriately made comments towards female colleagues on more than one occasion:

*'[...] I have personally witnessed Alfie's inappropriate behaviour towards women and in fact been subject to it myself. He was constantly making inappropriate remarks. It was interesting in a way because Alfie is quite shy when speaking to*

*women directly but behind their backs he is very graphic. He is like a clumsy coward; like a teenage boy who does not know how to handle them close up. His comments were only ever about female members of staff; I never heard him say anything about a female patient.*

*Due to the fact that it was constant thing I have difficulty giving dates and times of when he would say these things. It was every day; there was always something. As Ward Managers we would have management meetings and it got to a point that I would dread a woman walking past us because he could never miss the opportunity when a woman walked past without making a comment. His comments were loud enough for me to hear so not quite a whisper but not loud enough for the person he was talking about to hear. It was like a compulsion, as though he felt he had to make a comment. Alfie would say these comments to me, in that he would lean into me whilst we were walking down the corridor and say them. He would oftentimes say he was 'going to fuck her' or 'smash that'.*

*Whenever Alfie did this I would tell him it was unacceptable for him to be making these comments. I recall that one day we were walking down the corridor and he made a comment. I asked if he had no self-respect or respect for women, told him that he did not need to behave in that manner, that he was a manager and he did not need to behave in that way; he was spoiling himself in the eyes of potential girlfriends. I was constantly lecturing him. He would often say that he knew but then he would do it again the next day.'*

The panel considered that Colleague B's witness statement was consistent with her account given at the Trust's investigation meeting in September 2017 and the contemporaneous statement she wrote for the Trust's investigation. The panel was of the view that Colleague B provided very detailed accounts of the way Mr Mavurayi would make comments about female colleagues, which it regarded as persuasive.

The panel also took into account that Colleague B's evidence indicated that she challenged Mr Mavurayi on more than one occasion about the comments he would make. The panel determined that this demonstrated a clear indication that Mr Mavurayi's

comments were inappropriate as a fellow band 7 nurse felt it necessary to challenge the behaviour.

The panel accepted Colleague B's evidence as credible and determined that, on the balance of probabilities, Mr Mavurayi made inappropriate comments towards female colleagues on more than one occasion between September 2016 and October 2017.

Accordingly, the panel finds charge 3a proved.

### **Charge 3b**

3. On one or more occasions between September 2016 and October 2017, whilst in the presence of Colleague B:
  - b. inappropriately stared and/or leered at one or more women and/or female colleagues

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

In reaching this decision, the panel took into account the evidence of Colleague B, which included Colleague B's written witness statement; the Trust's Investigation Meeting Minutes held in September 2017; and a contemporaneous statement written by Colleague B for the Trust's investigation. The panel also considered Colleague A's written witness statement and Mr Mavurayi's detailed denials.

The panel noted the following evidence from Colleague B, which indicated that Mr Mavurayi inappropriately leered at women on more than one occasion:

*'I had also witnessed Alfie leering at women. At questions 166 and 167 of my investigation minutes I speak about this. By leering I mean that he would gaze at women very slowly with a weird smile on his face, with no shame. The women would see him do it and his eyes would linger on their body parts e.g. their breasts or vaginal area. I would describe it as the behaviour of a predator; as a woman if someone looked at me like that I would find it uncomfortable and humiliating. I remember on one occasion we were in the canteen getting food and there was a*

*female doctor ahead of us. She looked back and saw Alfie looking, she turned away with a look of discomfort on her face. I remember telling Alfie that he was going to get in trouble. I was so angry and he looked embarrassed in response.'*

The panel considered that Colleague B's witness statement was consistent with her account given at the Trust's investigation meeting in September 2017 and the contemporaneous statement she wrote for the Trust's investigation. The panel was of the view that Colleague B provided very detailed accounts of the way Mr Mavurayi would stare/leer at women, which it regarded as persuasive.

The panel also took into account that Colleague A's written witness statement described instances of a similar nature where she spoke to various colleagues about the way Mr Mavurayi looked/stared at her body.

The panel accepted Colleague B's evidence as credible and determined that, on the balance of probabilities, Mr Mavurayi stared and/or leered at women on more than one occasion between September 2016 and October 2017.

Accordingly, the panel finds charge 3b proved.

### **Charge 3c**

3. On one or more occasions between September 2016 and October 2017, whilst in the presence of Colleague B:

- c. on an unknown date in Summer/Autumn 2017 said "if Colleague C was not pregnant I would fuck her and I'm going to smash that" or words to that effect

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Colleague B, which included Colleague B's written witness statement; the Trust's Investigation Meeting Minutes held in September 2017; and a contemporaneous statement written by Colleague B for the Trust's investigation. The panel also considered Mr Mavurayi's detailed denials.

The panel noted the following evidence from Colleague B, which indicated that Mr Mavurayi commented *'if Colleague C was not pregnant I would fuck her and I'm going to smash that'* or words to that effect in summer/autumn 2017:

*'One example of him making inappropriate comments was sometime in the summer or early autumn 2017 when I walked into the PICU office. Alfie was sitting at the desk right beside me near the door. Healthcare support Worker [...] was sat near the door, where I was stood. It is a small office so [...] was maybe only five feet from me, if that. I walked in, announced myself and said hello. I do not know if Alfie had just got off the phone with our colleague Colleague C or she had just walked out of the office, but he said quite loudly "if Colleague C was not pregnant I would fuck her – I'm going to smash that". I remember [...] looked at me and then got up and left the room; I imagine because he knows I do not stand for that.*

*When [...] left the room I leant down close to Alfie's face and asked him if he was an idiot; that he was speaking inappropriately about a junior member of staff in front of another junior member of staff. Alfie laughed and was very flippant; he said something like he did not need to worry about [...], it did not matter because they are mates. I cannot remember his exact response but he said something that would suggest collusion i.e. they would not say anything. I told him that these people were not his mates; he was a manager and they were his staff. I was furious.'*

The panel considered that Colleague B's witness statement was consistent with her account given at the Trust's investigation meeting in September 2017 and the contemporaneous statement she wrote for the Trust's investigation. The panel identified that Colleague B consistently mentioned the comment Mr Mavurayi made about Colleague C, which it regarded as persuasive.

The panel accepted Colleague B's evidence as credible and determined that, on the balance of probabilities, Mr Mavurayi commented in Colleague B's presence *'if Colleague C was not pregnant I would fuck her and I'm going to smash that'* or words to that effect in summer/autumn 2017.

Accordingly, the panel finds charge 3c proved.

### Charge 3d

3. On one or more occasions between September 2016 and October 2017, whilst in the presence of Colleague B:

- d. on an unknown date in Summer/Autumn 2017, during a conversation with Colleague B about you wearing linen trousers, you said “if I did, you would see my cock swinging because it is so big” or words to that effect

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

In reaching this decision, the panel took into account the evidence of Colleague B, which included Colleague B’s written witness statement; the Trust’s Investigation Meeting Minutes held in September 2017; and a contemporaneous statement written by Colleague B for the Trust’s investigation. The panel also considered Mr Mavurayi’s detailed denials.

The panel noted the following evidence from Colleague B, which indicated that Mr Mavurayi commented in a conversation with her that *‘if I did, you would see my cock swinging because it is so big’* or words to that effect in summer/autumn 2017:

*‘This incident took place a little while after I had been walking with Alfie in a corridor after a management meeting. It was in the summertime because it was warm and Alfie was wearing a linen shirt. Just as we got to the double doors leading to PICU I complimented Alfie’s linen shirt, suggesting that he could get trousers to match. Alfie said at a conversational volume that if he did I would see his cock swinging because it is so big. I responded by saying “wow, could you not have just said thank you?” He just laughed and walked away. I note that in my local typed statement and in the interview minutes I quote Alfie as saying his dick would be swinging. I cannot remember for sure if he said dick or cock but he definitely used one of the two to refer to his genitals.’*

The panel noted that Colleague B admitted to using different wording in her witness statement to her wording used at the Trust’s investigation meeting in September 2017 and the contemporaneous statement she wrote for the Trust’s investigation. The panel

considered that although the wording was different its meaning was of a similar nature and there was no change to context in Colleague B's accounts. The panel was of the view that Colleague B provided very detailed accounts of the way Mr Mavurayi inappropriately responded to what she meant as a compliment, which it regarded as persuasive.

The panel accepted Colleague B's evidence as credible and determined that, on the balance of probabilities, Mr Mavurayi commented in Colleague B's presence '*if I did, you would see my cock swinging because it is so big*' or words to that effect in summer/autumn 2017.

Accordingly, the panel finds charge 3d proved.

#### **Charge 4**

4. On an unknown date in September 2017, called Colleague B and said you "wanted to see and/or touch Colleague B's pum pum" or words to that effect;

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Colleague B, which included Colleague B's written witness statement; the Trust's Investigation Meeting Minutes held in September 2017; and a contemporaneous statement written by Colleague B for the Trust's investigation. The panel also considered Mr Mavurayi's detailed denials.

The panel noted the following evidence from Colleague B, which indicated that Mr Mavurayi called Colleague B and said he '*wanted to see and/or touch Colleague B's pum pum*' or words to that effect:

*'About two weeks after the comment about Colleague C i.e. I think sometime at the beginning of September 2017. Alfie called me on my office phone. I had been in the office with my colleague and peer, Band 7 Clinical Nurse Specialist [...]; we shared an office. I always answer my phone on loudspeaker [...] He asked me to take the phone off loudspeaker and when I did he said to me that he wanted to either see or touch my 'pum pum', which means vagina in Patois. I asked him if he realised that I*

*am West Indian and therefore understood what he had just said to me. Alfie laughed and the call disconnected; I cannot remember if he hung up first or I did.'*

The panel considered that Colleague B's witness statement was consistent with her account given at the Trust's investigation meeting in September 2017 and the contemporaneous statement she wrote for the Trust's investigation. The panel identified that Colleague B consistently mentioned the comment Mr Mavurayi made when he called her, which it regarded as persuasive.

The panel also noted that Colleague B's evidence indicated that Mr Mavurayi instructed her to take the phone off loudspeaker before he made the comment. The panel determined that this demonstrated a clear indication that Mr Mavurayi was aware that the comment was inappropriate, which he felt was necessary for only Colleague B to hear.

The panel accepted Colleague B's evidence as credible and determined that, on the balance of probabilities, Mr Mavurayi called Colleague B in September 2017, and said he '*wanted to see and/or touch Colleague B's pum pum*' or words to that effect.

Accordingly, the panel finds charge 4 proved.

## **Charge 5**

5. On an unknown date in September 2017, called Colleague B and asked "if she wanted you, as you wanted her" or words to that effect

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Colleague B, which included Colleague B's written witness statement; the Trust's Investigation Meeting Minutes held in September 2017; and a contemporaneous statement written by Colleague B for the Trust's investigation. The panel also considered Mr Mavurayi's detailed denials.

The panel noted the following evidence from Colleague B, which indicated that Mr Mavurayi called Colleague B and asked ‘*if she wanted [him], as [he] wanted her*’ or words to that effect:

*‘Approximately a week later Alfie called me on my office phone again and asked if I had him on loudspeaker but to take him off. When I took him off loudspeaker he asked me if I wanted him and said he wanted me. I understood this to be in a sexual manner. I threatened to report him for this and the call ended. Again I cannot remember if he hung up first or I did. I do remember telling [...] about it and also my partner that night.’*

The panel considered that Colleague B’s witness statement was consistent with her account given at the Trust’s investigation meeting in September 2017 and the contemporaneous statement she wrote for the Trust’s investigation. The panel identified that Colleague B consistently mentioned the comment Mr Mavurayi made when he called her, which it regarded as persuasive.

The panel also noted that Colleague B’s evidence indicated that Mr Mavurayi instructed her to take the phone off loudspeaker before he made the comment. The panel determined that this demonstrated a clear indication that Mr Mavurayi was aware that the comment was inappropriate, which he felt was necessary for only Colleague B to hear.

The panel also took into account that Colleague B told her partner about what was said following the incident. The panel determined that Mr Mavurayi’s comment was inappropriate as Colleague B felt it was an issue she needed to raise with her partner.

The panel accepted Colleague B’s evidence as credible and determined that, on the balance of probabilities, Mr Mavurayi called Colleague B in September 2017, and asked ‘*if she wanted [him], as [he] wanted her*’ or words to that effect.

## **Charge 6**

6. On an unknown date in 2017 at a staff awards night:
  - a. put your hands on Colleague B’s bottom;

**This charge is found NOT proved.**

In reaching this decision, the panel took into account the evidence of Colleague B, which included Colleague B's written witness statement; the Trust's Investigation Meeting Minutes held in September 2017; and a contemporaneous statement written by Colleague B for the Trust's investigation. The panel also considered Mr Mavurayi's detailed denials.

The panel noted the following evidence from Colleague B, which indicated that Mr Mavurayi put his hands on Colleague B's bottom at a staff awards night:

*'Alfie then put his hands on my bottom and then asked me again if I wanted to go back to a room in the hotel with him. It made me very anxious. I told Alfie that I did not think of him that way [...]*

However, the panel considered that Colleague B's witness statement was not consistent with her contemporaneous account given at the Trust's investigation meeting in September 2017. In the local investigation meeting, the panel noted that Colleague B stated:

*'And then, I felt his hand on my bottom and said [...] I said, Alfie, I said, you seem to have misplaced your hand.'*

The panel acknowledged that the difference in Colleague B's contemporaneous account refers to a singular '*hand*', as opposed to '*hands*', which she referred to in her witness statement.

The panel concluded that Colleague B's evidence was contradictory and was therefore not able to determine if Mr Mavurayi put his hands on Colleague B as stated in the charge.

The panel therefore finds charge 6a not proved.

**Charge 6**

- 6 On an unknown date in 2017 at a staff awards night:
  - b. asked Colleague B if she wanted to go to a hotel room with you.

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Colleague B, which included Colleague B's written witness statement; the Trust's Investigation Meeting Minutes held in September 2017; and a contemporaneous statement written by Colleague B for the Trust's investigation. The panel also considered Mr Mavurayi's detailed denials.

The panel noted the following evidence from Colleague B, which indicated that Mr Mavurayi asked Colleague B if she wanted to go to a hotel room with him:

*'Alfie then put his hands on my bottom and then asked me again if I wanted to go back to a room in the hotel with him.'*

The panel considered that Colleague B's witness statement was consistent with her account given at the Trust's investigation meeting in September 2017 and the contemporaneous statement she wrote for the Trust's investigation. The panel identified that Colleague B consistently mentioned the comment Mr Mavurayi made about sharing a hotel room, which it regarded as persuasive.

The panel accepted Colleague B's evidence in this regard as credible and determined that, on the balance of probabilities, Mr Mavurayi asked Colleague B if she wanted to go to a hotel room with him in 2017 at a staff awards night.

Accordingly, the panel finds charge 6b proved.

**Charge 7**

7. Your actions at one or more charges 1 - 6 breached professional boundaries.

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Colleague A, B and Mr Mavurayi's detailed account. The panel also considered the documentary evidence exhibited by Colleague D for the Trust's investigation.

The panel bore in mind its reasoning for Mr Mavurayi's actions found proved in charges 1 – 6. The panel concluded that one or more of Mr Mavurayi's actions found proved in charges 1 – 6 demonstrated a clear breach of professional boundaries.

The panel considered that Mr Mavurayi was in a management position and had access to the Trust's Dignity at Work Policy. It determined that Mr Mavurayi would have been aware of the professional standard of behaviour expected of him in the clinical setting and at all times as a registered nurse.

The panel noted that Colleague A and Colleague B, were both consistent in providing accounts of Mr Mavurayi actions in charges 1 – 6, which made them feel uncomfortable. The panel concluded that the evidence demonstrated a number of occasions where Mr Mavurayi's actions were of an inappropriate nature, which breached professional boundaries as set out above and incited feelings of discomfort and alarm to his colleagues.

Accordingly, the panel finds charge 7 proved.

### **Charge 8**

8. Your actions as set out in charges 1, 3 - 6 were sexually motivated in in that you sought sexual gratification.

**This charge is NOT found proved.**

In reaching this decision, the panel took into account the evidence of Colleague A, B and Mr Mavurayi's detailed account. The panel also considered the documentary evidence exhibited by Colleague D for the Trust's investigation.

The panel noted that this charge requires proof of a sexual motivation in that it is alleged that Mr Mavurayi's actions were motivated in that he sought sexual gratification. It accepts

that a person's state of mind is to be proved in the usual way by a body of evidence on the balance of probabilities. Motivation be it sexual or otherwise, is not something that can be proved by direct evidence but only by inference or deduction from surrounding evidence.

Whilst the panel noted that sexual motivation is one of the inferences it could draw from the evidence, the panel determined that it is not the only reasonable inference that could be drawn. For example, the panel noted that it may not have been sexually motivated, but motivated by a desire to harass female colleagues or to engage in vulgar and sexualised 'banter' for its own sake. Therefore the panel was not satisfied that this charge is proved on the balance of probabilities.

Accordingly, the panel finds charge 8 not proved.

### **Fitness to practise**

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mr Mavurayi'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 without restriction.

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 Mavurayi's fitness to practise is currently impaired as a result of that misconduct.

## **Representations on misconduct and impairment**

In coming to its decision, the panel had regard to the following written submissions contained within the NMC's Statement of Case:

### ***'Misconduct***

*8. We consider the following provision(s) of the Code have been breached in this case;*

#### ***1 Treat people as individuals and uphold their dignity***

*To achieve this, you must:*

*1.1 treat people with kindness, respect and compassion*

#### ***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*

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

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

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

9. We consider the misconduct serious because the Registrant's actions marked a significant departure from the professional standards and behavior expected of a registered nurse. The registrant is alleged to have breached professional standards and repeatedly sexually harassed junior colleagues over a prolonged period of time. The registrant's conduct raises serious questions as to his trustworthiness and professionalism.

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

11. In all of the circumstances, it is submitted that the registrant's actions fell far below the standards which would be considered acceptable to the profession and that all of the charges found proved are sufficiently serious so as to amount to misconduct.

### **Impairment**

12. We consider the following questions from the case of Grant can be answered in the affirmative both in respect of past conduct and future risk:

1. ...
2. has [the Registrant] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or
3. has [the Registrant] in the past committed a breach of one of the fundamental tenets of the [nursing] profession and/or is liable to do so in the future
4. ...

13. The panel is also respectfully referred to the NMC guidance, including the following:

- a. Serious concerns which are more difficult to put right- Reference: FTP-3a;
- b. Serious concerns based on public confidence professional standards: Reference- 3c;

- c. Insight and strengthened practice- Reference: FTP-13;*
- d. Can the concern be addressed?- Reference: FTP-13a;*
- e. Has the concern been addressed?- Reference: FTP-13b; and*
- f. Is it highly unlikely that the conduct will be repeated?- Reference FTP-13c*

*14. The registrant's inappropriate behaviour has brought the profession into disrepute. His actions not only breached professional boundaries but they were also sexually motivated in that he sought sexual gratification. Nurses are placed in a position of trust, to respect others and act with integrity at all times. Such conduct undermines that trust and breaches the fundamental tenets of the nursing profession.*

*15. We consider the registrant has displayed a lack of insight into his conduct. We take this view because the registrant has not engaged with the NMC's investigation and has provided no response to the charges. He has provided no evidence of any insight or remorse. In the absence of such evidence, the risk of repetition remains high.*

*16. We note that the registrant has not undertaken relevant training in respect of the issues of concern.*

*17. We note the registrant has not worked as a nurse since the issues of concern and indicated that he was considering a change of career.*

*18. We consider there is a continuing risk to the public due to the registrant's lack of insight and failure to demonstrate any steps to remediate and strengthen his practice.*

*19. We consider there is a public interest in a finding of impairment being made in this case to declare and uphold proper standards of conduct and behavior. The registrant's conduct engages the public interest because the profession depends on confidence and trust, and the public expects nurses to act with integrity and uphold the profession at all times. A nurse who displays sexualised behaviour towards colleagues' breaches that trust and such abuse of trust is highly damaging to public*

*confidence. A finding of current impairment is therefore necessary to declare and uphold proper standards.'*

The panel also had regard to Mr Mavurayi's detailed account made during the course of the Trust's investigation.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), *CHRE v NMC and Grant 2011 EWHC 927*, *Cohen v General Medical Council* [2008] EWHC 581 (Admin) and *General Medical Council v Meadow* [2007] QB 462 (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 Mavurayi's actions did fall significantly short of the standards expected of a registered nurse, and that Mr Mavurayi's actions amounted to a breach of the Code. Specifically:

### ***'1 Treat people as individuals and uphold their dignity***

*To achieve this, you must:*

*1.2 treat people with kindness, respect and compassion*

### ***8 Work co-operatively***

*To achieve this, you must:*

*8.2 maintain effective communication with colleagues*

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

*To achieve this, you must:*

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

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

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

*20.6 stay objective and have clear professional boundaries at all times...*

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. In assessing whether the charges amounted to misconduct, the panel considered the charges individually and collectively. It took account of all the evidence before it and the circumstances of the case as a whole.

The panel was in no doubt that Mr Mavurayi's actions found proved in charges 1 - 6 individually amounted to serious misconduct, given its nature and context.

The panel considered that Mr Mavurayi breached professional boundaries on numerous occasions and repeatedly harassed more than one colleague over a prolonged period of time. The panel took the view that any breach of professional boundaries is a serious departure from the expected standards of a registered nurse. However, the panel concluded that Mr Mavurayi's conduct was deplorable and a significant departure from professional standards that it amounted to nothing short of misconduct.

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

The panel next went on to decide if as a result of the misconduct, Mr Mavurayi'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. To justify that trust, nurses 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) ...*

*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 determined that limbs b and c in the above test were engaged both in the past and in the future.

Taking into account all of the evidence adduced in this case, the panel finds that Mr Mavurayi's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Whilst the panel considered that the misconduct is potentially remediable it has not received any evidence of remediation. The panel noted that it had not received any evidence to suggest that Mr Mavurayi has demonstrated an understanding of how his actions impacted negatively on his colleagues and on the reputation of the nursing profession. Other than an early admission from Mr Mavurayi in relation to his failure to stop rumours, at the Trust's local investigation, the panel had no evidence of Mr Mavurayi's current level of insight.

The panel found that Mr Mavurayi has not developed any insight or demonstrated any remorse. The panel bore in mind that Mr Mavurayi has failed to engage with the NMC since March 2018 and does not appear to have worked in a clinical setting since then.

The panel acknowledged that there were no clinical concerns raised about Mr Mavurayi's practice. Further, it had regard to Colleague A's description of Mr Mavurayi, in which she stated the following:

*'Alfie is a really likeable person and from my experience of being a nurse he is very affective and compassionate.'*

However, the panel was satisfied that the misconduct in this case is attitudinal and therefore more difficult to remediate. Further the panel has not received any information to suggest that Mr Mavurayi has taken any steps to address the specific concerns raised about his practice.

The panel was of the view that there is a high risk of repetition based on the lack of evidence of any insight, by way of reflection, training and apology for his misconduct; remorse or remediation. The panel noted that as a result of Mr Mavurayi's actions, more than one of Mr Mavurayi's colleagues recounted feeling anxious and uncomfortable while working with him. On the basis of all the information before it, the panel decided that there is a risk to patients, colleagues and the public, if Mr Mavurayi repeated behaviour of the kind found proved. Members of the public becoming aware of misconduct of this nature from a nurse could feel reluctant to engage with healthcare services. The misconduct found also relates to abuse of a position of power, as Colleague A's line manager. The

panel therefore determined that a finding of current impairment on public protection grounds is necessary.

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

The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore finds Mr Mavurayi's fitness to practise is also impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mr Mavurayi'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 Mavurayi off the register. The effect of this order is that the NMC register will show that Mr Mavurayi 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.

### **Representations on sanction**

The panel noted that in the Statement of Case attached to the Notice of Meeting, dated 14 February 2022, the NMC had advised Mr Mavurayi that it would seek the imposition of a striking-off order if it found Mr Mavurayi's fitness to practise currently impaired.

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

Having found Mr Mavurayi'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:

- Sexual misconduct and harassment;
- Abuse of a position of power, as one of the victims was a junior member of staff and Mr Mavurayi was her line manager;
- Pattern of behaviour over a protracted period of time, which involved more than one member of staff;
- Lack of insight.

The panel also took into account the following mitigating features:

- No previous regulatory concerns.

The panel had regard to contextual factors, which included evidence that indicated a general culture of 'banter' and sexual joking on the PICU at the Trust. However, the panel considered that Mr Mavurayi was a senior member of staff, and should have led the culture in a professional manner as a manager but did not so. It therefore determined that this was not a mitigating factor in the circumstances of 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 be neither proportionate nor 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 risks identified to the public, an order that does not restrict Mr Mavurayi'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 Mavurayi'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 Mavurayi's registration would be a sufficient and appropriate response. The panel considered that the concerns related to a breach of professional boundaries and inappropriate behaviour with colleagues. 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, even if there was a willingness to comply. Furthermore, the panel concluded that the placing of conditions on Mr Mavurayi'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 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 has found that there was a pattern of misconduct over a sustained period of time that reflected an attitudinal problem. It found a lack of insight and remorse, and a consequent risk of repetition.

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel determined that there was no evidence to suggest that Mr Mavurayi would use a period of suspension to address the specific concerns raised about his practice in this matter. In this particular case, the panel

determined that a suspension order would not be a sufficient, appropriate or proportionate sanction to mark the gravity of this misconduct in order to maintain public confidence in the nursing profession in the NMC as its regulator.

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 Mavurayi'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 Mavurayi'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.

The panel determined that it received no evidence that Mr Mavurayi has developed any meaningful insight or demonstrated any remorse into his misconduct. Nor has he demonstrated that he has developed any understanding of the requirement, as a registered nurse, to take the lead in the maintenance of professional relationship boundaries. In addition, the panel has had no information to indicate that Mr Mavurayi has done anything at all to remediate his misconduct. The panel was of the view that members of the public would be shocked if a registered nurse who breached professional boundaries on numerous occasions, with more than one colleague over a prolonged period of time, was allowed to remain on the register. Taking account of the SG, the panel could not be satisfied that anything less than a striking-off order would keep the public protected and address the public interest in Mr Mavurayi's case.

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 Mavurayi'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 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.

### **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 Mavurayi's own interest until the conditions of practice order takes effect. The panel heard and accepted the advice of the legal assessor.

### **Representations on interim order**

The panel took account of the written representations made by the NMC that it is also necessary for the protection of the public and otherwise in the public interest for there to be an interim suspension order of 18 months to cover the appeal period.

### **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 allow for any possible appeal period.

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

This will be confirmed to Mr Mavurayi in writing.

That concludes this determination.