

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

**Substantive Hearing**  
**Monday 8 December – Wednesday 17 December 2025**

**Virtual Hearing**

<b>Name of Registrant:</b>	Henry Cleopus Fadzai Mutasa
<b>NMC PIN:</b>	98E0183E
<b>Part(s) of the register:</b>	Nurses – Sub Part 1 RNMH: Mental Health Nurse – Level 1 (19 September 2000)
<b>Relevant Location:</b>	Isle of Man
<b>Type of case:</b>	Misconduct
<b>Panel members:</b>	Des McMorrow (Chair, Registrant member) Elisabeth Fairbairn (Registrant member) Delecia Dixon (Lay member)
<b>Legal Assessor:</b>	Monica Daley
<b>Hearings Coordinator:</b>	Emma Hotston (8 and 12 – 17 December 2025) Eidvile Banionyte (9 – 10 December 2025) Peaches Osibamowo (11 December 2025)
<b>Nursing and Midwifery Council:</b>	Represented by Lucy Chapman, Case Presenter
<b>Special Counsel:</b>	Christopher Martin
<b>Mr Mutasa:</b>	Not present and unrepresented
<b>Facts proved:</b>	Charges 1a, 1b, 1c, 1d, 2, 3a, 3b, 3c, 3d, 5
<b>Facts not proved:</b>	Charge 4
<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	<b>Striking-off order</b>
<b>Interim order:</b>	<b>Interim suspension order (18 months)</b>

## **Details of charge**

That you, a registered nurse:

- 1) On an unknown date in September 2019, touched one or more student nurse without consent and/or without clinical justification in that you:
  - a) touched Student A's breast;
  - b) touched Student A's bum;
  - c) put your arms around Student B's waist;
  - d) put your head on Student B's shoulder;
- 2) Your conduct at Charge 1 was sexually motivated in that you sought sexual gratification;
- 3) On 12 May 2023, you bullied and/or intimidated Student C in that you:
  - a) raised your voice;
  - b) banged your hands on the table;
  - c) denied Student C's request to have another member of staff present at the meeting;
  - d) when Student C asked if they could leave the meeting, you said no as the meeting was not over;
- 4) Following on from the incident at charge 3, on or after 12 May 2023, you failed to safeguard Student C by not informing colleagues that Student C was distressed and/or required support;
- 5) On or around 22 May 2023, disclosed confidential information relating to Student C's application history to one or more student which was not necessary and/or appropriate;

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

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

The panel was informed at the start of this hearing that Mr Mutasa was not in attendance, and that the Notice of Hearing letter had been sent to Mr Mutasa's registered email address by secure email on 30 October 2025.

Ms Chapman, 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 allegations, the time, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mr Mutasa'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 Mutasa 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 Mutasa**

The panel next considered whether it should proceed in the absence of Mr Mutasa. The panel had regard to Rule 21 and heard the submissions of Ms Chapman who invited the panel to continue in the absence of Mr Mutasa. She submitted that Mr Mutasa had voluntarily absented himself.

Ms Chapman submitted that Mr Mutasa sent an email to the NMC on 22 May 2025 to request a postponement of the hearing due to the hearing taking place over the Christmas period, however he later changed his mind. Mr Mutasa's email to the NMC on 22 May 2025 stated:

*'Can the tentative virtual hearing that you have planned for Mon 8 Dec - Wen 17 Dec 2025, be moved to a similar time slot from Mon 5 Jan 2026 to accommodate for the Christmas/New Year festive period so that I am not disadvantaged from lack of readily available support for such a taxing meeting when most union reps & independent advocates elect to take some extended absence from work in Dec by combining their a/l days with the festive public holidays.' [sic]*

In a subsequent email to the NMC, dated 25 September 2025, Mr Mutasa said:

*'I would appreciate you emailing me any prior panel hearing advice or information. Also at this point in time, I have no objection to this panel hearing taking place as scheduled in December 2025.' [sic]*

Ms Chapman submitted that a further email was sent by Mr Mutasa to Mr Martin, Special Counsel, on 2 December 2025, in which he stated that he was 'no longer interested' in participating in the hearing and did not plan to attend. An extract from Mr Mutasa's email to Mr Martin stated:

*'I am going to be frank & say that I AM NO LONGER INTERESTED. For your benefit, I will summate my reasons for this decision:*

- 1. [PRIVATE] - so I have no intention of working again as a nurse educator or nurse.*
- 2. I have been a Dormant (Inactive) Registrant on the NMC register from [PRIVATE] when I did not revalidate as my local employer put me on work suspension pending my NMC FTP outcomes - so the NMC put me on Suspension Order primarily to suit its FTP proceedings, more so since I was already suspended working on Isle of Man as nurse educator [PRIVATE].*
- 3. These rather unnecessarily protracted FTP proceedings have [PRIVATE].*
- 4. I have no intention to ever apply to go back on the NMC register as a nurse educator or nurse - considering my significant misgivings I now have regarding the credibility of the NMC as a regulatory body, [PRIVATE].'* [sic]

Ms Chapman submitted that attempts were made by the NMC to contact Mr Mutasa on the morning of the hearing by email and by telephone on 8 December 2025. Ms Chapman submitted that Mr Mutasa has not directly communicated that he did not plan to attend the hearing on 8 December 2025, however, he did not provide any other information that he was planning to attend the hearing on this date.

Ms Chapman submitted that in the latest email sent by Mr Mutasa to Mr Martin on 2 December 2025, he made it clear that he did not wish to return to nursing. As a consequence, there was no reason to believe that an adjournment would secure his attendance on some future occasion.

Ms Chapman submitted that by not deciding to proceed in the absence of Mr Mutasa, there was a significant risk of non-engagement by, and distress caused to the vulnerable witnesses that are due to give live evidence. Ms Chapman further submitted that the original date of the hearing was moved to attain the attendance of Witness 2.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mr Mutasa. In reaching this decision, the panel has considered the submissions of Ms Chapman and the advice of the legal assessor. It has had particular regard to the relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mr Mutasa;
- Mr Mutasa sent an email to the NMC on 22 May 2025 to request a postponement of the hearing due to the hearing taking place over the Christmas period, however he later changed his mind;
- Mr Mutasa sent a further email to the NMC on 25 September 2025 initially stating that he was in agreement for the hearing to take place on 8 December 2025, although in a subsequent email he indicated his agreement for the hearing to be listed for later on in 2026 to accommodate a witness as requested by the NMC;

- Mr Mutasa sent an email to Mr Martin, Special Counsel, on 2 December 2025 stating that he was 'no longer interested' in participating in the hearing and did not plan to attend;
- There is no reason to suppose that adjourning would secure his attendance at some future date;
- One witness has attended today to give live evidence, five others are due to attend;
- There is a risk of non-engagement by, and distress caused to, the vulnerable witnesses that are due to give live evidence;
- The original date of the hearing was moved to attain the attendance of Witness 2;
- 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 and 2023;
- Further delay may have an adverse effect on the ability of witnesses to accurately recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mr Mutasa in proceeding in his absence. Although the evidence upon which the NMC relies will have been sent to him at his registered email address, he will not be able to challenge the evidence relied upon by the NMC 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 if identified. Furthermore, the limited disadvantage is the consequence of Mr Mutasa'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 has decided that it is fair to proceed in the absence of Mr Mutasa. The panel will draw no adverse inference from Mr Mutasa's absence in its findings of fact.

## **Application for special measures in regard of Students A, B and C**

Ms Chapman submitted that three witnesses, Student A, Student B and Student C, were to be considered as vulnerable and made a request for special measures under Rule 23 of the Rules.

Ms Chapman submitted that Student A gives evidence to charges 1a), 1b) and 2, and Student B gives evidence to charges 1c), 1d) and 2. She submitted that these allegations are of a sexual nature and Students A and B are the witnesses and alleged victims. Ms Chapman submitted that Student C gives evidence to charges 3a), 3b, 3c), 3d), which state that Mr Mutasa allegedly bullied and/or intimidated Student C, in addition to charges 4 and 5. She submitted that, due to the nature of the charges that Students A, B and C speak to, Students A, B and C have stated that special measures would allow them to give evidence in a comfortable manner. Ms Chapman submitted that special measures are appropriate and fair in the circumstances, to allow Students A, B and C to feel comfortable and secure when giving their evidence. She submitted that due to the nature of the charges that Student C speaks to in relation to being intimidated, it is open for the panel to consider that the quality of Student C's evidence may be affected by her distress. Ms Chapman submitted that an NMC Witness Liaison Officer will also sit in the hearing with Students A, B and C when giving their evidence to offer support. She submitted that Student C's mother would also sit in the hearing with Student C.

She invited the panel to accept this application.

Mr Martin told the panel that this was a matter for the counsel to make consideration of.

The panel accepted the advice of the legal assessor.

The panel took into consideration the submissions from Ms Chapman and Mr Martin. The panel was of the view that it sees Students A and B as vulnerable and that special measures were agreeable. The panel noted that although Student C may not be

categorised as being vulnerable in the same way as Students A and B, that they should also be given appropriate support throughout the hearing.

It noted that these witnesses should have an NMC Witness Liaison Officer with them whilst giving their evidence and noted that if Mr Mutasa decided to attend the hearing, his camera should be off for all three of these witnesses.

Therefore, in light of this, the panel decided to grant the application for the special measures of Students A and B, as vulnerable witnesses and for Student C, as it was appropriate to do so.

#### **Application for hearsay evidence to be redacted within Student C's witness statement**

Ms Chapman submitted that the NMC would be relying on paragraphs within Student C's witness statement that contain hearsay evidence. She informed the panel that paragraphs 35, 36, 39 and 41 would be relied on by the NMC in regard to Rule 31.

Ms Chapman referred the panel to the relevant parts of Student C's witness statement and made submissions as to why those particular parts should remain in the evidence before the panel as hearsay:

Paragraph 35 - Ms Chapman submitted that the following sentence is hearsay: '*a student in front of me said, 'oh you applied three years ago and didn't get on the course, I got on the course first time'*' Ms Chapman submitted that this is contextual information, and it relates to how this witness felt and was made to feel.

Paragraph 36 - Ms Chapman submitted that the comment made about another student sitting beside Student C allegedly asking if she wanted to leave the room, is hearsay. Ms Chapman submitted that this is contextual information related to Student C's presentation and is neither sole nor decisive evidence.

Paragraph 39 - Ms Chapman submitted that the comment: '*a few students came to speak to me and mentioned that they didn't know that I had previously applied,*' is hearsay. Ms Chapman submitted that this comment should be admitted into evidence for the same reasons as paragraph 36, as it discusses how Student C felt and provides contextual information on how these comments were received by Student C and why she felt the comments made by Mr Mutasa were inappropriate.

Paragraph 41 - Ms Chapman submitted that a manager advised Student C to provide a statement regarding her complaint. She submitted that there is no prejudice or unfairness by the statement remaining in evidence.

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

### **Decision and reasons for hearsay application**

The panel noted the paragraphs in Student C's witness statement that the NMC is relying on, namely paragraphs 35, 36, 39 and 41. The panel considered each of the paragraphs, assessing their fairness and relevance.

The panel noted that it agreed to admit paragraph 41 into evidence. The panel denied paragraphs 35, 36 and 39, and determined to redact these paragraphs from evidence.

### **Application for hearsay evidence to be redacted within Student A's witness statement**

Ms Chapman referred the panel to the relevant parts of Student A's witness statement and made submissions as to why those particular parts should remain in the evidence before the panel as hearsay:

Paragraph 9 - Ms Chapman submitted that this sentence, describing whom Student A spoke with after the incident and their expressed views about it, should remain in the evidence. She submitted that Student A had so expressed her views about the incident which is relevant to the perception of the behaviour.

Paragraph 12 - Ms Chapman submitted that this was hearsay. She explained that this sentence described the contextual information which did not go directly to the charge and was not sole or decisive evidence but was relevant to Student A's thought process at the time of the incident and perhaps the sexual motivation generally. She submitted that it was not clear whether this evidence was disputed but that it was needed to be explored.

Paragraph 13 - Ms Chapman reminded the panel that this was a description of Mr Mutasa appearing to have an aversion with women who had strong opinions. She submitted that this could be hearsay but that it was not clear whether Student A had witnessed it herself and that it was necessary to explore it with her in her evidence.

Paragraph 14 - Ms Chapman submitted that this related to allegations from/towards other students and it was unclear whether this was hearsay but that it was important to explore this with Student A in her evidence.

Paragraph 15 - Ms Chapman submitted that the entirety of that paragraph includes information from other people, regarding interim reviews. She submitted that it was difficult to extrapolate the position as to what Student A witnessed or perceived and what information has come from other people. She submitted that this does not go directly to the charges, but it was important for explaining Student A's reasons for not reporting this incident sooner and therefore it was important for this to stay in the evidence.

Paragraph 17 - Ms Chapman submitted that this sentence was not controversial and explained who Student A reported this incident to. She submitted that this should remain in evidence.

Paragraph 21 - Ms Chapman submitted that the first part of this speaks about a meeting and a number of students who speak about Mr Mutasa's behaviour and comments he was making. She submitted that this could be talking about Student B and this needs to be explored in evidence. Ms Chapman then referred to the second part of this paragraph. She explained that this part of the paragraph described why Student A reported to people when she did and why she did it.

Paragraphs 22, 23 and 25 - Ms Chapman submitted that these paragraphs were all very similar and that they were not controversial and that they simply described the people to whom Student A made the reports to and also describes her reasons for wishing to remain anonymous and why her position changed when it did.

Paragraph 30 - Ms Chapman submitted that this provides some explanation as to why Student A was allegedly frightened to report this incident. She submitted that whilst this is unspecific, it may be speaking about Student B, which therefore needs to be explored with her.

Email from Mr 1 - Ms Chapman submitted that this was clearly hearsay evidence. She submitted that email from Student A makes various claims about other people and other peoples' issues. Ms Chapman submitted that it was up to the panel whether this evidence should remain, however, pointed out that some of this evidence could be supportive of Mr Mutasa's case and therefore out of fairness and for context, it ought to remain in.

Email from Ms 1, RCN - Ms Chapman submitted that whilst it is clear that Ms 1 is not a witness to these proceedings, this is someone Student A says she had reported these things to. Ms Chapman submitted that this evidence could remain in for the purposes of context.

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

### **Decision and reasons for hearsay application**

The panel considered each of the paragraphs, assessing their fairness and relevance.

The panel decided to admit paragraph 15, 17-25 and the emails from Ms 1 and Mr 1 into evidence. The panel denied paragraphs 9, 12, 13, 14, 30, and determined to redact these paragraphs from evidence.

Paragraph 15 - The panel determined to allow a part of this into evidence, as it was relevant to the charges '*The more I heard the more I was sure that I wasn't going to raise the issues I had with him.*' The panel determined that the second part of this paragraph should be redacted as this was hearsay and there was no way to test it.

Paragraphs 17-25 - The panel determined that all of these paragraphs, apart from the sentence in paragraph 21 ('At this meeting a number of students highlighted Mr Mutasa's behaviours and the comments he was making'), should remain in the evidence. It was of the opinion that this evidence was not controversial and describes the context.

Email from Mr 1 - The panel determined that there was nothing factual in this other than Student A's opinion and it did not speak to the charges. The panel determined to redact the first email from the chain of emails and to include into the evidence the remaining email trail.

Email from Ms 1, RCN - The panel determined to include this into the evidence as this relates to the charges and speaks about credibility, but only from the part that starts 'As you would expect.'

### **Application to adjourn the hearing until the next day**

On 11 December 2025, Ms Chapman made an application for a brief adjournment until the next morning to enable Witness 3 to give oral evidence at this hearing. She submitted that Witness 3 had expressed difficulty in using Microsoft Teams and had contacted the NMC to assist them with this.

Ms Chapman submitted that although many attempts have been made to contact Witness 3 in relation to this hearing since 8 December 2025, they have been on annual leave from 9 – 11 December and will be returning to work on 12 December 2025. She submitted that as Witness 3 had expressed difficulties in using Microsoft Teams, they had said that they would find it easier to give oral evidence from their place of work. Therefore, a brief

adjournment until 12 December 2025 would give Witness 3 an opportunity to give their best evidence.

The panel accepted the advice of the legal assessor.

### **Decision and reasons on the application to adjourn the hearing until the next day**

The panel carefully considered Ms Chapman's submissions in relation to the request for an adjournment. It took into account the efforts made by the NMC to contact Witness 3 and that this witness stated they had experienced difficulties in using Microsoft Teams independently. The panel accepted that as Witness 3 should be returning to work on 12 December 2025, that they should be able to give oral evidence from their place of work and this will afford them an opportunity to give their best evidence with some assistance in using the necessary technology.

The panel decided that it was in the interest of fairness to allow the NMC a further opportunity to be able to provide oral evidence from Witness 3.

Therefore, the panel has decided to grant the adjournment until the next day of the hearing on 12 December 2025.

### **Background**

The charges arose whilst Mr Mutasa was employed as a Senior Lecturer for Mental Health Nursing by [PRIVATE] ("the University"). These regulatory concerns relate to incidents that took place at the University between September 2019 and May 2023. This referral resulted in an investigation by the NMC, which identified the regulatory concerns set out in the charges.

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

In reaching its decisions the panel took into account all of the evidence, including the oral and written statements and the exhibits in this case, together with the submissions made by Ms Chapman on behalf of the NMC.

The panel was also assisted by Special Counsel, whose role was to ask questions of the vulnerable witnesses (Students A and B) and also Student C, in place of Mr Mutasa.

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

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

- Student A: Held the role of student at the University, at the material time.
- Student B: Held the role of student at the University, at the material time.
- Student C: Held the role of student at the University, at the material time.
- Witness 1: Held the role of Deputy Manager [PRIVATE], at the Hospital, at the material time. Also held the role of Practice Assessor of Student C.
- Witness 2: Held the role of Director of Education and Head of School at the University, at the material time. Also held the role of line manager of Mr Mutasa.

- Witness 3: Held the role of Community Mental Health Professional at the Hospital, at the material time.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by both the NMC and Mr Mutasa.

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

### **Charges 1a) and b)**

“That you, a registered nurse, on an unknown date in September 2019, touched one or more student nurse without consent and/or without clinical justification in that you:

- a) touched Student A’s breast;
- b) touched Student A’s bum”

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

In reaching this decision, the panel took into account all of the evidence, including Student A’s oral evidence and written statement.

The panel found Student A to be a credible witness and noted that her account remained consistent throughout both her written and oral evidence. The panel noted that Student A was able to clearly articulate how Mr Mutasa touched her, where the touching occurred and how she positioned herself at the time of the incident. In her written statement, Student A stated:

*‘He was standing very close to me. Henry put his arm round my shoulder, from my left side and his hand was resting on my breast. I thought it must have been a*

*mistake as we were in a field full of people. I adjusted my body to remove his hand, and I thought that if he realised he had touched my breast he would be horrified. I turned, as if making an excuse to see the races, and his hand went onto the top of my shoulder. I was still watching the races and said something along the lines of 'oh look, they're going to win' as I did that. I thought he would have removed his hand. However, his hand then slipped down to my bum and he rested his hand on the right side of my bum instead. At that point, I was still thinking that it wasn't intentional. I didn't know this man.' [sic]*

The panel noted that Student A was explicit in her evidence that she did not consent to the touching by Mr Mutasa. The panel noted that it was clear from the evidence that there was no clinical justification for the conduct described by Student A and that the touching by Mr Mutasa occurred outside of any clinical context. The panel had no reason to doubt her account and was satisfied that she gave her evidence honestly and reliably.

The panel considered Mr Mutasa's denial of the charges, including his suggestion that if any touching did occur it was accidental. The panel rejected this explanation and preferred Student A's evidence. On the balance of probabilities, the panel found it more likely than not that the touching occurred as Student A described. The panel therefore found charges 1a) and 1b) proved.

#### **Charges 1c) and d)**

"That you, a registered nurse, on an unknown date in September 2019, touched one or more student nurse without consent and/or without clinical justification in that you:

- c) put your arms around Student B's waist;
- d) put your head on Student B's shoulder"

**These charges are found proved.**

In reaching this decision, the panel took into account all of the evidence, including Student B's oral evidence and written statement.

The panel considered Student B to be a credible witness who gave clear and detailed evidence that was consistent between her written statement and her oral evidence.

The panel noted that Student B was able to clearly explain how Mr Mutasa put his arms around her waist from behind her and placed his head on her shoulder. In her written statement, Student B stated:

*'Henry came up behind me and put his arms around my waist and clasped his hands to the front of me and put his head on my shoulder. I thought it was an odd thing to do I removed his hands and walked off.'*

The panel noted that she gave thoughtful evidence as to why she found Mr Mutasa's conduct to have been unacceptable, stating in her oral evidence that such conduct was something that she believed would only have been appropriate between herself and either her sister or her partner. The panel accepted her evidence that Mr Mutasa's actions breached professional boundaries and his position of trust as a senior nurse and lecturer.

The panel found no reason to doubt Student B's account and preferred her evidence over that of Mr Mutasa. On the balance of probabilities, the panel was satisfied that the events occurred as Student B described. The panel therefore found charges 1c) and 1d) proved.

## **Charge 2**

"That you, a registered nurse: Your conduct at Charge 1 was sexually motivated in that you sought sexual gratification."

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

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

The panel reminded itself that the burden of proof rests on the NMC and that the standard of proof is the balance of probabilities.

In determining whether the conduct found proved under Charge 1 was sexually motivated, the panel had regard to the nature of the touching, the context in which it occurred, the absence of consent or any prior personal relationship between Student A and Mr Mutasa, and Mr Mutasa's position as a senior nurse and nurse lecturer. The panel also had regard to relevant case law, including *Haris v General Medical Council* [2021] EWCA Civ 763.

In relation to the findings under charges 1a) and 1b), the panel noted that there was no consent and/or prior relationship which could have rendered Mr Mutasa's behaviour appropriate. The panel noted that the touching was intentional. It considered Student A's oral evidence that, after initially touching her breast, Mr Mutasa moved his hand to touch her bum. The panel considered it significant that, even when Student A repositioned herself in case the initial contact by Mr Mutasa had been accidental, he continued the touching and moved his hand from one intimate area to another.

The panel concluded that the likelihood of Mr Mutasa accidentally touching two intimate areas in this manner was low. The panel considered that placing a hand over someone's shoulder and then touching their breast, followed by their bum, would be perceived as sexually motivated. The panel therefore concluded, that on the balance of probabilities, Mr Mutasa's conduct towards Student A was sexually motivated and that he sought sexual gratification.

In relation to the findings under charges 1c) and 1d), the panel had regard to Student B's oral evidence that she would not expect anyone other than her partner or sister to touch her in this way. The panel accepted Student B's evidence that Mr Mutasa put his arms around her waist from behind and then placed his head on her shoulder without giving her an opportunity to provide consent.

The panel found this behaviour to be intrusive and an invasion of Student B's personal space. Further, there was no justification for this, given Mr Mutasa's position as a senior nurse/lecturer with no prior personal relationship to Student B. The panel found that

touching someone in this way was an intimate act which was highly inappropriate. The panel determined on the balance of probabilities that Mr Mutasa's conduct towards Student B was sexually motivated.

In light of this, the panel found, on the balance of probabilities, that Mr Mutasa's conduct in relation to charges 1a), 1b), 1c) and 1d) was sexually motivated in that he sought sexual gratification. Therefore, it finds Charge 2 proved.

### **Charge 3a)**

“That you, a registered nurse: On 12 May 2023, you bullied and/or intimidated Student C in that you:

- a) raised your voice”

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

In reaching this decision, the panel took into account all of the evidence, including the oral evidence and written statements of Student C, in addition to Witnesses 1, 2 and 3.

The panel found Student C to be a credible witness and noted that her account remained consistent throughout her evidence.

In relation to Charge 3a), the panel noted from her oral evidence that Student C stated that Mr Mutasa did not shout, but that he spoke more loudly than in the manner he had previously been speaking, which she found intimidating. The panel considered whether this amounted to Mr Mutasa raising his voice.

Student C stated in her written statement:

*‘His tone of voice was raised, he was stern and sharp, quite passive aggressive. He was not shouting but his pitch and tone of voice changed.’*

The panel accepted Student C's evidence and determined that, in the context of a meeting between a senior lecturer and a student, speaking in a raised voice could reasonably be perceived as bullying or intimidating behaviour. The panel therefore found charge 3a) proved.

### **Charge 3b)**

"That you, a registered nurse: On 12 May 2023, you bullied and/or intimidated Student C in that you:

- b) banged your hands on the table"

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

In relation to charge 3b), the panel noted that Student C stated in her evidence that Mr Mutasa banged his hands on the table during the meeting. The panel accepted this evidence and found no reason to doubt her account.

Student C's written statement stated:

*'He also banged his hands on the desk, he reached across the table when he banged his hands. The desk was wide, may 5 – 6 feet, and he slammed his hands on his side but he was leaning across the table, and I felt extremely uncomfortable.'*  
[sic]

The panel considered that this behaviour could reasonably be perceived as bullying or intimidating behaviour. It therefore concluded that Mr Mutasa banging his hands on the table amounted to bullying and/or intimidating conduct, and accordingly, found charge 3b) proved.

### **Charge 3c)**

“That you, a registered nurse: On 12 May 2023, you bullied and/or intimidated Student C in that you:

- c) denied Student C’s request to have another member of staff present at the meeting”

**This charge is found proved.**

In relation to charge 3c), the panel noted that Student C stated in her evidence that she requested the presence of another member of staff at the meeting and that this request was denied by Mr Mutasa. The panel accepted her evidence and preferred it to that of Mr Mutasa. In her written statement, Student C stated:

*‘Henry said that Witness 1 was my assessor and was to remain neutral therefore she was not allowed into the meeting. The meeting was between me and Him. I then asked if Ms 2 could come into the room and I was told no, by Henry. It was at this point that I started to cry.’ [sic]*

The panel considered that denying this request in the context contributed to an intimidating environment. The panel therefore found charge 3c) proved.

**Charge 3d)**

“That you, a registered nurse: On 12 May 2023, you bullied and/or intimidated Student C in that you:

- d) when Student C asked if they could leave the meeting, you said no as the meeting was not over”

**This charge is found proved.**

In relation to charge 3d) the panel noted that Student C stated in her oral evidence that she asked Mr Mutasa if she could leave the meeting and that he told her she could not do

so because the meeting was not over. The panel accepted Student C's account and had no reason to doubt her evidence.

The panel noted that by preventing Student C from leaving the meeting when she had requested to do so, Mr Mutasa's conduct amounted to bullying and/or intimidating behaviour, particularly given his position as a senior nurse and nurse lecturer. The panel therefore found charge 3d) proved on the balance of probabilities.

#### **Charge 4**

"That you, a registered nurse: Following on from the incident at charge 3, on or after 12 May 2023, you failed to safeguard Student C by not informing colleagues that Student C was distressed and/or required support."

**This charge is found NOT proved.**

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

The panel first considered whether the circumstances engaged a safeguarding obligation by Mr Mutasa to Student C. The panel recognised that, as a senior nurse lecturer, Mr Mutasa owed a general duty of care to those in his professional charge, including students. Furthermore, the panel had regard to Section 17 of the NMC Code, which requires registrants to raise concerns immediately if they believe a person may be at risk of harm.

Whilst the panel considered that, in principle, this could extend to taking reasonable steps to ensuring the wellbeing of students, the duty to safeguard in the absence of a formal written policy was primarily to individuals that may be vulnerable and at risk of harm.

The panel next considered whether Student C's distress necessitated a duty to safeguard her. The panel noted that Student C was over the age of 18 and that there was no evidence that she was otherwise a vulnerable adult. In his response bundle, Mr Mutasa stated that Student C was over 21, was an adult and as such, was free to leave the

meeting. Whilst the panel accepted Student C's account that she was distressed following the meeting, it was not satisfied that distress alone amounted to a safeguarding risk.

The panel noted that it was not clear from the evidence whether Mr Mutasa saw Student C go to Witness 1's office following the meeting. The panel considered that as Student C had been distressed in the meeting, it might have been reasonable for Mr Mutasa to check with Student C with regards to her wellbeing before he left the building, however it noted that this action alone does not establish a safeguarding failure.

The panel further noted that the NMC had not provided evidence of Mr Mutasa's employer's safeguarding policy and requirements to safeguard students and inform colleagues. The panel determined that it had insufficient evidence to demonstrate that Mr Mutasa had a clear safeguarding obligation to inform colleagues that Student C was distressed and/or required support.

The panel was therefore not satisfied, on the balance of probabilities, that Mr Mutasa had failed to safeguard Student C by not informing colleagues that Student C was distressed and/or required support. Accordingly, the panel found charge 4 not proved.

### **Charge 5**

"That you, a registered nurse: On or around 22 May 2023, disclosed confidential information relating to Student C's application history to one or more student which was not necessary and/or appropriate."

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

In reaching this decision, the panel took into account all of the evidence, including the oral and written accounts by Student C.

The panel was satisfied that the private information disclosed by Mr Mutasa in relation to Student C's application history was confidential. In her written statement, Student C stated:

*'He then replied when I first interviewed you three years ago you weren't ready for the course but after your time in [PRIVATE], I think you're ready now. I was taken aback by that comment as I applied for the course three years prior and it wasn't known to the rest of my cohort. It also wasn't relevant.'*

The panel noted that the disclosure made by Mr Mutasa was not necessary or appropriate in the context. The panel also noted that the disclosure made by Mr Mutasa was in breach of his role as a nurse lecturer, as Student C had not consented to her private information being shared with her student peers.

The panel therefore concluded that Mr Mutasa had disclosed confidential information relating to Student C's application history to one or more students which was not necessary and/or appropriate, and accordingly, found charge 5 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 Mutasa'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 ability to practise kindly, safely and professionally.

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 Mutasa'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.*’

Ms Chapman provided written submissions and invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of ‘*The Code: Professional standards of practice and behaviour for nurses and midwives 2015*’ (the Code) in making its decision.

Ms Chapman submitted that the charges have not arisen from Mr Mutasa’s clinical practice, as he was not practising as a nurse clinically, however they do arise from and/or are connected to his professional practice, as he was a senior nurse lecturer on a course training students to become qualified nurses.

Ms Chapman referred the panel to the case of *Nandi v General Medical Council* [2004] EWHC 2317 (Admin). She submitted that in relation to charges 1a), 1b), 1c), 1d), 2, 3a), 3b), 3c), 3d) and 5 found proved, these acts alone amount to ‘*sufficiently serious misconduct*’ as student nurses were caused actual harm and put at risk of harm by Mr Mutasa’s actions. She further submitted that Mr Mutasa’s actions, therefore, did amount to sufficiently serious misconduct for the purposes of these proceedings.

Ms Chapman submitted that Mr Mutasa’s conduct was in breach of the following sections of the Code and that those breaches amount to misconduct, in that they fell short of what was proper in the circumstances: 1.1, 1.3, 1.5, 2.6, 4.2, 5.4, 9.1, 9.3, 9.4, 16.5, 16.6, 19.4, 20.1, 20.2, 20.3, 20.4, 20.5, 20.6, 20.8, 20.10.

Ms Chapman submitted that Student A has provided clear evidence as to the effect of Mr Mutasa’s misconduct on her personally, the harm caused and the difficulties which persist as a result of it. She submitted that the harm described is wide ranging of an emotional

and psychological nature, and, in terms of charges 1a) and 1b), physical harm, in that Mr Mutasa touched Student A on her breast and bottom without her consent, which Student A viewed as a sexual assault. She submitted that Student B has also described the long-term emotional effects on her as a result of Mr Mutasa's actions at charges 1c) and 1d), including a lack of trust and feelings of guilt.

Ms Chapman submitted that Student C has provided a significant amount of evidence on the harm caused by Mr Mutasa as a result of the conduct within the charges which concern her, and the panel have read and seen evidence from two further witnesses of the immediate emotional and psychological effect of the conduct at charges 3a), 3b), 3c) and 3d).

Ms Chapman submitted that Mr Mutasa's conduct demonstrates serious ongoing attitudinal concerns that pose a genuine risk to the public. She submitted that although he has said that he no longer wishes to practice as a nurse and has not practiced clinically for some time, the term 'public' encompasses not only patients but also colleagues, students and the wider public in general. In his role as a senior lecturer, Mr Mutasa held a position of power and privilege over nursing students, including young and inexperienced students, some of whom were relatively vulnerable by virtue of that. She submitted that the students on the course were practising nursing as part of their qualifications and harm caused to them by Mr Mutasa's conduct could have a knock-on effect on their ability to care for patients and service users. She submitted that these matters place members of the public at a real risk of significant harm.

Ms Chapman further submitted that Mr Mutasa's behaviour fell so far short of what was expected of him that it could realistically result in patients and service users, their families and the wider public distrusting nurses and, to their detriment, avoiding or refusing care from registered professionals. She submitted that it could also dissuade students from wanting to study nursing in future, causing a long-term impact on the profession and public.

### **Submissions on impairment**

Ms Chapman moved on to the issue of impairment and 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).

Ms Chapman submitted that there is a risk to public safety by virtue of Mr Mutasa's misconduct. She further submitted that Mr Mutasa's actions breached the trust the public places in the profession and a finding of impairment is warranted on these grounds. She submitted that Mr Mutasa's conduct fell well below what was expected of a professional and is at the upper end of seriousness. She submitted that the NMC position is that Mr Mutasa cannot practice kindly, safely and professionally, and that would require restriction on his practice.

Ms Chapman submitted that the first three limbs of the *Grant* test are clearly engaged as to Mr Mutasa's past conduct. She submitted that the charges do not encompass dishonesty, thus the fourth limb does not apply.

Ms Chapman submitted that in relation to whether the limbs of the *Grant* test are engaged as to Mr Mutasa's future conduct, some concerns will be so serious in nature that they can be very difficult, if not impossible, to remedy. She submitted that sexual misconduct and bullying are two of those concerns, due to there being a risk of repetition due to deep seated attitudinal concerns, and therefore a risk to the public.

Ms Chapman submitted that Mr Mutasa's conduct amounted to intimidating and harassing students, which suggests a deep-seated attitudinal concern and that such a pattern will persist in future. She submitted that Mr Mutasa has demonstrated no insight and has failed to take responsibility for his actions. She submitted that in his written submissions, Mr Mutasa appears to place blame at the door of others, including Student C for not leaving the meeting in response to his bullying and intimidating behaviour, the employer for pursuing an investigation against him, and the NMC for pursuing fitness to practice proceedings against him, without genuinely accepting and comprehending why his own

actions, whether accepted or otherwise, amounted to misconduct and why that was so serious.

Ms Chapman submitted that Mr Mutasa has communicated with the NMC throughout proceedings, however the nature of these communications is limited and cannot be said to amount to meaningful engagement. She submitted that Mr Mutasa's communications refer for the most part, to what he perceives as an unfair process and the authority or otherwise for the NMC to pursue an interim order in the evidence at that time. She submitted that he has provided no substantive response to the charges themselves to enable effective case management of the hearing.

Ms Chapman submitted that remediation is always particularly difficult in cases where deep seated attitudinal issues have been found to be present. She submitted that the panel may think that without remediation there remains a real risk of repetition, therefore the risk to public safety would be clear and ongoing. However, the panel may also take the view that owing to a change in circumstances for Mr Mutasa, the situation is different and is either remediable or remedied. She submitted that this, however, is not the NMC's position, with the conduct being very serious, as sexual misconduct is extremely difficult, often impossible, to remedy, particularly where there is lack of insight or remediation. She submitted that it is a matter for the panel as to whether they feel sufficient insight has been demonstrated and sufficient steps taken to eliminate any risk.

Ms Chapman submitted that in addition, the panel may think that there is public interest in a finding of impairment, in particular, where the public has been caused or put at risk of harm. She submitted that the behaviour captured within the charges is of a type that fellow practitioners and the public would find morally reprehensible. She submitted that this case would be considered very concerning to an informed observer who would be disturbed to hear about the harm caused to students in a vulnerable position by Mr Mutasa, coupled with the position of power Mr Mutasa held over them and the breach of trust involved.

Ms Chapman invited the panel to conclude that were a reasonable member of the public, fully informed of the facts, to discover that Mr Mutasa was permitted to practice without restriction, their trust and confidence in the profession and the regulator would be

undermined. She submitted that whilst the other submissions on public safety still stand, impairment may be found in any event in this case, owing to the strong public interest arising out the facts of this case.

Ms Chapman submitted that more specifically, impairment can be found in order to maintain public trust and confidence in the profession, and to fulfil one of the panel's objectives in declaring and upholding proper standards of professional conduct. She submitted that if the panel are of the view that a finding of impairment is in the public interest, in order for them to fulfil this duty they ought to find impairment on this ground.

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), 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 Mutasa's actions did fall significantly short of the standards expected of a registered nurse, and that Mr Mutasa's actions amounted to a breach of the Code. Specifically, the following sections of the Code:

#### ***'Prioritise people'***

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

*To achieve this, you must:*

*1.1 treat people with kindness, respect and compassion*

*1.5 respect and uphold people's human rights*

##### ***2 Listen to people and respond to their preferences and concerns***

*To achieve this, you must:*

**2.6 recognise when people are anxious or in distress and respond compassionately and politely**

***Practise effectively***

***8 Work cooperatively***

*To achieve this, you must:*

**8.2 maintain effective communication with colleagues**

**8.4 work with colleagues to evaluate the quality of your work and that of the team**

***9 Share your skills, knowledge and experience for the benefit of people receiving care and your colleagues***

*To achieve this, you must:*

**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**

**9.4 support students' and colleagues' learning to help them develop their professional competence and confidence**

***Promote professionalism and trust***

***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*

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

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that Mr Mutasa's actions fell seriously short of the conduct and standards expected of a nurse, and the facts found proved amounted to misconduct.

The panel noted that although Mr Mutasa's actions did not occur in the course of direct clinical practice, they are closely linked to his professional role and clinical practice, and therefore engage the standards expected of a registered nurse.

The panel found that the following charges were serious and amounted to misconduct, 1a), b), c) and d), whereby Mr Mutasa touched one or more student nurse/s; and 2) Mr Mutasa's conduct at Charge 1 was sexually motivated in that he sought sexual gratification. The panel found that there was no justification for Mr Mutasa's behaviour, and that he abused his position of authority as a senior nurse/lecturer with no prior personal relationship with Students A and B. The panel found that Mr Mutasa's actions were highly inappropriate, amounting to misconduct. Furthermore, the panel noted that by inappropriately touching both Students A and B, Mr Mutasa demonstrated a repeated pattern of behaviour, indicating deep-seated attitudinal behaviour.

In relation to charges 3a), 3b), 3c) and 3d), which state that Mr Mutasa bullied and/or intimidated Student C, and charge 5), which state that Mr Mutasa disclosed confidential information relating to Student C's application history to one or more student/s which was not necessary and/or appropriate, the panel found that Mr Mutasa's conduct undermined

Student C's confidence and could have discouraged her from pursuing her nursing training to its full potential. Furthermore, the panel noted that by bullying and intimidating Student C, Mr Mutasa's conduct demonstrates a serious deep-seated attitudinal concern.

In the panel's judgement, this behaviour from a senior nurse and nurse lecturer in a position of authority was a sufficient departure from the standards expected of a registered nurse and amounts to serious misconduct.

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

The panel then considered whether, on the basis of the facts found proved, Mr Mutasa's fitness to practise is currently impaired as a result of his misconduct. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise safely, kindly and professionally.

Registered 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. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

The panel had regard to the NMC Guidance on Impairment (DMA-1) particularly:

*'Can the nurse, midwife or nursing associate practise kindly, safely and professionally?'*

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 *Grant* 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 first considered whether any of the limbs of the *Grant* test were engaged as to Mr Mutasa's past conduct. The panel was of the view that his conduct of touching one or more student nurse/s without consent and/or without clinical justification and his conduct being sexually motivated in that he sought sexual gratification, placed Students A and B at unwarranted risk of emotional harm.

Furthermore, Mr Mutasa's conduct in that he bullied and/or intimidated Student C; and he disclosed confidential information relating to Student C's application history to one or more

student/s which was not necessary and/or appropriate; demonstrated deep-seated attitudinal issues and placed Student C at unwarranted risk of emotional harm.

The panel found that Mr Mutasa's misconduct constituted a serious breach of the fundamental tenets of the nursing profession in that he failed to prioritise people, practise effectively, preserve safety and promote professionalism and trust. It determined that he failed to uphold the standards and values of the nursing profession, thereby bringing the reputation of the nursing profession into disrepute.

The panel noted the NMC guidance that sexual misconduct may be difficult to remediate. Whilst the panel noted that limb a) of the Grant test was not engaged, as there was no evidence that patients were harmed in respect of the conduct found proved, however it concluded that limbs b) and c) were engaged.

The panel next considered whether the limbs of the *Grant* test are engaged as to the future. In this regard, the panel considered the case of *Cohen v GMC* in which the Court addressed the issue of impairment with regard to the following three considerations:

- a. *Is the conduct that led to the charge easily remediable?*
- b. *Has it in fact been remedied?*
- c. *Is it highly unlikely to be repeated?*

In this regard, the panel also considered the factors set out in the NMC Guidance on Insight and strengthened practice (FTP-15).

The panel first considered whether Mr Mutasa's misconduct is capable of being addressed. In the NMC Guidance – Can the concern be addressed (FTP-15a), the panel noted the following paragraph:

*'In cases like this, and in cases where the behaviour suggests underlying problems with the nurse, midwife or nursing associate's attitude, it is less likely the nurse, midwife or nursing associate will be able to address their*

*conduct by taking steps, such as completing training courses or supervised practice.*

*Examples of conduct which may not be possible to address, and where steps such as training courses or supervision at work are unlikely to address the concerns include:*

- *Incidents of harassment including sexual harassment and other forms of sexual misconduct, whether it occurs inside or outside professional practice*

With regard to the identified attitudinal concerns, the panel determined that Mr Mutasa's conduct might be capable of remediation, but it is more difficult to remediate due to its serious and attitudinal nature, and Mr Mutasa's reluctance to accept the failings in his nursing practice. The panel noted that sexual misconduct is difficult to remedy, particularly where there is a lack of insight or remediation.

The panel then went on to consider whether the concerns have been addressed and remediated. It had regard to the NMC Guidance – Has the concern been addressed (FTP-15b). The panel took into account all of the evidence, including the oral and written statements from Students A, B and C, and Witnesses 1, 2 and 3.

Regarding insight, the panel considered that Mr Mutasa's insight is limited in terms of the concerns raised and as such, there is a risk that the concerns would be repeated. The panel noted that Mr Mutasa has demonstrated limited insight in relation to taking responsibility for his actions and how he would act differently if a similar situation should occur in the future. The panel therefore noted that his behaviour demonstrated ongoing deep-seated attitudinal issues.

The panel noted that Mr Mutasa has not shown any evidence that he has completed any training courses in the relevant areas of concern to demonstrate that he has developed his practice, nor has it received any evidence that Mr Mutasa has reflected on the relevant areas of concern to demonstrate further insight or show remorse for his actions. The panel noted that although it would take commitment, Mr Mutasa's behaviour appears to be

remediable but there has been limited engagement from him in relation to these proceedings. The panel noted that whilst Mr Mutasa has engaged with the NMC throughout the proceedings, the nature of the communications has been limited and cannot be said to amount to meaningful engagement. The panel noted that Mr Mutasa has not provided a substantive response to the charges to enable effective case management of the hearing.

Nevertheless, the panel considered from the documentary evidence in Mr Mutasa's registrant bundle that he is yet to demonstrate full insight into the impact of his behaviour on his patients, colleagues, the nursing profession and the wider public. The panel considered that Mr Mutasa's journey of remediation requires him to step back more fully and consider the misconduct found proved. As this has not occurred, the panel determined that there was little, if any evidence, of insight.

In light of this, the panel was not satisfied that Mr Mutasa's misconduct has been fully remediated. Accordingly, the panel determined that his misconduct is highly likely to be repeated. Therefore, limbs b and c of the *Grant* test are engaged as to the future.

The panel found that the findings of fact and the attitudinal concerns it had found proved meant that it could not be confident that Mr Mutasa's behaviours did not present a risk to wider public safety, which also includes students and colleagues.

The panel therefore concluded that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC are 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 had regard to the serious nature of Mr Mutasa's misconduct and the public protection issues it had identified. It determined that public confidence in the profession

would be undermined if a finding of impairment were not made in this case. Furthermore, the panel accepted the submissions of Ms Chapman that Mr Mutasa's actions fell so far short of what was expected of him that it could realistically result in patients and service users, their families and the wider public distrusting nurses and, to their detriment, avoiding or refusing care from registered professionals. The panel noted that it could also dissuade students from wanting to study nursing in future, causing a long-term impact on the profession and public.

For these reasons, the panel determined that a finding of current impairment on public interest grounds is required. It decided that this finding is necessary to mark the seriousness of the misconduct, the importance of maintaining public confidence in the nursing profession, and to uphold proper professional standards for members of the nursing profession.

Having regard to all of the above, the panel was satisfied that Mr Mutasa's fitness to practise is currently impaired on both public protection and public interest grounds.

### **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 Mutasa off the register. The effect of this order is that the NMC register will show that Mr Mutasa 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**

Ms Chapman informed the panel that in the Notice of Hearing, dated 30 October 2025, the NMC had advised Mr Mutasa that it would seek the imposition of a striking-off order if it found his fitness to practise currently impaired.

Ms Chapman provided a written submission that the overarching objective of the panel is public protection, which is one of the grounds on which impairment was found, in addition to the public interest. In light of that, she submitted that the appropriate sanction for these charges, is a striking-off order, and no lesser sanction will suffice.

Ms Chapman submitted that the NMC guidance states that the purpose of a sanction is not to punish Mr Mutasa, but to protect the public and address the risk. With that in mind, the guidance is clear that personal mitigation is usually less relevant than it would be when punishing offenders in the criminal justice system.

Ms Chapman submitted that regarding harm, the guidance reiterates that patient harm is taken extremely seriously, that putting patients at risk of harm makes the failings more serious. If the nurse put patients or members of the public at a real risk of suffering harm, the patient suffering no actual harm, or the reasons for the patient not suffering that actual harm, is 'generally not a good mitigating factor.'

Ms Chapman submitted that the panel will also have regard to any previous interim or substantive orders and sanctions against Mr Mutasa. She submitted that he was made subject to an interim suspension order but has no previous regulatory referrals or findings against him.

Ms Chapman referred the panel to the cases of *Brennan & the Health Professions Council* [2011] EWHC 41 (Admin) and of *Daraghmeh v General Medical Council* [2011] EWHC 2080 (Admin), in regard to proportionality. She submitted that the panel should therefore not impose a conditions of practice order that would be tantamount to a suspension order by back door. She submitted that any conditions imposed need to be workable and not impossible to comply with.

Ms Chapman submitted that in Mr Mutasa's case, the following aggravating features apply:

- The conduct caused actual harm and presented a risk of harm
- Repeated incidents amounting to a course of conduct

- Conduct spanned a lengthy period
- Lack of insight and remediation
- Lack of meaningful engagement with the regulator
- Lack of engagement with the internal investigation
- Evidence of deep-seated attitudinal issues
- Abuse of a position of power
- Breach of trust

Ms Chapman submitted that in Mr Mutasa's case, there are no mitigating factors. She submitted that Mr Mutasa being of previous good character is a factor to consider, however the NMC submit this is not mitigating in itself, as it does not detract from a course of conduct spanning four years of his practice nor the seriousness of the conduct. She submitted that these factors are not exhaustive, and the panel may find additional aggravating and mitigating features to which they will attach the appropriate weight accordingly.

Ms Chapman submitted that in regard to the available sanctions, the present case is not suitable for taking no action, as the conduct is serious and presents a risk to the public. She submitted that in the present case, a caution order would not be sufficient to reflect the seriousness of the case or protect the public.

Ms Chapman submitted that a conditions of practice order would not be appropriate to address the lack of insight and deep-seated attitudinal issues, and therefore would not protect the public. She submitted that there is no assurance, due to Mr Mutasa's lack of insight and the attitudinal issues, that he would be capable of complying with conditions. She submitted that it is the NMC's position that it would not be possible to formulate workable, measurable and proportionate conditions under which Mr Mutasa could practice safely due to the serious attitudinal matters identified by the panel as being present in the facts of this case. She submitted that conditions would not mitigate against the real risk of repetition demonstrated.

Ms Chapman submitted that aside from the public protection issues in this case, a conditions of practice order would not address the public interest factors present. A reasonable member of the public would be seriously concerned to hear that Mr Mutasa were permitted to practice under a conditions of practice order after causing actual harm to students in the position of trust and power he was in. She submitted that the conduct would seriously undermine public trust in the profession. She submitted that for those reasons a conditions of practice order is not suitable.

Ms Chapman submitted that in the present case, a suspension order would not be sufficient to reflect the seriousness of the case or protect the public.

Ms Chapman submitted that the NMC's guidance on suspension orders states that this sanction would be appropriate where there is:

- No evidence of harmful deep-seated personality or attitudinal problems
- The Committee is satisfied that the nurse, midwife or nursing associate has insight and does not pose a significant risk of repeating behaviour

Ms Chapman submitted that neither of the above matters apply in this case. She submitted that although a suspension order would protect the public against immediate harm associated with Mr Mutasa's practice on a temporary basis, it is not the appropriate sanction because it would not address the underlying attitudinal issues in this case in relation to Mr Mutasa's sexual misconduct, bullying and intimidating behaviour, and lack of insight and remediation. She submitted that although the panel in its determination on current impairment have found that the conduct might be remediable, were there some acceptance by Mr Mutasa, there is no such acceptance, nor has there been any over the last six years regarding the sexual misconduct matters. She further submitted that the NMC is of the view that there are no identifiable practical efforts which would remediate the very serious concern of Mr Mutasa having committed sexual misconduct and the significant public interest in a nurse remaining on the register in those circumstances.

Ms Chapman submitted that Mr Mutasa has already been subject to an interim suspension order but has not made any efforts towards strengthening his practice in that time nor

displayed any insight. She further submitted that a suspension order would be for 12 months, and it is the NMC's position that a suspension would not be sufficient to mark the very serious departure from expected professional standards in this case and would not serve as enough of a deterrent for similar behaviour.

Ms Chapman submitted that in all the circumstances of this case, a temporary removal from the register is insufficient to address the level of risk to the public and public interest factors. She submitted that Mr Mutasa's conduct, attitude and lack of insight demonstrates conduct incompatible with ongoing registration.

Ms Chapman submitted that only a removal from the NMC register would preserve public confidence in the profession and the NMC as a regulator, achieve the overarching objective of public protection, and provide a deterrent to other professionals. It would also be the only sanction capable of marking the seriousness of Mr Mutasa's conduct, the underlying attitudinal issues coupled with a lack of insight.

Ms Chapman submitted that the following questions are featured in the NMC's guidance when considering if a striking off order is suitable:

- *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?*

Ms Chapman submitted that with these questions in mind, Mr Mutasa's conduct is fundamentally incompatible with remaining on the register and a striking-off is the only sanction which would be appropriate and proportionate on the facts of this case.

Ms Chapman submitted that a sanction may by its nature have a punitive effect on a registrant, but that is not the intended purpose, which is to protect the public and/or address the public interest in terms of maintaining public confidence.

She submitted that authorities such as *Marinovich v General Medical Council* [2002], *Bolton v The Law Society* [1994] 2 All ER 286 and others have clarified that the effect on a practitioner will not trump the public interest where that sanction has a punitive effect, provided the sanction is proportionate.

Ms Chapman submitted that in this case, a striking-off order is proportionate. Mr Mutasa has not identified any reasons why any restrictions on his practice would have an overly punitive effect on him, in fact, he states that he plans not to return to clinical practice nor lecturing, and to retire. She submitted that in this case, there would be less of a personal detriment to Mr Mutasa when compared to others who are not of those same personal circumstances.

Ms Chapman submitted that in particular, in light of the panel's findings as to Mr Mutasa's attitudinal issues, that his conduct is incompatible with continued registration. She submitted that consequently, owing to the nature of the sexual misconduct and bullying behaviour, the aggravating features, and the lack of insight/remediation, a striking-off order is the only appropriate sanction to protect the public, and for the protection of the reputation of the profession and NMC as the regulator.

Ms Chapman submitted that she therefore invited the panel to make a striking-off order.

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

Having found Mr Mutasa'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:

- The conduct caused actual harm and presented a risk of harm
- More than one incident of misconduct
- Lack of insight and remediation
- Lack of meaningful engagement with the NMC as a regulator
- Evidence of deep-seated attitudinal issues
- Abuse of a position of power
- Breach of trust

The panel noted that there were no mitigating features in this case. The panel accepted Ms Chapman's submission that Mr Mutasa being of previous good character is a factor to consider, however this is not mitigating in itself, as it does not detract from a course of conduct where more than one incident took place in 2019 and 2023, nor the seriousness of the conduct.

The panel noted Mr Mutasa's cooperation with the fitness to practise process and the fact that he had no previous history of regulatory concerns. The panel was of the view however, that previous good character/history and engagement with the NMC are the basic expectations of all registrants.

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 this would not deal with the gravity of the conduct found proved, and it would be neither proportionate, nor in the public interest to take no further action as it would not show the public how seriously matters such as those proved are taken.

It then considered the imposition of a caution order but again determined that, due to the very serious nature of the charges, which relate to sexual misconduct, bullying and intimidation, an order that does not restrict Mr Mutasa's practice would not be appropriate in these 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 Mutasa'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 as it would not protect the public and is not sufficient to mark the seriousness of the charges. 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 Mutasa's registration would be a sufficient and appropriate response. The panel noted that a conditions of practice order is typically imposed in cases where the regulatory concerns can be remediated by a registrant's strengthened clinical practice through learning and retraining. However, the panel determined that in Mr Mutasa's case, the deep-seated attitudinal concerns relating to his misconduct cannot be addressed by a conditions of practice order. The panel was of the view that there are no practical or workable conditions that could be formulated in relation to public safety, given the nature of the charges in this case and the misconduct identified, these are not things that can be addressed through retraining. The panel also noted that conditions of practice would require Mr Mutasa to be in work, however he has stated that he has no intention of returning to clinical practice nor lecturing, and is planning to retire. Furthermore, the panel concluded that the placing of conditions on Mr Mutasa'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 was of the view that Mr Mutasa's conduct, as highlighted by the facts found proved and the seriousness of the misconduct, was a significant departure from the

standards expected of a registered nurse and nurse lecturer. The panel considered that Mr Mutasa's actions were not a single event and there was more than one incident amounting to a course of conduct which took place in 2019 and in 2023.

The panel noted that Mr Mutasa has demonstrated limited evidence of insight and a suspension order in this case, which involves sexual misconduct and an abuse of trust, would not sufficiently mark the seriousness of this case or the public interest. Although the panel did recognise that Mr Mutasa only became aware of the allegations of sexual misconduct at the outset of these proceedings, the panel acknowledged that there is evidence of harmful deep-seated attitudinal concerns demonstrated by Mr Mutasa's actions.

The panel considered that the reputation of the profession is more important than that of any individual member, and a registrant's right to work and remain on the register is not as important as maintaining the professional reputation of nurses. The panel was of the view that the nature of Mr Mutasa's misconduct is so serious that it would be very difficult to remedy and there is a likelihood of repetition, and therefore, suspending his practice for a period of time may not change his attitudes and behaviour. Furthermore, the panel was of the view that a well-informed member of the public would be concerned if he were allowed to return to the register.

The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mr Mutasa'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?*

The panel noted that Mr Mutasa's actions were a significant departure from the standards expected of a registered nurse and breached the fundamental tenets of the nursing profession. The panel was also of the view that Mr Mutasa's proven actions are fundamentally incompatible with him remaining on the register. The panel was of the view that the findings in this particular case demonstrate that his actions were serious and to allow him to continue practising would undermine public confidence in the profession and in the NMC as the 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. The panel determined that this is the only order that would sufficiently protect patients and members of the public, whilst maintaining professional standards and upholding public confidence in the nursing profession, by removing an individual with attitudes and behaviours that are not compatible with remaining on the register. Having regard to the effect of Mr Mutasa's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves, the panel has concluded that nothing short of this would be sufficient in this case.

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

This will be confirmed to Mr Mutasa in writing.

### **Submissions on interim order**

The panel took account of the submissions made by Ms Chapman. She invited the panel to impose an interim suspension order for a period of 18 months on the grounds of public

protection and in the public interest. She submitted that as the striking-off order will not take effect until after the 28-day period or until an appeal is disposed of or withdrawn, an interim order is necessary and proportionate to cover this intervening period to protect the public and meet the public interest in light of the serious concerns found.

The panel accepted the advice of the legal assessor.

### **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 determined that the charges found proved are so serious that they warrant a striking off order, therefore Mr Mutasa should be restricted from practice during the appeal period.

The panel has therefore imposed an interim suspension order for a period of 18 months to allow for the possibility of an appeal to be made and determined.

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

That concludes this determination.