Nursing and Midwifery Council

Fitness to Practise Committee

Substantive Hearing

Monday, 23 June 2025 – Friday, 4 July 2025

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

Name of Registrant:	**Jonathan Cooper**
NMC PIN	91I5114E
Part(s) of the register:	Registered Nurse – Sub part 1 RNLD Learning Disabilities Nurse L1 - September 1994
Relevant Location:	Hampshire
Type of case:	Misconduct
Panel members:	Paul Hepworth (Chair, lay member) Jane Lewry (Registrant member) Karen Naya (Lay member)
Legal Assessor:	Charles Conway
Hearings Coordinator:	Ekaette Uwa
Nursing and Midwifery Council:	Represented by Selena Jones, Case Presenter
Mr Cooper:	Present and represented by Anthony James, instructed by the Royal College of Nursing (RCN)
Facts proved:	1ai, 1aii, 1aiii, 1b, 1c, 1d, 1e, 2a, 2b, 2c, 2d, 3a, 3bi, 3bii, 3c, 4b, 4c, 5, 6b, 6c, 7a (for 1ai, 1aii, 1aiii, 1b, 1c, 1d, 1e, 2a, 2b, 2c, 2d, 3a, 3bi, 3bii, 3c, 5 and 6b) 7b (for 1ai, 1aii, 1aiii, 1b, 1c, 1d, 1e, 2a, 2b, 2c, 2d, 3a, 3bi, 3bii, 3c, 5 and 6b), 8a(for 1ai, 1aii, 1aiii, 1b, 1c, 1d, 1e, 2a, 2b, 2c, 2d, 3a, 3bi, 3bii, 3c, 5 and 6b), 8b (for 1ai, 1aii, 1aiii, 1b, 1c, 1d, 1e, 2a, 2b, 2c, 2d, 3a, 3bi, 3bii,

	3c, 5 and 6b) and 8c (for 1ai, 1aii, 1aiii, 1b, 1c, 1d, 1e, 2a, 2b, 2c, 2d, 3a, 3bi, 3bii, 3c, 5 and 6b)
Facts not proved:	1f, 6a 7a (for 1f, 4a, 4b, 4c and 6a) and 7b (for 1f, 4a, 4b, 4c and 6a) 8a (for 1f, 4a) 4b, 4c and 6a),8b (for 1f, 4a, 4b, 4c and 6a) 8c (for 1f, 4a, 4b, 4c and 6a)
Fitness to practise:	Impaired
Sanction:	**Striking-off order**
Interim order:	**Interim suspension order (18 months)**

Decision and reasons on application to amend the charges

Ms Jones, on behalf of the NMC, made an application to amend the charges to include additional charges in respect of Colleague B.

The additional charges read as follows:

9) On an unknown date you pulled Colleague B's bra strap.

10) On an unknown date you made comments about Colleague B's body namely:

a) That her body shape was getting better,
b) and that "everything was just shooting out".

11) And your conduct in one or more of charges 9 to 10, amounted to harassment of Colleague A in that:

a) It was unwanted.
b) It related to Colleague B's sex.
c) It had the purpose or effect of violating Colleague B's dignity, and/or creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague B.

Ms Jones submitted that the proposed charges were proportionate and a fair reflection of the available evidence. She noted that the material relating to Colleague B had already been disclosed to you and was therefore within your knowledge. Ms Jones argued that the proposed charges were of a similar nature to the existing charges, and that they were relevant to the overall pattern of behaviour you exhibited towards women in the workplace. She submitted that their inclusion would not cause prejudice to you and that Colleague B would be attending the hearing to give evidence, providing you with the opportunity to challenge her account and for the panel to ask questions if it wished.

In response to a submission made by your representative, Ms Jones did not accept that there was any discord or history of animosity between you and Colleague B.

Mr James, on your behalf, opposed the application. He submitted that the proposed amendment would cause unfairness and result in significant prejudice to you. He emphasised that the charges had been drafted and confirmed by the NMC's Case Examiners with reference to Colleague A, and that the entirety of the case had been prepared on that basis. He submitted that adding new charges at this late stage – two and a half hours into Day 1 of the hearing – effectively introduced an entirely new case against you without prior notice.

Mr James further noted the volume of materials in the case, much of which contained references to other allegations, some redacted and others not, and he submitted that you were entitled to proceed on the basis of the charges as formally set out. He also submitted that the NMC had not reviewed the local investigation material in relation to Colleague B, nor had it been disclosed to you. He argued that the proposed amendment added considerable complexity, and that no proper justification had been provided for its timing.

Mr James submitted that the case had been under preparation for several years and that you had relied on the position that the case related exclusively to Colleague A. He argued that the failure to present these charges at an earlier stage deprived you of the opportunity to investigate and respond to them fully. He further submitted that there was a history of animosity between you and Colleague B, which might be relevant to the credibility of her evidence. He concluded that this was, in substance, a new case being brought without explanation and that permitting the amendment would be manifestly unfair.

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

The panel accepted that the proposed charges were similar in nature to the existing charges and that, if admitted, would be relevant in demonstrating a pattern of your behaviour, therefore making them relevant to the issues before it.

The panel noted that no adequate explanation had been offered by the NMC for it introducing the new charges part way into the first day of the hearing when the allegations had been referred to the NMC in 2021. The panel was also mindful that you had not been given forewarning of the proposed charges, nor had you had the opportunity to prepare a defence in respect of them.

The panel acknowledged that while the underlying evidence had been disclosed within the case bundles and was in the panel's opinion relevant to the charges laid before you, the specific allegations had not been formally charged, and therefore did not form part of the case you were ready to defend.

In reaching its decision, the panel took account of the overarching objective of protecting the public but balanced this with the requirement to ensure fairness to you. It concluded that allowing the amendment at this late stage would amount to unfairness and would cause injustice to you. The panel considered that the existing charges already cover a range of allegations which, if found proved, would be sufficient to engage the NMC's regulatory concerns.

The panel therefore refused the application to amend the charges.

Decision and reasons on application for special measures

Ms Jones, made an application for special measures in relation to Colleague A. She submitted that Colleague A is a vulnerable witness who has expressed significant anxiety, distress, and concern about giving evidence in your presence.

Ms Jones applied for two specific measures. First, that Colleague A should not be able to see you while giving her evidence. Second, that a further measure be put in place to prevent you from seeing Colleague A when she is giving her evidence.

Ms Jones submitted that these measures were necessary to support Colleague A in giving her best evidence. She stated that the concerns raised by Colleague A had previously been flagged, particularly when the NMC had initially understood that you would be attending the hearing virtually. She reminded the panel that Colleague A's evidence was central to the NMC's case and submitted that the proposed measures are proportionate and would not cause prejudice to you.

Mr James, on your behalf, confirmed that you did not object to the measure preventing Colleague A from seeing you. However, he opposed the application insofar as it would prevent you from seeing Colleague A. He submitted that this is a serious case with serious allegations, and you should be entitled to observe the demeanour of the witness giving evidence against you. Mr James also raised questions about the practical feasibility of shielding Colleague A from you in a hearing that you were attending in person.

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

Having heard the submissions of both parties, the panel allowed the application in full.

The panel was satisfied that Colleague A is a vulnerable witness. It considered that allowing her to give evidence without seeing you was a proportionate and necessary step to reduce the risk of further distress. The panel accepted the submission that she had expressed strong concerns about this and found it entirely reasonable that she is not required to see you while giving evidence.

The panel then turned to the request that you should also not be permitted to see Colleague A while she gives her evidence. It accepted that this was a more significant measure but noted that you were legally represented and would not be conducting the

cross-examination yourself. It found that your representative would be able to see the witness and observe her demeanour for the purpose of cross-examination. The panel was not satisfied that there would be any unfairness or disadvantage to you if you were unable to see the witness, particularly as you would still be able to hear her evidence in full.

The panel considered that permitting you to see Colleague A could inhibit her ability to give clear and coherent evidence and may affect the overall fairness and effectiveness of the hearing. The panel therefore concluded that special measures were justified in the circumstances. It determined that arrangements should be made to ensure that Colleague A cannot see you, and that you cannot see her, while she gives her evidence.

Details of charge

That you, a registered nurse,

1) On or around 19 and 20 June 2021:

    a) Made comments to Colleague A using words to the effect of:
        i) “What are you going to give me in return if I log you in my system?”
        ii) “You're my type because you're curvy and I never dated a Brazilian.”
        iii) “I like your ass.”

    b) On one or more occasions touched Colleague A’s leg.

    c) On one or more occasions moved your hand up Colleague A’s leg towards her groin.

    d) Told Colleague A that you loved her shape.

    e) Asked Colleague A if she had ever done anything (sexual) on her ass.

f) Asked Colleague A to play the “coconut game” which involved naming the person with whom you want to have sex.

2) On an unknown date/s made comments to Colleague A using words to the effect of:

a) “I love the way you are, I love your shape” making a curvy gesture with your hand

b) “You need a man in your life, you’re too pretty not to have a man in your life.”

c) “You're too uptight, I want you to be mine”

d) “You’ve been good, I’m going to write good things.”

3) On or around 24 July 2021:

a) On one or more occasions asked Colleague A to play the “coconut game” with you, choosing you as her coconut.

b) made comments to Colleague A using words to the effect of:

i) “I like it when you're angry, I want to kiss you.”

ii) “I’m going to jump in to kiss you.”

c) moved towards Colleague A to kiss her.

4) On an unknown date in July 2021 in conversation with Colleague A:

a) Called Colleague A a “bitch” on one or more occasions.

b) Used the word “fuck” on one or more occasions.

c) Were rude and aggressive in manner.

5) On or around 25 July 2021 said words to the effect of “I just want to hug you and see you” to Colleague A.

6) In or around 25 July 2021 sent inappropriate text messages to Colleague A in connection with:

   a) Your previous behaviour.

   b) Wanting a hug.

   c) A proposed meeting in the car park.

7) And your conduct as specified in one or more of charges 1 to 6 was sexually motivated

   a) in pursuit of a future sexual relationship

   b) in pursuit of sexual gratification

8) And your conduct in one or more of charges 1 to 6, amounted to harassment of Colleague A in that;

   a) It was unwanted.

   b) It related to Colleague A’s sex.

   c) It had the purpose or effect of violating Colleague A’s dignity, and/or creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague A.

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

Decision and reasons on application to admit additional documentary evidence

Mr James made an application to admit a document into evidence. He submitted that the document in question was a typed file note, prepared by Colleague A on the 19 of July 2021. He stated that the document contains allegations of bullying and shouting directed at Colleague A by Colleague C, and the support rendered by you to her.

Mr James submitted that the document is relevant as it was created and dated the same day on which Colleague A alleges that you sexually assaulted her. He argued that the content and timing of the document go to the wider context of that day and to Colleague A's state of mind. He acknowledged that the NMC may question the provenance of the document but stated that you would give evidence in relation to how the document came to be created. He submitted that it is fair and just for the panel to admit the document into evidence so that its provenance and the weight accorded to it can be assessed during the course of the hearing.

Ms Jones opposed the application. She questioned the provenance of the document and submitted that the NMC does not know where it came from or whether it in fact originated from Colleague A. She noted that the document is unsigned and that the NMC has not had the opportunity to discuss the document with Colleague A or obtain her view on its content or authorship. She also submitted that Colleague C, who is named in the document, will not be attending the hearing and will not be giving evidence. Ms Jones further noted that the document was produced late in the proceedings, specifically on Day 2 of the hearing. She concluded that the matter is ultimately for the panel to determine.

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

In reaching its decision, the panel considered the provisions of Rule 31 of the Rules, which provides that the panel may admit evidence that is fair and relevant, even where such evidence would not be admissible in civil proceedings.

The panel acknowledged the concerns raised by the NMC regarding the provenance and timing of the document. It accepted that the NMC had not had the opportunity to verify the authorship of the document with Colleague A. However, the panel was satisfied that the document is relevant to the matters in issue and has probative value. It noted that Colleague A is due to give live evidence and that the parties, including the NMC, will have the opportunity to explore the provenance of the document with her through cross-examination.

The panel considered that the admission of the document would not unfairly prejudice either party, and that the appropriate course is to admit the document and determine what weight should be attached to it after hearing all the evidence.

Accordingly, the panel granted the application to admit the document into evidence.

Decision and reasons on agreed redactions

During the course of the hearing, both parties notified the panel that they had reached an agreement on certain redactions to be made to the case bundles. These redactions included, amongst others, references to the pulling of Colleague B's bra strap by you.

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

The panel, of its own volition, decided against the agreed redactions concerning the pulling of Colleague B's bra strap.

In making its decision, the panel took into account its earlier determination to refuse the NMC's application to amend the charges to include new allegations relating to Colleague

B, including the specific allegation of you pulling her bra strap. The panel reiterated that its decision to refuse that application was not based on a finding that the allegation lacked relevance or probative value, but rather on the unfairness in introducing new charges at a late stage.

The panel in that decision acknowledged that the proposed charges were similar in nature to the existing ones and that they could serve demonstrate a pattern of your behaviour.

The panel noted that the allegations concerning the pulling of Colleague B's bra strap appears in multiple places across the case bundles, and that you have had sight of this material well in advance of the hearing. The panel considered that you had therefore been on notice of these specific allegations for some time, notwithstanding that they were not formally charged. Moreover, the panel found that other references to the bra strap allegation remain within the bundles and there has been no request for their redaction by either party. It considered that allowing selective redactions of some references to the bra strap, while leaving others intact, would create inconsistency and hinder the panel's ability to fairly and holistically assess the evidence before it.

In deciding whether to allow redactions of these references, the panel had regard to the principles in *The Professional Standards Authority for Health and Social Care v The Nursing and Midwifery Council, Ms Winifred Nompumelelo Jozi [2015] EWHC 764 (Admin)*. The panel finds that the references to the pulling of Colleague B's bra strap are clearly relevant to the broader assessment of your behaviour, particularly given the nature of the existing charges. It was of the view that they may assist the panel in establishing whether or not a pattern of inappropriate and sexually motivated conduct towards female colleagues can be identified, which is central to the issues in this case.

The panel also noted that Colleague B is due to give live evidence, and both parties will have the opportunity to question her, allowing any concerns about the credibility or weight of her evidence to be properly tested.

The panel determined that it was not bound to accept the agreement between the parties, particularly where it considers that the proposed redactions would undermine the panel's ability to properly discharge its regulatory function. It finds that the redactions sought in relation to the bra strap allegations are not justified and would result in the exclusion of material that is relevant, probative, and properly before the panel.

Accordingly, the panel refused the redactions relating to the pulling of Colleague B's bra strap. It allowed all other agreed redactions.

Decision and reasons on application for parts of the hearing to be held in private

During the course of the hearing, Mr James, on your behalf, made an application for parts of the hearing to be held in private on the basis that the proper exploration of your case involves references to your health. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', (the Rules).

Ms Jones did not oppose this application.

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

Having heard that there will be references to your health, the panel determined to go into private session as and when such issues are raised in order to protect your right to privacy.

Background

The charges arose whilst you were employed as a Band 6 Nurse at Bluebird House ('the Unit'), part of Southern Health NHS Trust. You were referred to the NMC on 19 October

2021 by Colleague A, an agency support worker engaged through OneCall24, who worked at the Unit.

The referral concerns a series of incidents that allegedly occurred in June and July 2021, during the period of your employment at the Unit. Colleague A returned to work on 19 June 2021 after a period of absence and described her shift that day as stressful. She reported that during the course of that shift, you made an inappropriate comment when she asked for assistance with logging onto the computer system in order to write an incident report, allegedly saying, “what are you going to give me in return if I log you in my system”. Colleague A stated that the comment made her feel uncomfortable.

She further alleged that while she was completing the incident report, you moved close to her and touched her leg. Colleague A stated that she left the room as she was distressed, extremely uncomfortable and vulnerable. When she returned, you resumed touching her leg, including moving your hand up and down towards her private area (between her legs), at which point she moved away. Colleague A alleges that on the following day, while completing the same incident report, you again sat beside her, touched her leg.

You are also alleged to have said that you loved her “shape”, asking whether she had ever done anything “sexual” to her “ass”. You are also alleged to have told her you were getting a divorce and “wanted to get with” her and encouraged her to play a game called the “Coconut game”, which involved ranking colleagues in order of sexual preference.

Colleague A reported that she then approached two colleagues, Colleague B and Witness 1, requesting not to be scheduled to work with you. However, on a subsequent occasion, she suspected that you had swapped shifts in order to be on duty with her. She described an incident in which you invited her into the nurse’s office, again commented on her shape, made curving gestures with your hands, and said, “you need a man in your life, you’re too pretty not to have a man in your life, you’re too uptight, I want you to be mine”. Later that same day, when Colleague A asked you to sign her timesheet, you allegedly said, “you’ve been good, I’m going to write good things”.

On a further occasion in July 2021, Colleague A stated that you approached her at a serving hatch while she was on duty. A disagreement took place concerning your handling of a patient meal, during which you are alleged to have said, “I like it when you’re angry, I want to kiss you”, before stating, “I’m going to jump in to kiss you” and leaned forward as if to kiss her. Colleague A said she closed the hatch and left to the bathroom in tears.

Colleague A made a formal complaint to the Trust in August 2021 and also reported the matter to the police.

Decision and reasons on facts

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

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

- Colleague A: A support worker working at the Unit during the period of the incidents

- Witness 1: A locum charge nurse employed at the Unit during the time of the incidents

- Witness 2: Team leader/ Forensic Specialist Nurse Practitioner at the Trust during the time of the incidents

- Colleague B: Charge nurse at the Unit during the time of the incidents

- Witness 3: Nursing Associate employed at the Unit during the time of the incidents

The parties accepted that the witness statements of Witness 4, Witness 5 and Witness 6 should be received into evidence.

The panel also heard evidence from you under oath.

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 James on your behalf. This included but not limited to oral testimony of witnesses, written witness statements, and the documentary case bundles. The panel assessed the evidence before it and considered the reliability, the consistency and plausibility of the accounts presented.

As mentioned in the preliminary stages of this determination, the panel was invited to consider an application from the NMC to amend the charges to include additional allegations arising from the evidence of Colleague B, specifically in relation to the alleged pulling of her bra strap and other inappropriate comments and gestures. The panel determined that it would be unfair to permit the addition of new charges at this late stage. However, the panel found the evidence of Colleague B to be relevant to the issues before

it, as it had the potential to show your propensity in behaving in a similar way towards other women in the workplace.

The panel heard live evidence from Colleague B, including her account of inappropriate conduct and her demonstration of a gesture you made when commenting on her changing body shape. In response, you denied making inappropriate remarks but admitted to stroking her shoulder to feel the fabric of her "*blue silk shirt*". You denied pulling her bra strap.

The panel accepted the account of Colleague B and rejected your account. The panel found that your conduct in relation to Colleague B was relevant in relation to Colleague A, because, as mentioned earlier, it has the potential to demonstrate your propensity to commit acts of unwanted sexual behaviour in a similar way towards another in the workplace.

The panel also considered your own live evidence, in which you admitted to having feelings for Colleague A and described them as similar to what you had felt when meeting your first and second wives. When giving evidence, the panel observed you placing your hand on your chest and making a gesture as if touching your heart and using the word "love" in relation to Colleague A. You've said it was like electricity flowing in terms of your feelings for her and there was a vibe between you, in your opinion. When discussing the "coconut game," you stated that you wanted to be included on Colleague A's list and likened the interaction to a game of "Noughts and Crosses." Notably, and without prompting, you added that Colleague B would be "at the bottom" of your coconut list. The panel interpreted that in the context of the game that was described to them, this meant that she would be at the bottom of your list in terms of someone that you wanted to have sex with.

The panel weighed all of this evidence in its assessment of each of the charges when assessing your credibility.

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

Charge 1ai

1) That you, a registered nurse, On or around 19 and 20 June 2021:
    a) made a comment to Colleague A using words to the effect of:
        i) “What are you going to give me in return if I log you in my system?”

This charge is found proved.

In reaching this decision, it was noted that it is not in dispute that Colleague A completed her report whilst logged onto the computer using your credentials. This was supported by metadata, which clearly showed that you were the logged-in user at the time in question. The panel accepted Colleague A’s evidence that she requested assistance from you to log in, as she did not have her own login details as an agency worker.

The panel found that Colleague A gave a clear, consistent, and credible account of this interaction. She explained that the remark made her feel uncomfortable and that it was unsolicited and inappropriate. The panel considered your denial but did not find it persuasive. It found that your account of the incident did not undermine Colleague A’s version of events.

The panel also considered the wider context and culture within the unit. It heard from Witness 3, who described the environment as one where there was a lot of banter, and from Witness 6 , who in his local interview when asked about the allegation of sexual harassment by you towards colleague A said “*there has been a couple of occasions where I have been present and heard or been in the same office*” confirming that there were occasions when he was present and heard, or was in the same room as, similar remarks.

The panel also considered your own characterisation of the "*vibe*" you perceived when working with Colleague A, which you said reflected a connection between you interpreted as mutual, something the panel found to be overstepping professional boundaries.

Taken together, the evidence painted a picture of a unit where banter and inappropriate workplace comments were not uncommon. Within this context, the panel found it plausible and consistent with your behaviour that you made a sexually suggestive comment to Colleague A when asked for assistance. The panel considered this remark to be inappropriate, unprofessional, and reflective of an abuse of the power imbalance between a registered nurse and an agency support worker.

The panel was therefore, satisfied on the balance of probabilities, that you did make the comment using words to the effect alleged. Charge 1a) i) is therefore found proved

Charge 1aii

1) That you, a registered nurse, On or around 19 and 20 June 2021
    a) Made a comment to Colleague A using words to the effect of:
        iii) "You're my type because you're curvy and I never dated a Brazilian."

This charge is found proved.

In reaching this decision, the panel considered Colleague A's evidence that you made this comment to her during an interaction that she found inappropriate. Her account was clear, consistent and the panel was satisfied that her account was credible.

Your explanation during live evidence was that Colleague A had asked whether she was your type and that he had merely responded to her question. The panel did not find your explanation persuasive.

The panel considered the evidence of Witness 3, who stated during the local investigation, *"… he said she was his type. I'm not sure if there was flirting between them."* The panel accepted this as contemporaneous support for Colleague A's account. It also found that Witness 3's phrasing, while uncertain about whether the dynamic was mutual, provided direct support for the fact that you had commented on Colleague A being your type.

Furthermore, the panel considered the evidence of Colleague B, who demonstrated the hand gestures you were said to have used when referencing her body shape. These gestures, described as mimicking curves, were consistent with the comment to Colleague A about her being "curvy" and reinforced the panel's view that you were drawing attention to her physical appearance in an inappropriate and sexualised manner.

The panel also took into account your own language in cross-examination, where you described feeling a "vibe" and likened your meeting of Colleague A to meeting your first and second wives. The panel found this language revealing of your own mindset at the time and consistent with someone who viewed their interactions with Colleague A in romantic or sexualised terms, irrespective of whether such feelings were mutual or not.

Taken together, the panel determined that you made a comment to Colleague A using words to the effect alleged. The panel also considered that this comment was unsolicited, inappropriate in the professional context, and reflected an ongoing pattern of personal and sexualised remarks directed towards Colleague A.

Charge 1a) ii) is therefore found proved.

Charge 1aiii

1) That you, a registered nurse, On or around 19 and 20 June 2021:
    a) Made a comment to Colleague A using words to the effect of:
    iii) "I like your ass."

This charge is found proved.

In reaching this decision, the panel considered the evidence of Colleague A, who stated that you made this comment during one of a number of interactions in which you directed sexualised remarks toward her. In her witness statement, she recalled: *"John made further comments to me such as 'you're my type because you are curvy and I never dated a Brazilian, I like your ass.' I felt extremely uncomfortable and just said okay."* In live evidence Colleague A stated that you asked words to the effect of if she had had a "*butt lift*". The panel found her account to be clear, specific, and consistent with other elements of her evidence. It accepted her description of the comment and the context in which it was made.

The panel preferred Colleague A's evidence over yours. It found that her reaction, discomfort and disengagement was consistent with someone experiencing repeated, unwanted sexualised attention.

The panel noted that you denied making the comment but accepted that you had a "jokey" nature and that you sometimes spoke without thinking as stated by Witness 3 during the local investigation where she stated that: *".... He is clumsy with words-he will say it how it is, speaks before he thinks."* You also admitted to having felt a connection towards Colleague A, which the panel considered relevant in assessing the likelihood of such a comment being made. Your own characterisation of your interactions, as well as your admission that you felt a "*vibe*" between you and Colleague A, supported the panel's conclusion that your behaviour towards Colleague A went beyond friendly workplace banter.

The panel also placed weight on the evidence of Witness 6, who stated during the local investigation: *"… there were a couple of flirtatious comments which could have been in a sexual nature from [you] I suppose."* This evidence corroborated the assertion that you made flirtatious or sexually suggestive remarks. That view was further reinforced by Witness 1 and Colleague B that you engaged in similar behaviour with others, including inappropriate or overly familiar comments.

Given your conduct, your own admissions, and the cultural context of the unit, the panel found it entirely plausible that you would have made a comment such as "*I like your ass*" to Colleague A. It also found that your conduct during this period was increasingly fixated on Colleague A's physical appearance, particularly her body shape, as demonstrated by the repetition of similar comments and gestures towards Colleague B.

Accordingly, the panel was satisfied, on the balance of probabilities, that you did make the comment using words to the effect of: *"I like your ass."*
Charge 1a) iii) is therefore found proved.

Charge 1b

1) "That you, a registered nurse, On or around 19 and 20 June 2021:
    b) On one or more occasions, touched Colleague A's leg.

This charge is found proved.

In reaching this decision, the panel took into account the totality of the evidence presented in relation to this charge and found that there was consistent and credible support for the allegation that you touched Colleague A's leg on more than one occasion during the relevant period.

In her contemporaneous written statement dated 5 August 2021, Colleague A clearly stated that you touched her leg more than once and described the contact as unwanted and distressing. This account was supported by her oral evidence, which the panel found to be consistent, and credible. She also described her immediate physical responses to the contact, including shifting her body away, leaving the room, and going to the toilet to cry, behaviours which the panel found to be entirely consistent with someone experiencing unwelcome physical contact.

The panel also had regard to the evidence from the local investigation. In her interview, Colleague A described you starting to touch her knee, which she described as part of a wider pattern of sexualised and inappropriate conduct. This evidence was consistent with the content of her formal statement and her oral testimony before the panel.

In addition to Colleague A's account, the panel took into consideration the evidence of Witness 1, who stated in his witness statement: *"On one occasion [Colleague A] had said to me [you] was touching her legs and she kept shifting…"* The panel found it lent weight to the reliability of Colleague A's contemporaneous disclosures and indicated that she raised the matter informally with two senior nurses around the time it occurred.

Importantly, you yourself admitted during both your live evidence and written witness statement that you touched Colleague A albeit briefly as part of your *"normal actions,"* and portrayed yourself as a "*touchy*" person, the panel considered this to be a partial admission. In the panel's view, your own description of your conduct, when viewed alongside the broader context and Colleague A's account, supported the conclusion that the physical contact went beyond incidental or professional boundaries.

The panel was satisfied that the contact described by Colleague A was deliberate, repeated, and of a nature that made her clearly uncomfortable. It rejected your characterisation of the touching as benign or unintentional.

Therefore, charge 1b) is found proved.

Charge 1c

1) That you, a registered nurse, On or around 19 and 20 June 2021:
    c) On one or more occasions, moved your hand up Colleague A's leg towards her groin.

This charge is found proved.

In reaching this decision, the panel considered the evidence of Colleague A to be clear, consistent, and credible. In her accounts, she described you touching her leg and moving your hand upward in a manner that made her feel extremely uncomfortable, leading her to shift away and eventually leave the room. Her description of the movements beginning on the knee and progressing upwards towards her private part remained consistent throughout both her written and oral evidence. The panel was satisfied that her description of events reflected genuine discomfort and an accurate recollection of what occurred.

The panel also placed significant weight on the evidence of Witness 1, who stated in his witness statement and in live evidence: *"On one occasion, [Colleague A] had said to me that [you] was touching her legs and she kept shifting but his hands were drifting towards private parts so she was uncomfortable and left."* The panel accepted this as a reliable contemporaneous disclosure, made by Colleague A close to the incident occurring. It found this to be consistent with Colleague A's overall description of events and demonstrative of the seriousness of her concern at the time.

The panel carefully considered the submissions made on your behalf, including the point that Colleague A did not use the phrase *"private parts"* in her formal internal statements. However, the panel had regard to the records of the local investigation, in which Colleague A was asked directly, *"Just so I can be clear, where abouts was he touching you?" and she responded, "He started on my knee and moved his hand up."* The panel considered this to be a clear indication that the direction of movement was upward along the thigh, in the direction of the groin area.

Whilst Colleague A may not have used the term *"private parts"* in her initial statement, the panel considered that her description when taken as a whole, inferred an unambiguous progression of touch from the knee upwards. The panel therefore accepted the submission that there was no specific reference to "private parts" in her internal statement, but it was satisfied that the direction of your hand, as described, was towards the groin.

The panel noted that following this incident, Colleague A stated that she approached Witness 1 and Colleague B asking to be rostered away from you or not rostered on shifts when you would be alone together, and both Witness 1 and Colleague B confirmed this in their evidence.

The panel rejected your account, in which you denied the allegation. In light of the consistent and supported evidence from Colleague A and the disclosure to colleagues around the time of the incident, the panel did not find your denial persuasive.

Having weighed the evidence in the round, the panel was satisfied, on the balance of probabilities, that you did, on one or more occasions, move your hand up Colleague A's leg towards her groin.

Charge 1c) is therefore found proved.

Charge 1d

1) That you, a registered nurse, On or around 19 and 20 June 2021:
    d) Told Colleague A that you loved her shape.

This charge is found proved.

In reaching this decision the panel carefully considered the evidence of Colleague A, Colleague B, and yours in relation to this allegation. It found Colleague A's evidence to be consistent and credible. She described you making a comment about loving her shape in a manner that made her feel uncomfortable. Her account was supported by the wider pattern of inappropriate and personal remarks she attributed to you during the same period.

The panel also had particular regard to the live evidence of Colleague B, who described a gesture made by you when referring to her body. Colleague B demonstrated this gesture

in the hearing, and the panel accepted her evidence that it was used by you in a suggestive and inappropriate context. The panel considered this to be persuasive and corroborative, demonstrating that you had a tendency to make remarks of a sexualised nature accompanied by physical gestures referring to a colleague's body shape.

Although you denied making the comment, the panel found your account to be unconvincing in light of the weight of evidence against you. It also noted your earlier admissions regarding your feelings towards Colleague A and the *"vibe"* you felt when interacting with her, which the panel considered revealing of an unprofessional blurring of boundaries.

Taking all the evidence into account, the panel was satisfied, on the balance of probabilities, that you did tell Colleague A that you loved her shape. The panel considered the comment to be personal, sexualised, and wholly inappropriate in a workplace setting, particularly given the power imbalance between you and Colleague A.

Charge 1d) is therefore found proved.

Charge 1e

1) That you, a registered nurse, On or around 19 and 20 June 2021:
    e) asked Colleague A if she had ever done anything (sexual) on her ass.

This charge is found proved.

The panel considered the evidence of Colleague A, Colleague B, and yours in respect of this charge. It had particular regard to the witness statement of Colleague A, in which she stated: "*[you] commented that he loved my shape and asked if I've done anything (sexual) on my ass."* The panel found this account to be specific, and consistent with the broader pattern of sexually motivated comments she attributed to you. Her oral evidence remained

consistent with her written account, and she further referenced you asking her if she had had a *“butt lift,”* or words to that effect. The panel found her account to be credible.

The panel also considered the evidence of Colleague B, who gave both written and live evidence about you making inappropriate comments and gestures directed at her body, including hand movements that mimicked curves. The panel considered this evidence relevant in assessing your pattern of behaviour and attitude towards female colleagues. It found Colleague B’s evidence to be credible and supportive of Colleague A’s description of a sexually inappropriate workplace dynamic fostered by you. The panel also took account of your denial of making this comment. However, your general explanations during both written and live evidence were not persuasive.

The panel was also mindful that English is Colleague A’s second language and considered whether any linguistic misunderstanding could have occurred. However, it was satisfied that her understanding of what was said, and her ability to report it accurately, were not diminished. Her reference to the remark in both written and oral evidence was sufficiently detailed and contextually consistent to support a reliable finding.

Taking all the evidence into account, and recognising the cumulative effect of repeated inappropriate remarks, the panel determined that it was plausible and more likely than not that you made this comment or words to that effect towards Colleague A.

Therefore, charge 1e) is found proved.

Charge 1f

1) That you, a registered nurse, On or around 19 and 20 June 2021:
    f) asked Colleague A to play the “coconut game” which involved naming the person with whom you want to have sex.

The panel first noted that there was no dispute that the *"coconut game"* was played in the Unit and that both you and Colleague A participated in it at some point. You admitted during your live evidence that you asked Colleague A to include you on her grid in the game. This was supported by the statement of Witness 6, who stated during the local investigation that *"…[Colleague A] had done one and [you] was pressing her to get his name on the list."* The panel accepted this as corroborative evidence that you did, at some point, invite Colleague A to include you in the game, and that the context of the game was inappropriate and of a sexualised nature.

However, the panel also had to consider the specific timing of the allegation. The charge as drafted refers to the comment being made *"on or around 19 and 20 June 2021."* The panel carefully reviewed the evidence presented and found that, while there was sufficient evidence to conclude that you participated in and encouraged the playing of the game, there was no clear or reliable evidence establishing that this occurred on or around the dates alleged in the charge.

Neither Colleague A's evidence nor that of any other witness could place the relevant interaction specifically within the timeframe of 19 and 20 June 2021. The panel noted that the timing of other proven charges from that period was better substantiated, but in this instance, the evidence of date and sequence was too vague to support a finding that the request to play the coconut game occurred during that specific period.

The panel concluded that while it found it likely that you encouraged or engaged in the game at some point, the NMC had not discharged the burden of proving that this occurred on or around the dates specified in the charge.

Therefore, charge 1f) is found not proved.

Charge 2a

2) On an unknown date, made comments to Colleague A using words to the effect of: a) “I love the way you are, I love your shape,” making a curvy gesture with your hand.

This charge is found proved.

The panel considered the totality of the evidence in relation to this charge and was satisfied, on the balance of probabilities, that you made the comment alleged, accompanied by a gesture that mimicked Colleague A’s body shape. The panel placed significant weight on the live evidence of Colleague B, who demonstrated the specific gesture you were said to have made in reference to her body. The panel found her to be a credible witness who gave a clear account of events. It found her evidence to be consistent with the allegation that you made inappropriate and sexualised comments in the workplace, supported by physical gestures that objectified female colleagues.

The panel also considered your own evidence. In your live testimony, you spoke openly about the “*vibe*” you felt with Colleague A and described having strong feelings towards her and demonstrated this by placing your hand over your heart. The panel found this revealing of your mindset at the time. Your own admissions reinforced the panel’s view that the comment and gesture attributed to you were entirely consistent with your broader attitude towards Colleague A.

The panel rejected your denials. In the context of the other comments, you were found to have made and given your general pattern of behaviour towards Colleague A, the panel found it more likely than not that you did make the remark and accompanying gesture. It was satisfied that the comment was inappropriate and sexually motivated and formed part of a wider pattern of conduct that disregarded boundaries in the workplace.

Therefore, charge 2a) is found proved.

Charges 2b and 2c

2) On an unknown date, made comments to Colleague A using words to the effect of:
   b) “You need a man in your life, you’re too pretty not to have a man in your life.”
   c) “You're too uptight, I want you to be mine.”

These charges are found proved.

The panel carefully considered the evidence presented by both parties in relation to these charges. It placed significant weight on the witness statement and oral evidence of Colleague A, who described being called into the nursing office by you and being subjected to a series of inappropriate and personal remarks. Among these, she recalled you saying, *“I love the way you are, I love your shape,”* accompanied by a curvy gesture, comments which the panel has already found proved. She further stated that during the same or similar interactions, you made remarks to the effect of: *“You need a man in your life, you’re too pretty not to have a man in your life,”* and *“You’re too uptight, I want you to be mine.”*

The panel found that Colleague A’s evidence in respect of these comments was consistent across the internal investigation records, her formal witness statement, and her live oral evidence. The panel found her account to be credible and reliable witness. Her description of being uncomfortable and uncertain how to respond aligned with her actions at the time, including raising concerns with colleagues and seeking to avoid future shifts with you.

The panel also took into account Colleague A’s live evidence, in which she stated that you always made these comments and that most of your interactions with her occurred in the nursing office when you were alone. It noted your admission to feeling a “*vibe*” between you and having developed feelings towards Colleague A. The panel found that this context supported the plausibility of the remarks attributed to you, particularly given the inappropriate nature of the other comments you were found to have made.

The panel rejected your denials. It considered that your evidence lacked credibility when weighed against the detailed and consistent account provided by Colleague A. It found that the language and tone of the comments were in keeping with a pattern of behaviour that blurred professional boundaries and reflected a sexualised and unwelcome interest in Colleague A.

Having considered all of the evidence in the round, the panel was satisfied, on the balance of probabilities, that you made both comments as alleged.

Therefore, charges 2b) and 2c) are found proved.

Charge 2d

2) On an unknown date, made comments to Colleague A using words to the effect of:
   d) "You've been good, I'm going to write good things."

This charge is found proved.

The panel considered your evidence, that of Colleague A, and supporting witness material in determining this charge, particularly the signed time sheet. In her witness statement, Colleague A stated that you said to her, *"you've been good, I'm going to write good things."* She explained that this comment was made when she asked you to sign her timesheet, and that it made her feel deeply uncomfortable. In her oral evidence, Colleague A stated that it made her *"feel bad"* and *"like a prostitute."* The panel accepted that her reaction reflected that she experienced the remark not as light-hearted or professional, but as inappropriate and transactional in tone.

The panel had sight of the timesheets in the exhibit bundle and noted the comments recorded by you about Colleague A's work. While the comments themselves were not problematic, the panel considered the context in which Colleague A said the remark was made. The panel noted that it followed sexually inappropriate touching, comments and gestures and she was dependent on you as the shift manager to sign off her time sheet so

that she could be paid, and because you had the power to offer her more work. It found that, in light of the wider pattern of sexually suggestive and personal comments directed toward her, your comment took on a different and inappropriate meaning.

The panel also considered the evidence of other colleagues. Multiple witnesses, both in live evidence and in their statements, referred to your jokey manner and tendency to make inappropriate or flirtatious comments. In particular, the panel gave weight to the statement of Witness 6 from the local investigation, who noted: *"… there were a couple of flirtatious comments which could have been in a sexual nature from [you] I suppose."* This supported the view that you made sexualised remarks.

You denied making the comment in the manner alleged. However, the panel did not find your denial persuasive, especially when considered alongside your admissions that you had feelings for Colleague A.

Taking all of the evidence into account, including Colleague A's consistent account, the supporting documentary evidence, and the broader context of your conduct, the panel was satisfied, on the balance of probabilities, that you did make the comment using words to the effect alleged.

Therefore, charge 2d) is found proved.

Charge 3a

3) On or around 24 July 2021:
    a) on one or more occasions, asked Colleague A to play the "coconut game" with you, choosing you as her coconut.

This charge is found proved.

The panel considered both Colleague A's evidence and yours, along with supporting material from the local investigation. In your own witness statement and during live

evidence, you admitted that you asked to be included in Colleague A's grid during the "coconut game," stating, *"I just wanted to be on the list."* The panel noted that while you sought to portray this as harmless workplace banter, you nevertheless acknowledged making a direct request to Colleague A in the context of a game with clearly sexualised content.

The panel also had regard to the evidence of Witness 6, who stated during the local investigation: *"…[Colleague A] had done one and [you] was pressing her to get his name on the list."* The panel accepted this as independent corroboration that you pursued inclusion in Colleague A's grid and applied pressure for a response.

The panel considered the nature of the game, which involved naming colleagues with whom one would hypothetically want to engage in sexual activity. It found that your request to be included, particularly given your position of seniority was inappropriate and sexual in nature.

The panel rejected any suggestion that the comment was harmless or part of a mutual dynamic. It noted that Colleague A made clear that she was uncomfortable with the game and found your participation and comments unwelcome. In her evidence Colleague A repeatedly stated that she played the game in order to fit in with the team and to be friendly. Your insistence on being included in the game, despite the clear power imbalance and context of previous inappropriate remarks, further demonstrated a disregard for professional boundaries.

Taking all of the above into account, the panel was satisfied, on the balance of probabilities, that you did ask Colleague A to play the "coconut game" with you, and to choose you as her "coconut."

Therefore, charge 3a) is found proved.

Charge 3b(i)

3) On or around 24 July 2021:
    b) made a comment to Colleague A using words to the effect of:
        i) “I like it when you're angry, I want to kiss you.”

This charge is found proved.

The panel had regard to your evidence, that of Colleague A, and Witness 2 in particular the Facebook messages between you and Colleague A in determining this allegation. In her live evidence, Colleague A recalled a specific interaction with you on 24 July 2021 during a disagreement at the serving hatch. She stated that you said words to the effect of *“you look pretty when you're angry,”* which she regarded as inappropriate. The panel found her account to be consistent with her written statement and credible.

The panel also had regard to the live evidence of Witness 2, who stated that she observed an *“animated conversation”* between you and Colleague A while reviewing the CCTV footage, which had no audio sound, during the local investigation. While the CCTV footage itself was not available to the panel, and Witness 2’s evidence supported the timing and nature of the interaction described by Colleague A, and the panel accepted her account as reliable.

The panel considered your denial of using the precise words alleged but noted that during your live evidence you acknowledged you had been attempting to *“console”* Colleague A following the disagreement. You stated that any reference to kissing was made in a *“nurturing”* or *“supportive”* context, rather than a romantic or sexual one. You also gave an instance where you consoled another colleague by hugging them when requested and kissing them on the head.

The panel found this explanation unconvincing in the context of the language alleged, the wider pattern of inappropriate and sexually suggestive comments already found proved, and the power imbalance that existed between you and Colleague A. The panel was

satisfied that, taken in context, the comment as recalled by Colleague A was made with inappropriate undertones, and that it contributed to a pattern of behaviour in which professional boundaries were consistently crossed.

Having weighed the evidence, the panel was satisfied, on the balance of probabilities, that you made the comment using words to the effect alleged.

Therefore, charge 3b)i) is found proved.

Charge 3b(ii)

3) On or around 24 July 2021:
    b) made a comment to Colleague A using words to the effect of:
        ii) "I'm going to jump in to kiss you."

This charge is found proved.

The panel carefully considered the direct and supporting evidence in relation to this allegation and was satisfied, on the balance of probabilities, that you made the comment as alleged.

The panel had particular regard to the Facebook messages exchanged between you and Colleague A on 24 July 2021. In those messages, you wrote: "*I wanted to jump through the hatch"* and "*Honestly I think kissing you would have been a better outcome."* The panel found that these contemporaneous messages, sent immediately following the incident, provided strong corroboration of Colleague A's account.

The panel also considered the witness statement of Colleague A, in which she stated: *"I told him that I'm going to close the hatch. [you] responded 'I'm going to jump in to kiss you."* The panel found her account clear, direct, and consistent across written and oral evidence. She described feeling intimidated and uncomfortable, and stepping back in

response and closing the hatch. The panel found that this was consistent with someone experiencing unwanted and inappropriate conduct.

Further corroboration came from Witness 2, both in her witness statement and live evidence. Witness 2 stated that she observed you jerk your head towards Colleague A through the serving hatch and that you were *"almost nose-to-nose."* She also described how Colleague A physically stepped back in response to your movement. The panel found Witness 2 to be a credible witness whose account strongly supported Colleague A's version of events.

In addition, the panel had regard to the local investigation record of Witness 4, who stated: *"whilst on Hill ward she was giving something through the servery hatch and he was very intense with her and held her hand."* The panel considered this account to be further evidence of your inappropriate and physical conduct around Colleague A, particularly during interactions at the serving hatch. The panel heard evidence from Witness 1, that when the nurse in charge of that unit came back on duty, she found Colleague A "*hysterical*" and called Witness 1. Colleague A was distressed that she had been left alone with you despite requests for that not to happen.

The panel rejected your explanation that any references to jumping through the hatch or kissing were light-hearted or misinterpreted. In light of the contemporaneous Facebook messages, multiple corroborating witness accounts, and the wider pattern of behaviour already found proved, the panel found it more likely than not that the registrant made the comment as alleged and that it was both inappropriate and sexually motivated.

Therefore, charge 3b) ii) is found proved.

Charges 4 a, b, c

4) On an unknown date in July 2021, in conversation with Colleague A:
   a) Called Colleague A a "bitch" on one or more occasions.

b) Used the word “fuck” on one or more occasions.

c) Were rude and aggressive in manner.

These charges are found proved in part.

The panel first considered charge 4a) and found no evidence that the word “bitch” had been used in the conversation between you and Colleague A. As a result, this charge was found not proved.

The panel went on to consider charges 4b), and c) together as they arose from a single incident and were inextricably linked. It had regard to the totality of the evidence, including oral evidence, written statements, contemporaneous communications, and the parties’ respective accounts of the interaction.

The panel noted that the Facebook audio call between you and Colleague A on 24 July 2021 lasted approximately seven minutes. While the audio content was not available, the panel had sight of the surrounding Facebook messages exchanged shortly after the call. In those messages, you stated, *“I’m sure if you’d just gone with my decision it would have been fine. You were very emotional,”* to which Colleague A replied, “*You shouting at me on the phone… also it’s not good feeling.”* Colleague A then stated, *“I hate arguments,”* and you responded with a broken-heart emoji. The panel considered the tone and sequence of these messages to be consistent with Colleague A’s account of a hostile and emotionally charged phone call.

The panel placed particular weight on Colleague A’s contemporaneous handwritten statement dated shortly after the incident. In it, she wrote*: “In this evening when I got home I saw his message on Facebook saying he took that very personal. I did not reply the message. He call me and I tried to explain how I was feeling then he lashed out shouting at me and calling me names ‘F…’ and I asked not to be treated like that, then he hung up angry and started to text me.”* The panel found this account to be specific, and

consistent with her later formal witness statement and oral evidence. It also reflected the emotional impact the call had on her, which was evident during her live testimony.

In assessing your account, the panel noted your denial of using the specific language alleged. The panel did not find your evidence persuasive when viewed against the contemporaneous documentation and Colleague A's consistent account of the incident.

Having considered the evidence, the panel was satisfied, on the balance of probabilities, that during the course of this phone call you behaved in a rude and aggressive manner, used the word "fuck" on one or more occasions."

Accordingly, charges 4b), and 4c) are found proved and charge 4a) is not proved.

Charge 5

5) On or around 25 July 2021, said words to the effect of: "I just want to hug you and see you" to Colleague A.

This charge is found proved.

The panel carefully considered the contemporaneous messages between you and Colleague A, alongside oral and written evidence, in determining this charge. It had particular regard to the Facebook message sent by you to Colleague A on 25 July 2021 at 10:46pm, in which you stated: *"I just want that hug."* The panel accepted this message as direct and contemporaneous evidence of your use of language consistent with the charge.

The panel also considered additional Facebook messages from you to Colleague A on other dates, including *"Let's just forget it and hug it out," "Ok… hug when I see you,"* and *"We can hug it out then."* These messages, taken together, indicated a clear and repeated theme of the you wanting physical contact with Colleague A under the guise of

reconciliation or emotional support. The panel considered the repeated nature of these messages and the overall context of your relationship at the time to be significant.

Furthermore, the panel had regard to the local investigation record, which included evidence from Witness 4, who stated: *"... tried to arrange to meet outside before coming on duty as he wanted to hug her, phoning her…"* The panel found this account consistent with the broader pattern of contact initiated by you and reflective of your persistent attempts to see and touch Colleague A in and outside of professional settings.

In your live evidence, you explained that you commonly used the expression *"hug it out"* in response to disagreements and described instances where you hugged a colleague who was upset and requested a hug and a patient who hugged you. While the panel accepted that such gestures may, in other contexts, may be innocent or supportive, it did not accept that this was the case here. Given the pattern of unwanted and inappropriate comments already found proved, the panel concluded that these messages were unprofessional and unwanted.

The panel was satisfied that the repeated emphasis on physical closeness in your communications, particularly following an emotionally charged dispute, supported the conclusion that you said words to the effect of "I just want to hug you and see you" on or around 25 July 2021.

Charge 5 is therefore found proved.

Charge 6 a)

6) In or around 25 July 2021, sent inappropriate text messages to Colleague A in connection with:
    a) your previous behaviour.

This charge is found not proved.

The panel considered the evidence presented in relation to this charge and the context in which it was raised. It reviewed the relevant messages exchanged between you and Colleague A, including those sent on and around 25 July 2021. While the panel noted that there were messages of a personal nature during this period, it found that the charge lacked the necessary specificity to enable a fair and clear determination.

The panel was not directed to any particular message or group of messages that the NMC relied upon to establish this allegation, nor was it made clear what aspect of your "*previous behaviour*" the charge referred to. The panel considered this lack of clarity to be significant, as it could not reliably determine the factual basis of the charge without knowing which prior conduct or which specific messages were said to be inappropriate.

Although the panel had sight of various messages between you and Colleague A, including comments following the incident on 24 July 2021, it did not consider these messages, in the absence of further specification, to amount to clear evidence of an inappropriate communication with regards to this charge.

Accordingly, due to the vagueness of the allegation and the lack of sufficiently identified evidence to support it, the panel was not satisfied, on the balance of probabilities, that this charge was proved.

Charge 6 a) is therefore found not proved.

Charge 6b

> 6) In or around 25 July 2021, sent inappropriate text messages to Colleague A in connection with:
> b) wanting a hug.

This charge is found proved.

The panel considered the Facebook message exchanges between you and Colleague A on and around 25 July 2021, alongside the oral and written evidence from both parties. It noted that you sent several messages to Colleague A which explicitly referenced wanting a hug, including statements such as *"I just want that hug," "Let's just forget it and hug it out,"* and *"Ok… hug when I see you."*
You also admitted in your live evidence explained that *"hugging it out"* was a phrase you commonly used when trying to reconcile after disagreements.

While the panel accepted that you may have used such language elsewhere, it found that the context in which these messages were sent rendered them inappropriate. The panel also noted that the messages were sent late at night between approximately 22:00 and 23:30 and through a personal account on a social media platform. It considered that the use of Facebook Messenger to communicate in this way with a junior colleague, demonstrated poor judgment and a disregard for professional boundaries.

The panel further considered the cumulative effect of your previous behaviour toward Colleague A, including sexually suggestive comments and conduct, and found that the request for physical contact framed as a "*hug"* could not be viewed as benign or harmless in the circumstances. Instead, it reinforced the power imbalance and unwanted personal attention that Colleague A had repeatedly described.

The panel concluded that the messages were inappropriate in tone, content, timing, and method of communication.

Accordingly, charge 6 b) is found proved.

Charge 6c

6) In or around 25 July 2021, sent inappropriate text messages to Colleague A in connection with:

c) a proposed meeting in the car park.

This charge is found proved.

The panel had regard to the Facebook message exchange between you and Colleague A, in which you wrote: *"Do you want to meet me at work before we start about 6:30 in those parking spaces you park at?"* Colleague A replied*: "Why do you want to meet before work?"* The panel found this to be clear and contemporaneous evidence that you had attempted to arrange a private meeting with Colleague A before the start of your shift.

The panel considered your live evidence, in which you stated that by this point you believed the disagreement between yourself, and Colleague A had been resolved. It noted that, despite this, you initiated contact late in the evening on a social media platform to arrange a face-to-face meeting before work. The panel found that this was inconsistent with professional conduct and workplace norms, particularly given your seniority and Colleague A's role as agency health care support worker.

The panel considered this proposed meeting inappropriate given your position of authority, the workplace context, and the prior conduct already found proved. It was satisfied that the message represented a further blurring of professional boundaries and was an unwelcome and unnecessary attempt to create a private interaction outside the formal work environment.

Taken in the context of the wider communication pattern, the power imbalance between you and Colleague A, and the emotional distress she had previously expressed, the panel concluded that the message proposing a meeting in the car park was unprofessional and inappropriate.

Charge 6 c) is therefore found proved.

Charge 7 a) and 7 b)

7) And your conduct as specified in one or more of charges 1 to 6 was sexually motivated:
a) in pursuit of a future sexual relationship;
b) in pursuit of sexual gratification.

These charges are found proved in part.

The panel considered whether your conduct in the charges previously found proved was sexually motivated, either in pursuit of a future sexual relationship or in pursuit of sexual gratification. In doing so, the panel had regard to all the evidence before it, its findings and reasoning in relation to charges 1 to 6, the nature and context of the behaviour, and your own evidence.

The panel found charges 7(a) and 7(b) proved in relation to the following charges: 1(a)(i), 1(a)(ii), 1(a)(iii), 1(b), 1(c), 1(d), 1(e), 2(a), 2(b), 2(c), 2(d), 3(a), 3(b)(i), 3(b)(ii), 3c), 5, 6b), and 6c).

In reaching this conclusion, the panel considered that the cumulative nature of your conduct, revealed a persistent pattern of personal, sexualised, and inappropriate attention towards Colleague A. The language used in several of the comments were sexual, and the physical conduct, including repeated touching of her legs, your desire to be added to her "*coconut list*", and gestures referring to her body, demonstrated a clear and sustained interest in her physical appearance and showed a desire to have sexual contact with her.

The panel had particular regard to your own live evidence, in which you described feeling a *"connection," "vibe," "electricity flowing"* and even used the word *"love"* when referring to Colleague A. The panel also considered the Facebook message sent by you to Colleague A on 24 July 2021 in which you stated, *"you know… I told you before… there is a connection, it got emotional!"* This message, coupled with your admissions during cross-examination, reinforced the panel's conclusion that you in pursuit of a future sexual relationship.

In this context, the panel was satisfied that your behaviour was not incidental or poorly judged banter, but a course of conduct in pursuit of a future sexual relationship and for your own sexual gratification. The panel considered the repeated nature of the conduct, the escalating intensity of the remarks, and the power imbalance between you and Colleague A and concluded that the sexual motivation was both deliberate and sustained. The panel found charges 7a) and 7b) not proved in relation to the following charges: 1(f), 4a), 4b), 4 c), and 6 a).

In respect of charge 1f), 4 a) and 6 a), the panel had earlier found these charges not proved for reasons stated above, and therefore they could not support a finding of sexual motivation under charge 7.

As to charges 4 b), and 4 c), the panel accepted that while your conduct during the phone call with Colleague A was aggressive, rude, and wholly inappropriate, it was not sexually motivated. The panel found that those comments were fuelled by frustration and anger following a breakdown in communication and were not made in pursuit of a sexual relationship or for sexual gratification.

Therefore, the panel finds charge 7a) and 7b) proved in relation to the charges listed above and not proved in respect of the remainder.

Charge 8a

And your conduct in one or more of charges 1 to 6 amounted to harassment of Colleague A in that it was unwanted.

This charge is found proved with exception of charges 1f), 4a) 4b) and 4c), and 6a) which it had earlier found not proved.

In determining this charge, the panel had regard to section 26 of the *Equality Act 2010*, which defines harassment as unwanted conduct related to a protected characteristics

which has the purpose or effect of violating the individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.

The panel was satisfied that the conduct found proved in charges 1 to 6 clearly fell within this definition. It involved repeated sexualised comments, inappropriate physical contact, playing of the "*coconut game*", late-night messages, and attempts to arrange a private meeting, all directed at a junior colleague. This behaviour was personal, persistent, and plainly inappropriate in a professional setting.

The panel was also satisfied that the conduct was unwanted. She repeatedly expressed discomfort at your behaviour, including in her oral evidence, written statements, and contemporaneous accounts. Her rejection of the conduct was also reflected in her actions: she made a verbal complaint and specifically requested not to be rostered with you and removed herself from uncomfortable situations and sought not to be rostered on the same shifts as you.

The panel placed particular weight on the evidence of Witness 1, who stated in his witness statement: *"I recall [Colleague A] didn't want to work with [you] at all and made request to me not to put her on the same ward with [you] if I was the one doing the shift allocation."* He also stated, *"As she was insisting that she wanted to go home, I told her that this issue with [you] was resulting in her losing money as it was restricting her shifts."* This was corroborated by the live evidence of Colleague B and supported Colleague A's account that she avoided shifts to protect herself from further exposure to your conduct.

The panel noted the NMC's guidance referring them to Crown Prosecution Services (CPS) on rape and sexual assault. It also took into account the evidence that Colleague A maintained a friendly manner towards you at work but found that this did not provide you with any justification to behave in the way that you did. The panel was satisfied that Colleague A's apparent civility was a coping mechanism rather than an invitation and a reflection of the power you had as a band 6, time sheet signatory and person who scheduled rosters and could offer her work or not.

Having considered the evidence in its entirety, the panel concluded that your behaviour towards Colleague A was unwanted and related to sex and amounted to harassment within the meaning of the *Equality Act*.

Therefore, charge 8a) is found proved.

Charge 8b

And your conduct in one or more of charges 1 to 6 amounted to harassment of Colleague A in that it related to Colleague A's sex.

This charge is found proved with exception of charges 1f), 4a) 4b) and 4c), and 6a) which it had earlier found not proved.

In determining this charge, the panel had regard to all the evidence before it as well as the definition of harassment under section 26 of the *Equality Act*, which requires that the unwanted conduct must relate to a protected characteristic, in this case, sex.

The panel was satisfied that your conduct, as set out in charges 1 to 6 and found proved, clearly related to Colleague A's sex. The behaviour included making sexualised comments such as *"I like your ass," "You're my type because you're curvy,"* and *"I want to kiss you,"* as well as asking inappropriate questions about Colleague A's sexual activity, making suggestive gestures about her body shape, and repeatedly requesting physical contact in the form of hugs. It also involved inappropriate physical contact, including touching her leg and moving your hand upwards toward her private area.

The panel observed that this pattern of conduct was directed at Colleague A and was intrinsically linked to her sex. it found that these actions and comments were not generic or gender-neutral but were sexualised and targeted. There was no indication to or evidence before the panel to suggest that you behaved in this way toward other

colleagues of a different sex. Moreso, the content and nature of your remarks were clearly related to Colleague A's gender and physical appearance as a female member of staff.

The panel also took into account your own evidence, in which you described a *"connection"* and a *"vibe"* between yourself and Colleague A and your admission to having feelings for her. This, together with your references to *"love"* and your focus on her physical features, further reinforced that your behaviour was driven by her sex.

The panel was therefore satisfied that your unwanted conduct towards Colleague A was not only sexual in nature but was directed at her because she is a woman. As such, the conduct clearly related to her sex.

Therefore, charge 8b) is found proved.

Charge 8c

And your conduct in one or more of charges 1 to 6 amounted to harassment of Colleague A in that it had the purpose or effect of violating Colleague A's dignity, and/or creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague A.

This charge is found proved with exception of charges 1f), 4a) 4b) and 4c), and 6a) which it had earlier found not proved.

In reaching its decision, the panel had regard to all the evidence before it as well as section 26 of the *Equality Act*, which provides that conduct amounts to harassment if it has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. The panel was satisfied that your conduct, as found proved under charges 1 to 6, met this threshold.

The panel observed first-hand the emotional impact of your behaviour on Colleague A during her live evidence. She was visibly distressed when recounting events and

described the cumulative effect of the conduct on her wellbeing. She stated that your actions made her *"feel bad," "like a prostitute,"* and that "*he had power over me."* The panel found this testimony compelling and credible and was satisfied that your behaviour caused significant emotional harm and undermined Colleague A's sense of personal dignity.

The panel also had regard to the live evidence of Witness 1, who stated he *"felt like she was tormented by [you],"* and described how Colleague A had actively requested not to work on the same shifts as you. He confirmed that she began cancelling shifts and losing income in an effort to avoid you. This was corroborated by evidence that Colleague A ultimately left her role at the Unit despite its convenient distance to her home.

Furthermore, the panel took account of the live evidence of Witness 2, who described your body language as *"intimidating"* in the CCTV footage she reviewed. The panel accepted this as further indication of your impact on Colleague A's working environment, which became increasingly hostile as a direct result of your repeated and unwanted conduct.

The panel concluded that, whether or not your purpose was to violate Colleague A's dignity or create a hostile environment, the effect of your behaviour unquestionably had that outcome. It caused Colleague A to feel unsafe, degraded, and disempowered in her workplace and led her to take steps that adversely affected her professional and financial wellbeing.

Charge 8c) is therefore found proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether each of the facts found proved amount to misconduct and, if so, whether your fitness to practise is currently impaired. There is no statutory definition of

fitness to practise. However, the NMC has defined fitness to practise as a registrant's 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, your fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct and impairment

Before the submissions on misconduct and impairment you gave further oral evidence under oath.

Ms Jones 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 Jones referred the panel's attention to specific areas of the Code where the NMC say your actions constitute misconduct:

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

Ms Jones submitted that whilst not every breach of the Code automatically amounts to misconduct, the panel is entitled to consider the seriousness and pattern of the behaviour. In this case, she submitted that the charges found proved reveal a pattern of inappropriate, sexualised, and harassing behaviour over a sustained period. Ms Jones submitted that these were not isolated lapses in judgment, but repeated breaches of fundamental standards expected of a registered nurse, and as such must amount to misconduct.

Ms Jones, invited the panel to find that your conduct, as found proved, amounts to misconduct.

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

Ms Jones acknowledged that you had told the panel you had undertaken a number of courses, including a course on sexual harassment in the workplace, completed in 2023. However, she submitted that this course predated these proceedings by some time and, given the nature and seriousness of the findings, did not demonstrate meaningful remediation.

Ms Jones noted that you had claimed to have undertaken a significant period of reflection, but you continued to place the emphasis on what others could do differently to avoid similar incidents in future, rather than demonstrating any significant insight into your own actions. She submitted there has been no clear acceptance of responsibility or understanding of the impact of your conduct on Colleague A. She invited the panel to consider whether there has been any real accountability and whether your behaviour points to underlying attitudinal concerns which may be difficult to remediate.

Ms Jones noted that you had been signposted to complete the sexual harassment training course during the Trust's local investigation and that you expressed feeling aggrieved about that recommendation at the time. She submitted that this undermined any claim that the training had been undertaken as part of meaningful reflection or remediation.

Ms Jones reminded the panel of its overarching duty to protect the public, uphold the health, safety and wellbeing of the public, and maintain public confidence in the profession. She submitted that you had no real understanding or acknowledgement of the conduct found proved, and you have no evidence to demonstrate you have addressed the root cause of this behaviour. In the absence of insight and remediation, she submitted that there remains a real risk of repetition.

She concluded by stating that members of the public would be disturbed if a finding of impairment were not made in a case of this nature and pattern of sexually motivated harassment by a registered nurse towards a junior colleague in the workplace.

The panel had regard to the oral and written submissions made by Mr James on your behalf.

Mr James on your behalf accepted that the matters found proved amounted to misconduct. He submitted that your misconduct, although serious, is capable of remediation. He noted that you have taken steps to address your behaviour, including undertaking relevant training, such as a course on sexual harassment in the workplace and reflecting on your actions. He acknowledged that the course was completed in 2023 and was prompted by the local investigation but submitted that you engaged with the content and applied it to your practice.

He also submitted that you have practised without restriction since the events in question, and that no further concerns have been raised about your conduct in the intervening years. He pointed to your 35-year nursing career, free from regulatory concerns until this

incident, and the numerous positive testimonials provided by both current and former colleagues as evidence of your reliability and professionalism in practice.

In relation to insight, Mr James submitted that while you have denied parts of the factual allegations, you have not sought to dispute the panel's findings. He submitted that it would be wrong to conflate denial with a lack of insight and referred the panel to *Sawati v GMC* [2022] EWHC 283 (Admin), in which it was confirmed that a registrant is entitled to defend allegations without being penalised for doing so. He submitted that your oral and written reflections demonstrate developing insight and acceptance of responsibility.

Addressing the Grant criteria, Mr James submitted that there is no evidence that your behaviour put patients at direct risk of harm, and that you have not engaged in any dishonesty. While your conduct did amount to a breach of professional standards and could undermine public confidence, Mr James submitted that a finding of current impairment is not necessary to uphold public confidence or proper professional standards.

Finally, Mr James reminded the panel of the decision in *PSA v NMC & X* [2017] CSIH 29*,* where the court warned against conflating the need for a sanction with a finding of impairment. He submitted that, even in serious cases, the panel must assess whether a registrant remains impaired in their fitness to practise today, not whether past conduct was unacceptable.

Mr James concluded by inviting the panel to find that, although your conduct amounted to misconduct, your fitness to practise is not currently impaired. He submitted that you could practise safely, professionally, and with kindness, and that there is no ongoing risk to patients or to the reputation of the profession.

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

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.'* and the case of *Meadow v General Medical Council [2006] EWCA Civ 1390:*

> "*Serious professional misconduct' is not statutorily defined and is not capable of precise description or delimitation. It may include not only misconduct by a doctor in his clinical practice, but misconduct in the exercise, or professed exercise, of his medical calling in other contexts, such as that here in giving of expert medical evidence before a court. As Lord Clyde might have encapsulated his discussion of the matter in Roylance v Clyde, it must be linked to the practice of medicine or conduct that otherwise brings the profession into disrepute, and it must be serious. As to seriousness, Collins J, in Nandi v General Medical Council [2004] EWHC rightly emphasised, at paragraph 31 of his judgement, the need to give it proper weight, observing that in other contexts it has been referred to as 'conduct which would be regarded as deplorable by fellow practitioners."*

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

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

> *'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 …, 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

25 Provide leadership to make sure people's wellbeing is protected and to improve their experiences of the health and care system'

The panel reminded itself that breaches of the Code do not automatically result in a finding of misconduct.

The panel was satisfied that you abused your position as a registered nurse and as a senior member of staff by targeting a junior colleague with repeated, unwanted and sexually motivated behaviour. It found that your conduct demonstrated a serious abuse of

power for the purpose of sexual gratification. The panel noted that Colleague A was isolated, had few contacts in this country, and was still developing her English language skills. It observed your behaviour to be persistent, and Colleague A left her role, evidencing the serious impact of your actions.

The panel concluded that your conduct had a deeply negative effect on workplace culture, created a risk to patients by undermining professional boundaries, and had the potential to damage public trust and confidence in the profession. It found that the behaviour demonstrated a deep-seated attitudinal issue, such that remediation without external support would be unlikely.

The panel considered that the harassment had a serious effect on workplace dynamics and professional trust.

The panel went through each of the charges, considering them individually and collectively. It found that your actions did fall seriously short of the conduct and standards expected of a nurse and determined that each charge amounted to serious professional misconduct.

Decision and reasons on impairment

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

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

> *'The question that will help decide whether a professional's fitness to practise is impaired is:*
> *"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"*

If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not 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 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.

In this regard the panel took into account the Fitness to practise Library, specifically DMA-1, FTP2a , FTP3 and the Equality Act. The panel also considered the observations of J Silber in the case of *Cohen v General medical Council* [2008] EWHC 581 and the judgment of Mrs Justice Cox in the case of *Council for Health Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) in reaching its decision. In paragraph 74, she said:

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

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

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

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

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

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

d) *…'*

The panel finds that your conduct had a significant impact on Colleague A, causing her to leave her job. It further found that as a senior nurse and leader at the time, you placed a vulnerable patient without oversight while you were engaged in an inappropriate sexualised game with colleagues. You told the panel that this patient required 15-minute observations and was reliant on nursing staff to keep them safe.

The panel noted that while that patient should have been your priority, you were preoccupied with playing the "*coconut game*" and, in your live evidence, demonstrated greater concern about whether you featured on Colleague A's list than the welfare of the patient on your ward. The panel noted the incident at the serving hatch when your attention was again not prioritising patient care but was instead focused on pursuing your future relationship for your own sexual gratification. Further, the panel noted that as a result of your sexualised touching and harassment, Colleague A could not complete an incident report concerning a patient on the day she was asked.

It also noted that as a direct result of your behaviour Colleague A spent time during her shift either crying, seeking refuge in the toilet or asking not to be rostered with you, time which should have been spent attending to patients.

The panel considered your apparent infatuation with Colleague A, your focus on a sexualised and inappropriate game, unwanted sexual touching, repeated comments and inappropriate conduct towards a junior colleague, all created a hostile working environment, demonstrated a disregard for patient safety, and set a poor example to junior colleagues.

The panel observed that your reflective statement and oral evidence did not adequately recognise or address the potential harm that could have arisen from your failure to exercise leadership and maintain a safe and professional working environment. The panel also noted that your reflective statement when talking about harm caused when failing to maintain boundaries, was written in the third person. This gave the impression that the reflection was not personal to you, and did not show adequate insight.

The panel determined that you failed to uphold your leadership responsibilities as a registered nurse in maintaining professional standards and prioritising patient safety within the Unit. It concluded that you remain liable to place patients at risk due to your continued failure to grasp the seriousness and impact of your actions.

The panel concluded that your conduct breached fundamental tenets of the nursing profession, including your duty as a registered nurse to prioritise people, practise effectively, preserve safety, and promote professionalism and trust.
Turning to the observations made by J Silber in the case of *Cohen v General medical Council* [2008] EWHC 581 by asking the questions that the Court set out as being 'highly relevant' to the determination of the question of current impairment, the panel found as follows:

Observation 1 – Whether the conduct that led to the charge(s) is easily remediable.

The panel considered that concerns of this nature are in principle remediable. It had regard to NMC Guidance on seriousness (FTP3) which states that such behaviour is hard to put right.

It considered that your conduct was indicative of deep-seated attitudinal issues, which are more difficult to address. It had particular regard to your live evidence, where you made an inappropriate sexual remark about Colleague B being "*at the bottom of your coconut list*" i.e. the person you would least like to have sex with. It determined that your misconduct reflected serious and repeated failings in professional standards and boundary-setting, involving sexualised comments, and gestures, and a lack of professional regard to your clinical responsibilities.

Observation 2 – Whether it has been remedied

The panel considered your training, your reflective statement, and the submissions made on your behalf. While you have undertaken a course on Sexual Harassment in the Workplace, the panel noted from your live evidence that this was recommended to you during the local investigation, and you felt "*very aggrieved*" about attending. During panel questions you indicated that your contribution on the course focused not on personal responsibility but rather on what to do if one is accused wrongly. In addition, you also focused on "subtleties" of sexual harassment. The panel considered that there was nothing subtle about the sexual assault and harassment that has been found proved in this hearing. It questioned the depth of your understanding and learning from the course.

In your live evidence, when questioned about whether you would have changed your behaviour had colleagues brought it to your attention, you responded "no." You instead talked about the potential to move Colleague A to another Unit to resolve the issue, and as an afterthought you also considered that you could have been moved in order to resolve the issue. You insisted that colleagues could have "*safeguarded*" both you and Colleague A by placing Colleague A in a different Unit or making other arrangements . The panel found that this response demonstrated a lack of true insight into the problems with your attitude and behaviour. You failed to appreciate that it was just Colleague A who needed safeguarding from you, and not yourself.

The panel also observed that your reflective statement contained a general apology to Colleague A but lacked any meaningful engagement with the emotional harm you caused her, and the impact of your behaviour on patient safety.

Observation 3 – Whether it is unlikely to be repeated.

The panel was not satisfied that you understood the impact of your conduct in sufficient detail to prevent recurrence. It found your reflection to be superficial, and your insight limited. In the absence of fully developed insight, the panel concluded that your misconduct is likely to be repeated.

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

In light of the foregoing, the panel was satisfied that there remains a current risk to colleagues and subsequently to patient safety. It determined that the pattern of behaviour and lack of comprehensive insight meant that the risk of repetition was likely. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel next considered if a finding of impairment on public interest grounds is also required.

The panel again 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:

'… 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.'

The panel determined that this is such a case. It was of the view that members of the public would be deeply disturbed by the behaviour you demonstrated, the panel concluded that failing to mark such conduct with a finding of impairment would undermine public confidence in the profession and the NMC as a regulator. The panel, therefore, concluded that a finding of impairment is also necessary in the wider public interest.

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

Sanction

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

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

Submissions on sanction

Ms Jones reminded the panel that, in considering sanctions, it should have regard to the principle of proportionality whilst weighing the interests of the public against your interests. She submitted that the panel should attach greater weight to public interest and the need to maintain public confidence over the consequences to you.

Ms Jones, on behalf of the NMC, submitted that the appropriate and proportionate sanction in this case is a striking-off order. She reminded the panel that it has found your fitness to practise is currently impaired. In light of that finding, the panel must now consider what sanction, if any, is necessary to protect the public and uphold the wider public interest, including maintaining confidence in the profession and the NMC as a regulator.

Ms Jones submitted that the panel is entitled to give greater weight to the public interest in a case involving serious, sexually motivated misconduct, where the conduct was sustained, involved an abuse of professional power, and led to the harassment of a junior colleague in the workplace. She submitted the panel found proved several breaches of the Code and that there were no conditions of practice order that could properly or proportionately address the concerns identified or maintain public confidence in the profession.

Ms Jones noted that you have had the benefit to work unrestricted, had undertaken training courses and had the opportunity to give live evidence to the panel during the course of this hearing. She acknowledged that while some steps have been taken, such as completing training, these have not translated into significant changes in terms of your mindset or attitude with respect to your misconduct.

In these circumstances, she submitted that the only sanction capable of maintaining public confidence in the profession and marking the seriousness of your misconduct is a striking-off order. Ms Jones invited the panel to conclude that such an outcome is the most appropriate and proportionate response in this case

The panel also bore in mind the oral and written submissions made on your behalf by Mr James.

Mr James invited the panel to adopt a measured and proportionate approach when considering sanction and reminded the panel of the principle that the purpose of any sanction is not to punish, but to protect the public and uphold the wider public interest. He

submitted that the appropriate starting point is to consider the full range of available sanctions, beginning with the least restrictive, and to impose the minimum necessary to protect the public and maintain confidence in the profession.

Mr James urged the panel to consider the following mitigating features:

- your reflective piece;
- The steps taken to prevent reoccurrence;
- The lack of repetition for four years;
- The current testimonials as regards the Registrant's current practise; and
- Your illness and periods of shielding.

Mr James accepted that, in light of the panel's findings, a caution order would not be appropriate. However, he submitted that your fitness to practise concerns are identifiable, specifically relating to failures to maintain professional boundaries, and are therefore capable of being addressed through a conditions of practice order. He submitted that relevant and workable conditions could be formulated to support your safe return to practice, and he provided examples of such conditions which included:

- Successful completion of further training regarding sexual harassment, maintaining professional boundaries etc;
- Keeping a personal development log;
- Creation of a personal development plan; and
- Completing further reflective work.

Mr James emphasised that since the incident in 2021, there have been no further concerns or allegations of sexual impropriety, and that you have practised unrestricted for four years without issue. He reminded the panel that this is your first referral to the NMC in a long and otherwise unblemished nursing career. He invited the panel to give significant weight to your previous good history, personal mitigation and your commitment to change.

He submitted that this is your sole career, and that you are the provider for your wife and children. He asked the panel to take account of the serious impact that a striking-off order would have, not just on you, but on your family.

If the panel concluded that conditions would not be sufficient, Mr James submitted that a suspension order would be the next appropriate and proportionate sanction. He accepted that the panel had found serious misconduct but submitted that it is not fundamentally incompatible with continued registration. He submitted that you have shown a willingness to learn, to engage, and to change your behaviour, and that these are key indicators in determining whether a registrant should be given the opportunity to remediate.

In relation to a striking-off order, Mr James acknowledged that such a sanction may be appropriate in cases where the conduct is so grave that it is fundamentally incompatible with being a registered professional. However, he submitted that this is not such a case. He reminded the panel that you have expressed remorse and undertaken training, and that you are not beyond rehabilitation. He submitted that a less restrictive sanction would protect the public while also providing you with the opportunity to demonstrate sustained remediation and safe practice.

In conclusion, Mr James submitted that a striking-off order would be disproportionate and urged the panel to impose either a conditions of practice order, or if it deemed necessary, a suspension order, as the appropriate and proportionate response to your misconduct.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Your exploitation of the power dynamic between you and Colleague A in the course of your misconduct
- Limited insight into failings
- A pattern of misconduct over a period of time
- Conduct which put patients and colleagues at risk of suffering harm.

The panel also took into account the following mitigating features:

- Practised without restrictions since the incident with no evidence of repetition of a similar conduct
- Positive testimonials from current and previous colleagues as well as personal contacts

The panel had regard to the SG in making its decision, particularly the following statements from SAN-2:

> "*Sexual misconduct is unwelcome behaviour of a sexual nature, or behaviour that can reasonably be interpreted as sexual, which degrades, harms, humiliates or intimidates another. It includes sexual harassment and will be regarded as extremely serious whether or not it occurs in the workplace*."
>
> "*Sexual misconduct is likely to create a risk to people receiving care and to colleagues as well as undermining public trust and confidence in the professions we regulate. A panel should always consider factors such as the duration of the conduct in question, the professional's relationship or position in relation to those involved and the vulnerabilities of anyone subject to the alleged conduct. Long-term or repeated conduct is more likely to suggest risk of harm, together with conduct involving imbalances of power, cruelty, exploitation and predatory behaviour*."

"*However, as these behaviours can have a particularly severe impact on public confidence, a professional's ability to uphold the standards and values set out in the Code, and the safety of people receiving care, any nurse, midwife or nursing associate who is found to have behaved in this way will be at risk of being removed from the register. If the panel decides to impose a less severe sanction, they will need to make sure they explain the reasons for their decision clearly and carefully*."

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 public protection issues identified earlier in its determination, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is of the view that there are no workable, realistic or measurable conditions that could be formulated, given the concerns identified in this case. The misconduct involved persistent, sexually motivated behaviour, an abuse of professional power, and deep-seated attitudinal issues, which are not amenable to remediation through retraining or supervision alone. The panel bore in mind that although you completed a course on sexual harassment in the workplace, this was undertaken reluctantly and the panel believed that your learning from the course did not adequately change your degree of insight nor change your practise. It was of the view that

misconduct identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public.

The panel next considered whether a suspension order would be the appropriate and proportionate sanction. While it acknowledged that the NMC imposed no restrictions on your practice following the incident, and that you have worked without restriction since then, the panel was of the view that this does not diminish the seriousness of the misconduct found proved. The panel considered that the high level of seriousness, including the sexually motivated nature of the behaviour, the abuse of professional power, and the impact on both a vulnerable colleague and the potential impact on a patient, meant that a suspension order would be insufficient to mark the gravity of your misconduct.

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

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

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

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*

- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

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

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of your actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themself, 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 you in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in your own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Submissions on interim order

The panel took account of the submissions made by Ms Jones. She submitted that, given the seriousness of the concerns and the panel's findings on sanction, an interim suspension order for a period of 18 months is necessary in order to protect the public and otherwise in the public interest, to cover the 28-day appeal period before the substantive order becomes effective. She submitted that an interim conditions of practice order would not be appropriate and proportionate in this case given the findings of the panel on misconduct, impairment and sanction.

The panel also took into account the submissions of Mr James on your behalf. He submitted that the imposition of an interim order is one that requires discretion, careful consideration and is not automatic.

Mr James reminded the panel that the NMC had not placed any restriction on you in four years after the incident. He submitted that you would require sometime to make arrangements with your employer given the panel's decision.

The panel accepted the advice of the legal assessor.

Decision and reasons on interim order

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 making its decision to impose an interim order. The panel was therefore satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest.

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 in order to protect the public and otherwise in the public interest, during any potential appeal period. The panel determined that not to impose an interim order would be inconsistent with its earlier decision to strike you off the register.

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

That concludes this determination.