

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

**Substantive Hearing
Monday, 19 January 2026 - Friday, 23 January 2026**

Virtual Hearing

Name of Registrant:	Ismail Ismail
NMC PIN	10L0336E
Part(s) of the register:	Nurses part of the register Sub part 1 RNMH: Mental health nurse, level 1 (March 2011)
Relevant Location:	Nottingham
Type of case:	Misconduct
Panel members:	Vanessa Rolfe (Chair, lay member) Alison Thomson (Registrant member) David Anderson (Lay member)
Legal Assessor:	Monica Daley
Hearings Coordinator:	Rim Zambour (19 – 22 January 2026) Margia Patwary (23 January 2026)
Nursing and Midwifery Council:	Represented by Laura Holgate, Case Presenter
Mr Ismail:	Present and represented by Laurence Harris, instructed by the Royal College of Nursing (RCN)
Facts proved:	Charges 1, 2, 3 (in relation to Charge 1 (Schedules 1.2, 1.4, 1.5, 1.6, 1.9) and Charge 2), 4
Facts not proved:	Charge 3 (in relation to Charge 1 (Schedules 1.1, 1.3, 1.7, 1.8))
Fitness to practise:	Impaired
Sanction:	Striking-off order

Interim order:

Interim suspension order (18 months)

Details of charge

That you, a registered nurse,

- 1) Between June 2022 and September 2022, in relation to Colleague A, made inappropriate comments towards her, as set out in Schedule 1.
- 2) On 8 September 2022, in relation to Colleague A,
 - a) Bumped your hand onto her bottom.
 - b) Pulled her towards you by her hip.
 - c) Kissed her on the top of her head.
- 3) Your acts in charges 1), 2) a), b) and c) were sexually motivated in that you sought or derived sexual gratification from your actions.
- 4) Your conduct towards Colleague A between June 2022 and September 2022 harassed Colleague A in that:
 - a) It was unwanted conduct of a sexual nature.
 - b) It had the purpose or effect of violating Colleague A's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague A.

And in the light of the above, your fitness to practice is impaired by virtue of your misconduct.

Schedule 1

1. "Don't leave me on my own, don't leave the office", or words to this effect.
2. Asked her to lift her gilet up on more than one occasion.
3. Said her husband was a lucky man.
4. Questioned how much it cost her to get her lips done and when she would let you "have a go on them", or words to this effect.
5. Told her that you bet her bottom was firm.
6. "I can confirm your bum is firm", or words to this effect.

7. "I am only joking", or words to this effect.
8. "You're going to report me aren't you, I just know you are", or words to this effect.
9. "I bet you're a freak in bed...I can just tell".

Decision and reasons on application for special measures

Before hearing the witness evidence of Colleague A, Ms Holgate, on behalf of the Nursing and Midwifery Council (NMC), made an application for special measures. She requested that you dial into the hearing via telephone whilst Colleague A gave her evidence so that she would not see you and you would not be able to see her.

Ms Holgate submitted that this request is both fair and practical and does not disadvantage either party. She stated that Colleague A would find it difficult to give evidence if she were able to see you or you were able to see her. Ms Holgate submitted that this would allow Colleague A to feel more comfortable and to give her evidence effectively.

Mr Harris, on your behalf, stated that these applications are routinely made and granted, and that with the interests of fairness to the witness he did not seek to oppose the application.

The panel accepted the advice of the legal assessor.

The panel decided to accept the application for you to join the virtual hearing by dialling in via telephone. The panel was satisfied that Colleague A should be treated as a vulnerable witness under Rule 23 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004. It determined that these special measures would be in the interests of fairness to Colleague A and would enable her to give her best evidence.

Background

The charges arose whilst you were employed as a registered Band 6 Team Leader by Nottinghamshire Healthcare NHS Foundation Trust (“the Trust”). The NMC received a referral from the Associate Director of Nursing, Quality & Patient Experience: Forensic Services at the Trust on 20 July 2023.

The referral raised concerns about incidents that allegedly occurred whilst you were working at Arnold Lodge. You are alleged to have behaved inappropriately towards Colleague A whilst working with her.

Colleague A alleges that between June 2022 and September 2022, you made various inappropriate comments and advances towards her when you were alone together in the office.

You were dismissed by the Trust in March 2024 following their investigation.

Decision and reasons on facts

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

- Colleague A: Band 6 Clinical Team Leader employed by the Trust at the time;

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 Harris.

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

Charge 1

“That you, a registered nurse,

- 1) Between June 2022 and September 2022, in relation to Colleague A, made inappropriate comments towards her, as set out in Schedule 1.”

This charge is found proved.

In reaching this decision, the panel took into account all of the written and oral witness evidence and contemporaneous documents in this case including the local investigation report dated 5 December 2022, witness statements and the live evidence from Colleague A and yourself.

This allegation arose from Colleague A’s statements in the local investigation report and in her witness statement to the NMC in which she stated the following:

‘Mr Ismail also made comments towards me and would sometimes pull my chair in towards him... For example, Mr Ismail would make comments such as ‘don’t leave me on my own’, ‘don’t leave the office’ and pull my chair towards his.’

‘On a date I cannot recall, Mr Ismail asked me to lift my gilet up, which was part of my work uniform when I was walking down the corridor.’

'I recall that Mr Ismail also commented that my husband was a lucky man'

'Mr Ismail made comments about my lips, such as, when would I let him 'have a go on them'.'

'I recall Mr Ismail commented that he bet my bottom was 'firm'.'

'I do not know how he could have 'bumped' into me as he was behind me. Mr Ismail then said, 'I can confirm your bum is firm'.'

'Mr Ismail then pulled me towards him by my hip and kissed me on the top of my head and said, 'I am only joking'.'

'Mr Ismail said 'you're going to report me aren't you, I just know you are' on a few occasions in the clinical room...'

'Mr Ismail stated that' I bet you're a freak in bed ... I can just tell' on one occasion...'

The panel also heard live evidence from Colleague A and yourself in relation to this allegation.

You were asked in cross examination by Ms Holgate what motive Colleague A had for making up the allegations about you. You stated that you did not know and the only thing you could think might have caused Colleague A to make the allegations against you was that you had made a comment which you now reflected was inappropriate to her in relation to a rumour that you had heard about an affair between Colleague A and another member of staff. You believe that this may have upset her. You told the panel that you had mentioned this as a possible motive in your statement during the Trust investigation.

The panel was of the view that even if there was evidence that you raised this as a possible motive for Colleague A making these allegations, the panel felt it appears wholly disproportionate. The panel did not accept that Colleague A was motivated by

any malice towards you. It noted that Colleague A said she did not want you to lose your job and just wanted the behaviour to stop and that she had only raised matters because they had escalated from words to physical touch. The panel could see no benefit to Colleague A in making up these allegations.

The panel also considered your previous good character and positive testimonials and gave some weight to this evidence. It noted that the people giving their testimonials were aware of the nature of the allegations, and that the testimonials are current and up to date. However, it noted that the testimonials were not from witnesses to any of the allegations and that it was Colleague A's evidence that these events took place when you were alone with Colleague A.

The panel considered that the relevant evidence was the evidence from Colleague A and yourself. The panel considered that it had two different accounts from both yourself and Colleague A as there is no other corroborating evidence for either account in relation to this charge. The panel considered that the account given by you was plausible, however, the panel found Colleague A's evidence to be more credible and preferred her account which it found to be consistent and compelling.

The panel accepts and prefers Colleague A's evidence and finds this charge proved on the balance of probabilities.

Charge 2

“That you, a registered nurse,

- 2) On 8 September 2022, in relation to Colleague A,
 - a) Bumped your hand onto her bottom.
 - b) Pulled her towards you by her hip.
 - c) Kissed her on the top of her head.”

This charge is found proved in its entirety.

The panel considered this entire charge together as it relates to one incident and relies on the same evidence.

In reaching this decision, the panel took into account all of the written and oral witness evidence and contemporaneous documents in this case including the local investigation report dated 5 December 2022, witness statements and the live evidence from Colleague A and yourself.

The panel took into account the evidence contained within Colleague A's statement in relation to this charge. It noted that the inconsistency in the dates relating to 8 September 2022 arises from paragraphs 21 and 35 of her statement in which she stated:

'21. Around three days before I reported Mr Ismail's behaviour (which was roughly on 8 September on a year I cannot recall), Mr Ismail touched my bottom from behind as I was walking out of the clinical room.'

And,

'35. I was able to recall some of the incidents occurring on 8 September as that was the day that Mr Ismail made physical contact with me. I had reported the incident a few days later therefore I was able to remember the date at that time.'

The panel noted that the way Colleague A referred to the dates in these paragraphs is open to interpretation on whether the incident occurred roughly on 8 September 2022, or whether she reported it on 8 September 2022. However, the panel was of the view that this did not undermine Colleague A's account as there are reasons for this ambiguity, particularly the fact that this witness statement was provided around two years after the allegation took place. The panel also noted that there were several other references to the incident occurring on 8 September 2022 in the notes and summary of the investigation report.

The panel then considered the lack of CCTV evidence and that you stated in your oral evidence that this should have been obtained at the time the allegations were made as the recordings would have been deleted after 28 days. The panel also had sight of Witness 2's statement in relation to the CCTV in which they stated:

'I did not gather any CCTV or rotas for the index period, as these were not required and CCTV cameras were not situated where the alleged incidents took place'

The panel considered that Witness 2 was an experienced HR Investigator and had been in that role since October 2018. It noted that Witness 2 would have been experienced in undertaking investigations and in the handling of CCTV. The panel therefore accepted that Witness 2 did consider CCTV evidence but was satisfied that it would not be relevant. The panel also noted that you accepted in your oral evidence that CCTV cameras would only have covered the doorways and not the corridors where the incident was alleged to have taken place.

The panel again considered that it had the differing accounts from both yourself and Colleague A where you consistently denied all of the allegations. The panel noted that there was no other corroborating evidence for either account in relation to this charge. The panel noted that during Colleague A's oral evidence there were occasions where she accepted, she could not be sure about certain things which added to her reliability as a witness. The panel considered Colleague A's account to be consistent and compelling for the same reasons as those under Charge 1.

The panel also noted your account that the hospital was too busy and there would not have been an opportunity for the allegations to have taken place without anyone being present. However, the panel considered that in your evidence relating to Colleague A's motive for the allegations, you stated that you were alone in the nurse's office when this conversation occurred. The panel inferred from this that it was a possibility for only two people to have been alone on occasions without anyone else present.

The panel was therefore satisfied that on the balance of probabilities; you did bump your hand onto Colleague A's bottom followed by pulling her towards you by her hip and kissing her on the top of her head. It preferred the evidence of Colleague A in relation to this charge and considered her account to be more credible.

Charge 3

"That you, a registered nurse,

3) Your acts in charges 1), 2) a), b) and c) were sexually motivated in that you sought or derived sexual gratification from your actions."

This charge is found proved in relation to Charge 1 (Schedules 1.2, 1.4, 1.5, 1.6, 1.9) and Charge 2 in its entirety.

In reaching this decision, the panel had regard to the advice of the legal assessor as to the definition of 'sexual' in the Sexual Offences Act 2003, Section 78, which states:

'... touching or any other activity is sexual if a reasonable person would consider that –

(a) whatever its circumstances or any person's purpose in relation to it, it is because of its nature sexual, or

(b) because of its nature it may be sexual and because of its circumstances or the purpose of any person in relation to it (or both) it is sexual.'

In relation to charge 1

The panel has found that you made inappropriate comments to Colleague A as set out in Schedule 1. The panel considered whether each of these comments were sexually motivated in that you sought sexual gratification from your actions.

1.1 “Don’t leave me on my own, don’t leave the office”, or words to this effect.

The panel considered that this comment is not sexual in nature and could have been made as ‘banter’. It is also not clear what the reason would have been for you to not want Colleague A to leave you on your own, and the panel could not assume from this that it was for a sexual gratification.

This element of charge 3 is found not proved.

1.2 Asked her to lift her gilet up on more than one occasion.

The panel noted that Colleague A stated the following in their evidence:

‘Mr Ismail would walk behind me on purpose, as he would ask me to lift my gilet up when I was walking in front of him on more than one occasion’

The panel could not find any other reasonable explanation why you would walk behind Colleague A and ask her to lift up her gilet if it was not sexually motivated and for your sexual gratification.

This element of charge 3 is found proved.

1.3 Said her husband was a lucky man.

The panel determined that this comment is ambiguous and lacks detail. It noted that this comment could have been made for any reason that you may believe Colleague A’s husband was a ‘*lucky man*’ and this was not necessarily a comment that is sexual in nature.

This element of charge 3 is found not proved.

1.4 Questioned how much it cost her to get her lips done and when she would let you “have a go on them”, or words to this effect.

The panel considered this comment to be sexually motivated, particularly the second part of the phrase. It determined that '*having a go on them*' implies that you wanted to kiss Colleague A which is sexual and involves intimate contact. Therefore, the panel was of the view that this comment was sexual in nature in that you sought sexual gratification from your actions.

This element of charge 3 is found proved.

1.5 Told her that you bet her bottom was firm and,
1.6 "I can confirm your bum is firm", or words to this effect.

The panel considered these comments to be clearly sexually motivated as there is no other reasonable explanation for them to be made other than to derive sexual gratification.

These elements of charge 3 are found proved.

1.7 "I am only joking", or words to this effect and,
1.8 "You're going to report me aren't you, I just know you are", or words to this effect.

The panel did not find these comment to be reasonably considered as sexual in nature, and that it was more likely that they were made in an attempt to diffuse the situation or deter Colleague A from reporting your actions.

These elements of charge 3 are not proved.

1.9 "I bet you're a freak in bed...I can just tell".

The panel found this comment to be clearly sexual in nature, tone and content in that you sought sexual gratification from your actions.

This element of charge 3 is found proved.

In relation to Charge 2

The panel considered that your actions at charges 2a, 2b and 2c were sexually motivated. It noted that you touched Colleague A's bottom and pulled her by her hip where you could have pulled her from any other part of their body. Further, that given the context of the incident, the kiss on Colleague A's head was more than likely to be considered by a reasonable person to be sexually motivated in that you sought sexual gratification from your actions.

The panel found this charge proved in relation to the entirety of charge 2.

Charge 4a

“That you, a registered nurse,

- 4) Your conduct towards Colleague A between June 2022 and September 2022 harassed Colleague A in that:
 - a) It was unwanted conduct of a sexual nature.”

This charge is found proved.

In reaching this decision, the panel took into account the same evidence on which it found these charges initially proved.

The panel has accepted that your conduct towards Colleague A between June 2022 and September 2022 was of a sexual nature.

In its consideration of whether your conduct harassed Colleague A, the panel had sight of Colleague A's oral and written statements. It noted that Colleague A stated on multiple occasions that your conduct made her feel '*uncomfortable*' and [PRIVATE]. The panel accepted that the matters which are subject to the charge occurred over a period of several weeks. The conduct was also clearly unwanted given that she stated she reported the incidents as she just '*wanted the behaviour to stop*' after the actions escalated to becoming physical.

The panel therefore found this charge proved on the balance of probabilities.

Charge 4b)

“That you, a registered nurse,

- 4) Your conduct towards Colleague A between June 2022 and September 2022 harassed Colleague A in that:
 - b) It had the purpose or effect of violating Colleague A’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague A.”

This charge is found proved.

The panel took into account the evidence contained within Colleague A’s statement and her oral evidence regarding the way your actions affected her.

The panel found that your actions did have the effect of violating Colleague A’s dignity and creating an intimidating, hostile, degrading and humiliating environment for her. The panel noted that Colleague A stated on several occasions that she felt ‘*uncomfortable*’ as a result of your actions. The panel determined that this would have created a hostile and degrading environment particularly given the physical touch aspect of your conduct.

The panel also considered Colleague A’s response to its questions during her oral evidence. When asked how your actions made her feel, Colleague A stated that she felt “*really uncomfortable...I wanted it to stop and didn’t know how to make it stop.*” She also said that her day to day work was affected and she did not feel comfortable working with you as she was [PRIVATE]. Further, that although she did not want to escalate the situation, once it got physical she knew that she needed to report it.

Therefore, the panel found this charge proved on the balance of probabilities.

Fitness to practise

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

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

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

Submissions on misconduct and impairment

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

Ms Holgate 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 Holgate identified the specific, relevant standards where your actions amounted to misconduct. She submitted that these were sections 1, 20, 20.2, 20.3 and 20.5 of the Code.

Ms Holgate invited the panel to find that the facts found proved amount to misconduct. She submitted that your actions fell far short of what would be proper in the circumstances, as you engaged in acts of unwanted and uninvited conduct towards Colleague A which breached her professional boundaries over a long period of time. These acts included behaviour towards Colleague A which it was submitted, was harassing, persistent and sexually motivated in the pursuit of sexual gratification. Ms Holgate submitted that your behaviour caused Colleague A [PRIVATE] and made her feel uncomfortable in the workplace.

Ms Holgate submitted that the matters found proved in this case relate to misconduct which is sexual in nature and is so serious that it falls short of what would be proper in the circumstances.

Mr Harris referred the panel to the relevant guidance and accepted that the conduct found proven is serious but stated that the question of misconduct is ultimately up to the panel.

Ms Holgate moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Ms Holgate submitted that your fitness to practise is currently impaired by reason of your misconduct. She referred the panel to the NMC Guidance on Misconduct (DMA-1) and Rule 31(7)(b) of the Rules.

In relation to limb *a)* of the test set out in *Grant*, Ms Holgate reminded the panel that fitness to practise is about managing the risk posed to the public. She submitted that if you were to act in the same way in the future to another colleague, it would have the potential to cause them harm. She submitted that this may also affect patients if a colleague is affected by your behaviour towards them.

With regards to limb *b)* of the test, Ms Holgate submitted that on the basis of the charges found proved, and by virtue of your actions, you have breached the fundamental tenets of the Code. She further submitted that this undermines public trust and confidence in the nursing profession.

Ms Holgate stated that the panel will consider the context in which the allegations occurred. She submitted that the panel has not been presented with any information to consider in terms of any personal factors or working environment and culture.

In relation to whether the conduct is remediable, Ms Holgate submitted that sexual misconduct is a type of behaviour that is less easy to put right. She stated that the concerns are attitudinal in nature and cannot be rectified by taking steps such as completing training courses or supervised practice.

Ms Holgate stated that even if the panel finds your misconduct to be remediable, the panel must consider whether the concerns have been addressed. She submitted that there is little evidence of insight or remediation and strengthened practice. Further,

that whilst it is accepted that you have demonstrated some level of insight in your reflective statement, it is mainly personally focused and does not demonstrate an understanding of how your behaviour impacted Colleague A's wellbeing. Ms Holgate submitted that you appear to blame Colleague A and put the onus on her for not telling you she found your behaviour inappropriate, or reporting sooner. She submitted that this shows a complete disregard to the impact your behaviour had and your lack of understanding around what constitutes harassment.

Ms Holgate stated you continue to deny the allegations today. She stated that the NMC guidance says that denying allegations does not prevent a registrant from demonstrating insight as you could demonstrate a need to minimise the risk of similar events happening. Ms Holgate submitted that despite this, there is no evidence before the panel today that you have done this.

Ms Holgate submitted that the risk of repetition remains as this was not an isolated incident but rather a pattern of behaviour that occurred over a period of approximately three months. She submitted that you have not remediated, and you still do not accept what you did which increases the risk of repetition of the same type of behaviour occurring again if you were allowed to practise unrestricted.

Ms Holgate submitted that your fitness to practise is therefore impaired on the grounds of public protection.

In relation to public interest, Ms Holgate submitted that a finding of impairment is required to protect the public, uphold the professional standards and maintain public confidence in the profession and the NMC as the regulator. She submitted that an informed member of the public informed of the full context and circumstances of this case would be concerned if you were to continue to practise without some form of restriction.

Ms Holgate submitted that a finding of impairment is necessary as nurses hold a position of privilege and trust in society and are expected at all times to be professional.

Mr Harris first referred the panel to the NMC Guidance on Impairment (DMA-1) and reminded the panel that it is not the aim of fitness to practise proceedings to punish the registrant for past events, but it is about whether they can practise safely, kindly and professionally.

In relation to the nature of the concern, Mr Harris submitted that you continue to deny the allegations in their entirety even at this stage, although you have respect for the panel's findings.

Mr Harris referred the panel to the decision of Justice Mostyn in *General Medical Council v Awan* [2020] EWHC 1553 (Admin) in which he states:

'I think that it is too much to expect of an accused member of a profession who has doughtily defended an allegation on the ground that he did not do it suddenly to undergo a Damascene conversion in the impairment phase following a factual finding that he did do it. Indeed, it seems to me that to expect this of a registrant would be seriously to compromise his right of appeal against the factual findings and add very little, if anything, to the principal allegations of culpability to be determined

...

It seems to me that an accused professional has the right to advance any defence he or she wishes and is entitled to a fair trial of that defence without facing the jeopardy, if the defence is disbelieved, of further charges or enhanced sanctions.'

Mr Harris submitted that the panel therefore cannot hold it against you that you continue to deny the allegations. Further, that this is not a case where there realistically could have been insight or steps taken as you have been clear in your account that you did not think this was a case of a misunderstanding. Mr Harris asked the panel not to hold it against you that you have not taken many steps to show insight as this would be impossible to do in the circumstances.

Mr Harris informed the panel that you have continued to practise unrestricted as a nurse throughout these proceedings for a period of three years. He referred the

panel to the certificates in your bundle and stated that you have undertaken a significant amount of continuing professional development. Mr Harris reminded the panel that it has also received a bundle of good quality character references submitted on your behalf which speak to your honesty, integrity, compassion and competence throughout your very long career as a nurse. Mr Harris submitted therefore, that the charges found proved are wholly uncharacteristic and a notable deviation from your otherwise unblemished career.

In relation to the risk of repetition, Mr Harris submitted that given the impact these proceedings have had on you, and given your unblemished career, the panel can be wholly satisfied that there is a certainty that you will not find yourself before a professional regulator ever again.

With regards to public interest, Mr Harris submitted that there is no proper basis in evidence to find there is a risk to members of the public. You have been practising unrestricted since the allegations were made in 2022 and no allegations have come to light since. Mr Harris further submitted that you have shown you have an excellent record professionally and in terms of your patient care.

Mr Harris submitted that it is therefore not necessary to make a finding of impairment, taking account of the fact that you have cooperated throughout the proceedings, given oral evidence to the panel and subjected yourself to cross examination.

Mr Harris also invited the panel to find no attitudinal concerns as you have no history of professional misconduct or a criminal record and there is no realistic prospect of any future misconduct.

Mr Harris submitted that an ordinary member of the public aware of the facts of the case and proper context would not find their confidence in the nursing profession diminished if the panel did not make a finding of impairment. He stated that the member of the public would know that these incidents occurred over three years ago, and that you had been practising unrestricted since then with no incident.

Mr Harris reminded the panel that the question of impairment is to be assessed at today's date rather than in 2022, and therefore a finding of current impairment is not necessary.

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 *Cohen v GMC* [2008] EWHC 581 (Admin).

Decision and reasons on misconduct

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

The panel was of the view that 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:

'1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion

...

1.5 respect and uphold people's human rights,

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

...

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that your misconduct as found proved in the charges, particularly as it involved breaching professional boundaries, harassment and sexual misconduct, is so serious that it would be considered as deplorable by other members of the profession.

The panel therefore found that your actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

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

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

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

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

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

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

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) ...’*

In relation to limb a) of the test, the panel determined that it would not be applicable in this case. The panel noted that the allegations of harassment are serious and there are circumstances where such a finding demonstrates behaviours that may put patients at risk of harm. However, the panel are mindful that prior to the facts found proved and for a period of three years after, there have been no allegations that you have put patients at risk of harm and there are considerable testimonials that speak to your high level of clinical competence and patient care.

The panel then moved on to consider limbs b) and c) of the test. With regards to limb b), the panel found that based on the charges found proved, your sexual misconduct brought the nursing profession into disrepute and would impact the public’s trust in the profession.

In relation to limb c), the panel bore in mind that the charges found proved concern sexual misconduct, harassment and breaches of professional boundaries. It therefore determined that the breaches of the code identified at the misconduct

stage amounted to breaches of the fundamental tenets of the nursing profession, particularly as a nurse you are required to practise safely and kindly and that your actions caused Colleague A [PRIVATE]. In her statement she said that:

[PRIVATE]

The panel then went on to consider the following elements set out in *Cohen*:

- Whether the conduct that led to the charge(s) is easily remediable.
- Whether it has been remedied.
- Whether it is highly unlikely to be repeated.

The panel was satisfied that sexual misconduct as found proved can be remediable. Therefore, the panel carefully considered the evidence before it in determining whether or not you have taken steps to remedy your behaviour, including whether you had shown any insight, remorse or completed any relevant training or courses. The panel noted that you have provided training certificates and testimonials of your good character from individuals who were aware of the charges against you. Regarding insight, the panel considered your reflective statement where you stated the following:

'I fully understand how my colleague would have felt if the allegations levelled against me had been true. I can only imagine the devastating impact it would have on her life, work, and the [PRIVATE]. I must say that I wouldn't wish that experience on anybody let alone a colleague of mine whom I had a great deal of respect.

I also understand the impact this would have on my organisation (e.g. the damage to its reputation), the disruption it would cause and how this would have an overall negative impact on patient care. I also understand the negative impact it would have on the nursing profession as whole.'

The panel noted that whilst you have shown some degree of insight, it is incomplete. The panel also noted that your reflection where you describe the impact to you

personally minimises the empathy shown towards Colleague A. For example, you stated that:

'But since 1st October 22 I have suffered immensely as these very serious charges were leveled against me. I have been racking my brain and eating my insides-out trying to think of what I could have done or said to my colleague that lead her to allege that I was interested in her more than a professional way.'

The panel is of the view that this was not an isolated incident, but rather that on multiple occasions over a period of several weeks you pursued Colleague A with unwanted and uninvited sexual comments and escalating behaviour which constituted harassment. Therefore, it amounted to sexual misconduct.

Regarding the risk of repetition, the panel considered Mr Harris' submission that you have been practising unrestricted during the course of this investigation for three years without further incident. However, the panel determined that there remains a real risk of repetition based on your lack of remediation and incomplete insight. The panel determined that the behaviour found proved relates to an attitudinal issue that has yet to be addressed. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC; 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 addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise impaired on the grounds of public interest.

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

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

Mr Edenborough submitted that the panel had already found your fitness to practise to be impaired on both public protection and public interest grounds. He reminded the panel that sanction is a matter for its independent professional judgment, guided by the NMC Sanctions Guidance.

Mr Edenborough submitted that the purpose of sanction is not to punish the registrant, but to protect members of the public, to maintain public confidence in the nursing profession, and to uphold proper professional standards. He acknowledged that sanctions may have a punitive effect, but submitted that the focus must remain on public protection and the wider public interest.

Mr Edenborough invited the panel to consider sanctions in ascending order, applying the principle of proportionality and imposing no more restrictive sanction than is necessary in the circumstances of the case.

Mr Edenborough submitted that there was little, if any, mitigation capable of reducing the seriousness of the misconduct found proved. He submitted that previous good character and clinical competence did not outweigh the seriousness of the misconduct and did not lessen the need for a significant sanction.

Mr Edenborough submitted that you had demonstrated insufficient insight into the misconduct and into the wider impact of that misconduct on the nursing profession. He submitted that the misconduct occurred in the workplace and was indicative of attitudinal concerns, which are less amenable to remediation than issues of clinical competence.

Mr Edenborough submitted that taking no further action would provide insufficient protection to the public and would undermine public confidence in the profession and in the regulatory process. He further submitted that a caution order would be inappropriate, given the seriousness of the misconduct and the lack of developed insight.

Mr Edenborough submitted that a conditions of practice order would not be appropriate, as the misconduct was not related to clinical competence, there were no identifiable areas of practice capable of remediation through retraining, and the conduct was indicative of attitudinal concerns which conditions could not adequately address.

Mr Edenborough submitted that a suspension order would also be insufficient, given the seriousness of the misconduct, the lack of insight, the risk of repetition, and the need to maintain public confidence in the profession.

Mr Edenborough submitted that the misconduct represented a significant departure from the standards expected of a registered nurse and was fundamentally incompatible with remaining on the register. He submitted that a striking off order was the only sanction capable of adequately protecting the public and maintaining public confidence in the profession.

Mr Harris submitted that the panel should approach sanction by applying the principles set out in Article 29 of the Nursing and Midwifery Order and the NMC Sanctions Guidance, including proportionality and the requirement to impose the least restrictive sanction necessary to address the identified impairment.

Mr Harris submitted that you had no previous regulatory findings and had enjoyed a long and unblemished nursing career. He submitted that the panel must consider this context when assessing the seriousness of the misconduct and the appropriate sanction.

Mr Harris accepted that this was not a case in which taking no further action or imposing a caution order would be appropriate, but submitted that the panel was nevertheless required to explain why those sanctions would be insufficient.

Mr Harris submitted that a conditions of practice order was an appropriate and proportionate sanction. He submitted that the concerns identified by the panel were identifiable and related to professional boundaries, and that conditions could be formulated to address those concerns through training, reflection, monitoring, and professional development. He submitted that such conditions could include further training on professional boundaries and sexual harassment, reflective writing, a personal development plan, and ongoing supervision, and that the panel would retain the ability to review compliance with those conditions.

Mr Harris submitted that, if the panel considered that removal from the register was necessary, a suspension order would be more appropriate than a striking off order. He submitted that a suspension order would be sufficient to protect the public and maintain public confidence, while allowing you an opportunity to reflect further and demonstrate insight.

Mr Harris submitted that the misconduct, while serious, occurred within a limited period during an otherwise lengthy and unblemished career, and should be viewed as a single course of conduct rather than evidence of deep-seated attitudinal concerns.

Mr Harris submitted that there was no proper basis for finding a significant risk of repetition, noting that you had practised unrestricted for over three years without further incident.

On the issue of insight, Mr Harris submitted that you had demonstrated understanding of the impact of the conduct on the complainant and on the profession through reflective material, while maintaining your position in relation to the findings, which you were entitled to do.

Mr Harris submitted that a striking off order would be disproportionate and that public confidence could be maintained without removing you permanently from the register. He submitted that a well-informed member of the public would take into account your career, engagement with the process, absence of repetition, and continued professional practice when considering the appropriateness of sanction.

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:

- The misconduct represented a significant departure from the standards expected of a registered nurse.
- The misconduct resulted in [PRIVATE].
- The misconduct occurred in the workplace.
- Attitudinal concerns arising from the nature of the misconduct.

The panel also took into account the following mitigating features:

- Lengthy nursing career prior to these findings.
- Engaged with the regulatory process.
- The panel noted there was some insight.

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 determined that it would be neither proportionate nor in the public interest to take no further action, as this would fail to protect the public or maintain confidence in the profession and the regulatory process.

The panel then considered the imposition of a caution order but again determined that, due to the seriousness of the case and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where “the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again”. The panel considered that your misconduct was not at the lower end of the spectrum and concluded that a caution order would be inappropriate. 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 concluded that there were no practical or workable conditions that could be formulated, given the nature of the misconduct in this case. The panel determined that the misconduct was not something that could be addressed through retraining or supervision. Furthermore, the panel concluded that the imposition of conditions would not adequately address the seriousness of the case and would not provide sufficient protection to the public or maintain public confidence in the profession.

The panel then went on to consider whether a suspension order would be an appropriate and proportionate sanction in this case. The panel had regard to the SG, which states that a suspension order may be appropriate where certain factors are present, including where a lesser sanction is insufficient, but the concerns do not

indicate deep-seated attitudinal problems, where there is evidence of insight, and where the risk of repetition is low.

The panel considered these factors carefully. It noted that the misconduct in this case did not amount to a single isolated incident but occurred on multiple occasions over a period of several weeks and escalated from inappropriate comments to unwanted and uninvited physical contact. The panel considered that this escalation was a significant feature of the case and weighed against the misconduct being characterised as a momentary lapse in judgment.

The panel considered submissions that you had practised unrestricted for a period of time following the events without further incident. However, the panel concluded that this factor did not outweigh its concerns regarding the seriousness of the misconduct, the incomplete insight demonstrated, and the lack of sufficient remediation. The panel determined that there remained a real risk of repetition, arising from the attitudinal nature of the misconduct and the absence of evidence that those underlying concerns had been adequately addressed.

The panel further considered whether a suspension order would be sufficient to maintain public confidence in the nursing profession. It concluded that, given the seriousness of the misconduct, its escalation over time, and the fact that it amounted to sexual misconduct in the workplace, a suspension order would not adequately mark the gravity of the behaviour or uphold proper professional standards. The panel determined that a suspension order would not be sufficient to maintain public confidence in the nursing profession and its regulator.

In these circumstances, the panel determined that a suspension order would not be a sufficient, appropriate, or proportionate sanction.

The panel then went on to consider whether a striking-off order was the appropriate and proportionate sanction. In doing so, the panel had careful regard to the SG, which invites consideration of whether the regulatory concerns raise fundamental questions about professionalism, whether public confidence in the profession can be

maintained if the nurse is not removed from the register, and whether striking-off is the only sanction sufficient to protect the public and uphold professional standards.

The panel concluded that the misconduct found proved represented significant departures from the standards expected of a registered nurse. It determined that the misconduct, which involved sexual misconduct towards a colleague in the workplace and escalated over time and breached the fundamental tenets of the profession.

The panel considered the mitigating features of the case, including your lack of previous regulatory findings, your length of service, and your engagement with the regulatory process. However, the panel concluded that these factors did not outweigh the seriousness of the misconduct or the need to maintain public confidence in the profession and in the NMC as a regulator.

The panel determined that your actions were fundamentally incompatible with you remaining on the register. It concluded that allowing you to continue to practise, even after a period of suspension, would undermine public confidence in the nursing profession and would fail to uphold proper professional standards.

Balancing all of these factors, and applying the principle of proportionality, the panel determined that a striking-off order was the only sanction capable of adequately protecting the public, maintaining public confidence in the profession, and upholding proper professional standards. The panel was satisfied that nothing short of a striking-off order would be sufficient in the circumstances of this case.

The panel considered that this order was necessary to mark the seriousness of the misconduct and to send a clear message to the profession and the public about the standards of behaviour expected of a registered nurse.

This decision will be confirmed to you in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific

circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in your own interests until the striking-off sanction takes effect.

Submissions on interim order

The panel took account of the submissions made by Mr Edenborough who invited the panel to impose an interim suspension order for a period of 18 months. He submitted that an interim suspension order for a period of 18 months is necessary given the panel's findings in order to protect the public and meet the wider public interest.

Mr Harris, on your behalf opposed the application.

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

Decision and reasons on interim order

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

The panel 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 striking-off order. The panel therefore imposed an interim suspension order for a period of 18 months to cover the 28-day appeal period and any period during which an appeal may be heard.

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

This will be confirmed to you in writing.

That concludes this determination.