Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Friday 8 August 2025 – Friday 22 August 2025
Monday 11 May 2026 – Monday 18 May 2026
Monday 27 July 2026 – Thursday 30 July 2026

Virtual Hearing

Name of Registrant:	**Joel Kalombo Mutombo**
NMC PIN:	12K0150E
Part(s) of the register:	Registered Nurse – Sub Part 1 Mental Health Nursing – (May 2013)
Relevant Location:	Milton Keynes
Type of case:	Misconduct
Panel members:	Charlie Tye (Chair, Lay member) Vivienne Stimpson (Registrant member) Carson Black (Lay member)
Legal Assessor:	Attracta Wilson
Hearings Coordinator:	Charis Benefo
Nursing and Midwifery Council:	Represented by Raj Joshi, Case Presenter
Mr Mutombo:	Present and represented by Francis Graydon, Counsel instructed by the Royal College of Nursing (RCN)
No case to answer:	Charges 3 and 7
Facts proved:	Charges 1, 2c, 2d, 4a, 4b and 4c
Facts not proved:	Charges 2a, 2b, 2e, 5 and 6
Fitness to practise:	Impaired

Sanction:	**Caution order (2 years)**

Details of charge [as amended]

That you being a Charge Nurse, Band 6

1. Failed to provide appropriate leadership to your ward staff members.

2. Encouraged and/or permitted a culture on the ward of inappropriate and sexualised conversations and conduct, including:
   (a) You regularly discussed on the ward your own sexual preferences and/or those of your partners.
   (b) You regularly made sexual jokes and/or comments.
   (c) You took no, or no adequate, action to limit sexualised conversations amongst other staff members.
   (d) On a date unknown, you permitted and/or failed to prevent Colleague 1 from kneeling between or near your legs to retrieve a key from your belt in a manner to mimic a sexual act.
   (e) On date unknown, when Colleagues 1 and 2 were in the nurses' station showing each other their bare nipples, you failed to intervene appropriately but instead stated words to the effect of "Can I have a look ?"

3. On or about the 30th March 2019 or early April 2019, made unwanted sexual advances to Colleague 3 at a social work-related party.

4. In or about late April 2019, you sent Colleague 3, a Band 3 nurse inappropriate, sexualised social media messages, namely to the following effect
   (a) You "How are u beautiful"
   Colleague 3 "What do you want ?"
   You ; "You 😊"
   (b) You "First day I saw you, I've really liked you…….
   Just thought I would let you know. You are a very very very very veerrryyyy pretty girl"

(c) Colleague 3 ; “I’m so happy with my partner. I could never look elsewhere sorry”
You “I knew you wouldn’t. Just thought I would express myself”
Colleague 3 “Yeah ofc”
You “He’s a lucky guy
Wish I was in his shoe”

5. Your acts in one or more of the charges at 2, 3, and 4 were sexually motivated in that you sought or derived sexual gratification from your actions.

6. Your acts in one or more charges 3 & 4 were an abuse of your position as a band 6 nurse towards a more junior colleague.

7. Your acts in relation to one or more charges 2, 3 and 4 constituted harassment, in that:
(a) You engaged in unwanted conduct of a sexual nature, and
(b) Your conduct had the purpose or effect of:
    i. Violating the dignity of the colleagues(s) in question, or
    ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for the Colleague(s) in question.

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

Background

The Nursing and Midwifery Council (NMC) received a referral in respect of your conduct on 22 July 2020. You first entered onto the NMC’s register on 17 May 2013.

The allegations in this case arose whilst you were employed by Oxford Health NHS Foundation Trust (the Trust) at [PRIVATE] (the Ward), Milton Keynes Hospital Campus as

a Band 6 Charge Nurse. You started working at the Trust in 2015 and were promoted to the Band 6 position in April 2016.

The concerns in this case are that you allegedly demonstrated inappropriate conduct and failures in leadership whilst you were working at the Trust.

The concerns about your alleged conduct came to light when Nursing Assistants, Colleague 3 and Witness 1, provided statements to the Head of Forensic Services at the Trust about you participating in and perpetuating a culture of sexually inappropriate behaviour on the Ward. This included you allegedly sending inappropriate messages of a sexual nature to a junior member of staff, making inappropriate sexual advances to Nursing Assistants, and engaging in behaviour that intimidated and made female members of staff feel uncomfortable.

Decision and reasons on application for a short adjournment

Prior to the start of Witness 1's evidence on day two of proceedings, Mr Joshi, on behalf of the NMC, informed the panel that Witness 1 was not available to join the hearing that day. He stated that Witness 1 had been contacted by the hearings co-ordinator in the morning and had indicated that she was not aware of the dates she was due to join the hearing. Mr Joshi explained that Witness 1 had a number of client meetings scheduled that day in relation to her job, and her joining the hearing that day would necessitate cancelling those meetings at short notice.

Mr Joshi asked the panel to allow a short adjournment until the following day (day three of proceedings) in order for Witness 1 to join the hearing to give evidence. He submitted that it would be possible to hear Witness 1's oral evidence the following day, and that such an adjournment would not cause delay to the hearing considering the time that had been set aside for witness evidence.

Dr Graydon, on your behalf, highlighted that you had attended the hearing and expected the NMC's "*key witness*" to give evidence and present herself for cross-examination. He reminded the panel that you were facing serious allegations and Witness 1's evidence was significant. Dr Graydon submitted that he was concerned that the NMC had not warned Witness 1 about the start date of the hearing and that she would be called to give evidence.

Dr Graydon indicated that he would need to take instructions from you as to how you wished to proceed in the circumstances. He submitted that it would be a matter for the panel to be satisfied that Witness 1 would attend on day three.

Mr Joshi clarified that Witness 1 had been made aware of this hearing and warned to give live evidence by the NMC. He submitted that the hearings co-ordinator also sent an email to Witness 1 on day one of proceedings to ensure that she was aware of the date and time she was due to give evidence. Mr Joshi submitted that the previous hearings and adjournments in relation to this case might have contributed to Witness 1's confusion about the dates she was due to attend. He submitted, however, that Witness 1 had been warned to give evidence on day two and day three of the hearing. Mr Joshi submitted that whilst Witness 1's evidence would not be starting on day two, under ordinary circumstances, her evidence may well have gone into day three.

After taking instructions from you, Dr Graydon indicated that you were content to give the NMC a further opportunity to produce Witness 1 on day three of proceedings.

The panel accepted the advice of the legal assessor.

The panel considered that this case required thorough consideration of the evidence, which included Witness 1's oral evidence. It noted that Witness 1's evidence formed a significant part of the allegations against you and the NMC was heavily reliant on her account of what took place.

The panel noted the distress caused to you by Witness 1's inability to join the hearing that day, but that you were willing to agree to a short adjournment. It considered that requiring Witness 1's attendance on day two, where she would be required to cancel scheduled meetings at short notice, would be inappropriate.

The panel was satisfied that a short adjournment at this stage would not cause any injustice to either party or any undue delay to the hearing.

The panel therefore decided to accede to the application for a short adjournment of the hearing until 12 August 2025 (day three of proceedings).

Decision and reasons on application for special measures in respect of Witness 1's evidence

Following a preliminary meeting with Witness 1, Mr Joshi informed the panel that Witness 1 had been visibly upset and had indicated that she would feel far more comfortable with giving her evidence without you being visible to her. He therefore made a special measures application for you to keep your camera off during Witness 1's live evidence. Mr Joshi submitted that you would still be able to see Witness 1 and hear her evidence and that there would be no prejudice in that regard.

Mr Joshi referred the panel to the NMC guidance on supporting people to give evidence in hearings (reference: CMT-12), which sets out key principles and examples of support measures. In particular, he highlighted the following example:

> '*The following is a non-exhaustive list of the kind of support we can offer:*
>
> *…*
>
> 7. *Using screens or setting up the room or virtual hearing in a way that the person giving evidence feels most comfortable and can give evidence effectively.*'

Mr Joshi also referred to Rule 23 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004' (the Rules), which gives the panel the power to adopt special measures for witnesses who may be considered vulnerable. He submitted that the allegations in this case are of a sexual nature, and whilst it might be said that Witness 1 was not the actual subject of the alleged conduct, she was working in an environment where she allegedly felt uncomfortable and distressed.

In response, Dr Graydon submitted that the issue of special measures had not been raised previously. He submitted that it was of some concern that the application was being made at this stage, and he raised the issue of fairness. Dr Graydon indicated, however, that you were happy to proceed with the proposed special measure in order for matters to be dealt with expeditiously. He submitted that it was entirely a matter for the panel to determine whether it would be appropriate to allow the special measure in the circumstances.

The panel accepted the advice of the legal assessor.

The panel had regard to Rule 23(1)(e) and Rule 23(2), which sets out that:

> '*23.— (1) In proceedings before the Fitness to Practise Committee, the following may be treated as vulnerable witnesses—*
> *...*
> *(e) any witness, where the allegation against the registrant is of a sexual nature and the witness was the alleged victim; or*
> …
> *(2) After seeking the advice of the legal assessor, and upon hearing representations from the parties, the Committee may adopt such measures as it considers necessary to enable it to receive evidence from a vulnerable witness.*'

The panel noted the sexual nature of the allegations of this case. The allegations relate to your alleged behaviour on the Ward, where Witness 1 also worked. It is alleged that

Witness 1 saw, heard or was told of the alleged conduct and was offended by it. It therefore found that she may be treated as a vulnerable witness entitled to special measures under Rule 23.

The panel considered Mr Joshi's submission that Witness 1 would feel more comfortable if you were not visible to her while she gave her evidence in the hearing. It considered that the proposed special measure would be fair to Witness 1 and would likely improve the quality of her evidence in the circumstances.

The panel considered that there would be no unfairness to you in allowing such a measure, as you would still be able to see and hear Witness 1 throughout her evidence. It also noted that you were content to agree to the proposed special measure.

As such, the panel decided to accept the proposed special measure, namely that you would turn off your camera during Witness 1's live evidence, so as to not be visible to her.

Decision and reasons on application for Witness 1 to expand on evidence previously given during her live evidence

During Witness 1's live evidence, she made a request to clarify a matter that she had previously answered a question on in cross-examination.

Dr Graydon highlighted that Witness 1 had given her evidence and he had moved on to the next question. He submitted that there was no specific allegation of inappropriate sexual contact with you or Witness 1, rather, they related to a colleague at the Trust, so it was not clear how Witness 1's additional evidence would assist. Dr Graydon submitted that if Witness 1 wanted to expand on the reasoning behind the evidence she had given, then the panel would have to consider the test of relevance and pertinence.

Mr Joshi submitted that Witness 1 had been asked questions in cross-examination and had clearly responded in the heat of the moment. He submitted Witness 1 was requesting

for nothing more than to clarify her responses to Dr Graydon's questions, and that she should be permitted to do so.

The panel accepted the advice of the legal assessor.

The panel considered Witness 1's request to expand on or clarify evidence she had given during her cross-examination. It was of the view that it would not be unfair for Witness 1 to do so, subject to relevance.

The panel was therefore content for Witness 1 to clarify her evidence that was relevant to the questions she had been asked. It decided that Witness 1 would not be permitted to provide evidence on entirely new matters that had not been raised in her evidence unless any additional questions arose from her evidence.

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

The panel, of its own initiative, invited parties to make submissions on the issue of holding those parts of the hearing that involve reference to Witness 1's private life and health in private, pursuant to Rule 19.

Mr Joshi indicated that he had no objection to the application.

Dr Graydon also indicated that he had no objection to the 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.

The panel decided to hold in private the parts of this hearing that involve reference to Witness 1's private life and health, as and when such issues are raised in order to protect her privacy.

Decision and reasons on application to admit Colleague 3's hearsay evidence

The panel heard an application made by Mr Joshi under Rule 31 to allow the hearsay evidence of Colleague 3 into evidence. He relied on a skeleton argument prepared for a previous hearing when making this application. Mr Joshi submitted that Colleague 3 had produced a number of screenshots of WhatsApp conversations, which showed contact between you and her.

Mr Joshi submitted that despite numerous attempts, the NMC had not been able to secure Colleague 3's attendance as she had not responded to any of the attempts made by the NMC or the solicitors who conducted the NMC's investigation to contact her.

Mr Joshi invited the panel to consider the NMC's written skeleton argument which had been provided to it in advance of this application. It was the NMC's submission that Colleague 3's evidence could be fairly admitted. It submitted that her evidence is both demonstrably reliable and the other evidence in the case allows for its reliability to be tested.

Dr Graydon referred the panel to his written skeleton argument in response to the NMC's application. He reminded the panel of the provisions at Rule 31 and the principles set out in paragraph 45 in the case of *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin), as well as the factors to consider as set out in paragraph 56.

In addressing those factors, Dr Graydon submitted that the charges against you are serious and of a sexual nature in part. He submitted that any adverse findings would greatly impact on your career as a nurse, namely in relation to your reputation, your finances, and your ability to practise in your profession. Dr Graydon submitted that it was

significant that there had been a period of three years and some eight months since November 2021, when the last effort was made to secure Colleague 3 as a witness. He submitted that the NMC had not taken reasonable steps to secure her attendance. Dr Graydon referred to the attempts that were made by the NMC to contact Colleague 3 by telephone and email and submitted that the lack of any effort by the NMC should be of significant concern to the panel.

Dr Graydon submitted that the absence of a response from Colleague 3 indicated her reluctance to give live evidence and be subject to questioning, not only by you through your representative, but also by the panel in order to determine this case. He submitted that this stance undermined the credibility of Colleague 3's evidence.

Dr Graydon acknowledged that Colleague 3's evidence had been presented in support of charges 3 and 4 but submitted that it would also relate to charges 5, 6 and 7. He submitted that in relation to charges 3 and 4, Colleague 3's evidence was the sole and decisive evidence as she was the only witness who could speak to the allegation of unwanted sexual advances. Dr Graydon submitted that Witness 1 was not challenged on this during her live evidence, and she could not speak to the direct impact or effect that any alleged conduct would have had on Colleague 3.

Dr Graydon submitted that Colleague 3's evidence, as set out in her local statement dated 3 October 2019 attaching screenshots of WhatsApp conversations, and the notes of the investigation meeting on 31 October 2019 was brief, without specific details or expansion on details and context. He submitted that context was critical to the panel's balancing exercise. Dr Graydon submitted that you were entitled to challenge Colleague 3's evidence and she was required to attend to be questioned about her relationship with you as friends outside of work and the context of any social media communications by way of WhatsApp.

Dr Graydon submitted that it should not be lost on the panel that these social media communications were private and between two adults and should be considered as such.

He submitted that it arguably engaged Article 8 of the Human Rights Act 1998 for a party to be entitled to the right to privacy for private communications. Dr Graydon submitted that it was not in dispute that these messages were between you and Colleague 3, but the context of these messages from Colleague 3 was not before the panel. He submitted that it was your case that the context was the relationship you had with Colleague 3 both as a colleague, but also outside of the work environment. Dr Graydon referred the panel to the WhatsApp conversations and submitted that at no point within those communications was anybody ignored or "*cut off*". He submitted that the content of those communications spoke to the relationship between you and Colleague 3, but it could not speak to the alleged impact of your conduct on Colleague 3 in order to support the charges, because you are entitled to challenge Colleague 3 on the relationship and how it had been portrayed.

Dr Graydon submitted that Colleague 3 was also required to attend to answer questions about her motivation to remain close friends with you after the alleged incident at a social event outside of work, and her thoughts and feelings on the alleged conduct. He referred the panel to Witness 1's evidence about Colleague 3 and submitted that whilst the NMC was also relying on Witness 1's evidence, she could not give direct evidence about what Colleague 3 thought, perceived or understood about any of the alleged conduct included in the charges.

Dr Graydon submitted that Colleague 3's evidence was not demonstrably reliable, and that the other evidence presented by the NMC did not allow for its reliability to be tested. He submitted that it was difficult to conclude how Colleague 3's evidence could be tested against the other NMC evidence when the events alleged around charges 3 and 4 did not relate to the work environment.

Dr Graydon submitted that in all the circumstances, Colleague 3's evidence could not be admitted into evidence fairly.

In response, Mr Joshi referred the panel to the NMC guidance on '*Misconduct*' (reference: FTP-2a) and highlighted that nurses should keep to the standards and values set out in the code and consider the requirement to uphold the reputation of their profession at all times to help maintain the public's trust and confidence. He submitted that it was therefore perfectly proper for the panel to consider how you behaved outside of professional practice.

Mr Joshi submitted that it would be a matter for the panel to decide on what the WhatsApp messages implied and whether they had an impact on your colleagues.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 provides that, so far as it is '*fair and relevant*', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings.

In considering this application, the panel identified the following documentary evidence from Colleague 3:

1. Colleague 3's local statement dated 3 October 2019, attaching seven screenshots of WhatsApp conversations with you.
2. The notes of the investigatory meeting with Colleague 3 on 31 October 2019, which she signed on 11 November 2019.
3. An internal email between members of staff at the Trust dated 2 June 2020, attaching four screenshots of WhatsApp conversations with you that had been provided by Colleague 3 as part of the disciplinary hearing on 28 May 2020.
4. Three additional screenshots of WhatsApp conversations between you and Colleague 3.

The panel considered the principles set out in paragraph 56 of *Thorneycroft v NMC*:

i. *'whether the statements were the sole or decisive evidence in support of the charges;*
ii. *the nature and extent of the challenge to the contents of the statements;*
iii. *whether there was any suggestion that the witnesses had reasons to fabricate their allegations;*
iv. *the seriousness of the charge, taking into account the impact which adverse findings might have on the Appellant's career;*
v. *whether there was a good reason for the non-attendance of the witnesses;*
vi. *whether the Respondent had taken reasonable steps to secure their attendance; and*
vii. *the fact that the Appellant did not have prior notice that the witness statements were to be read.'*

The panel noted that Colleague 3's redacted local statement dated 3 October 2019 and seven screenshots of WhatsApp conversations, together with the redacted notes of Mr Daniel Mercier's investigatory meeting with Colleague 3 were already before the panel, having been introduced into evidence by Mr Mercier. It would be for the panel to place such weight as it deemed appropriate to Mr Mercier's evidence.

The panel considered that the hearsay evidence relating to Colleague 3 was relevant to charges 3, 4, 5, 6 and 7.

The panel was satisfied that Colleague 3's hearsay evidence was sole and decisive evidence in relation to charge 3. While there was reference in the notes of the investigatory meeting with you on 13 November 2019 and the investigation report dated February 2020 to an alleged incident at a party, in both documents you deny that you made any advances towards Colleague 3. There was no evidence currently before the panel on the specifics of this alleged sexual advance. Consequently, the statement of Colleague 3 and the accompanying exhibits would be sole and decisive evidence in respect of charge 3.

The panel was satisfied that the hearsay evidence was not the sole evidence in respect of charges 4 in so far as it relates to an exchange of messages between you and Colleague 3. In relation to this aspect of charge 4, it was not disputed that you sent the messages via WhatsApp to Colleague 3. Moreover, the content of those messages had been exhibited by Mr Mercier. Witness 1 also gave a hearsay account of being told about these messages by Colleague 3 and she gave evidence on the effect of these messages on Colleague 3. Consequently, Colleague 3's evidence was not the sole evidence in respect of charge 4.

However, the panel concluded that Colleague 3's hearsay evidence would be decisive in relation to charge 4, and charges 5, 6 and 7 as they relate to Colleague 3. Colleague 3 was the only one who could give direct evidence on the effects of your alleged behaviour on her, and in these circumstances the panel determined that it was only fair that you have the opportunity to test her evidence.

The panel considered that you did not dispute that the screenshots contained WhatsApp messages between you and Colleague 3, although you were challenging the allegations that those messages were sexualised and inappropriate. You also challenged charges 5, 6 and 7 in their entirety.

There was no evidence before the panel to suggest that Colleague 3 had reason to fabricate her evidence.

The panel considered that the charges were serious, involving allegations of a sexual nature, and as such, any adverse findings could seriously damage your reputation and potentially end your career as a nurse.

The panel could not be satisfied that there was a good and cogent reason for Colleague 3's non-attendance at the hearing, because of her non-engagement.

The panel had regard to the NMC's attempts to engage Colleague 3 as a witness. It noted that despite there being no response from Colleague 3, there had been no attempts to contact her after November 2021, almost four years ago. The panel therefore determined that the NMC had taken insufficient steps to secure Colleague 3's engagement as a witness and her attendance at this hearing.

The panel took into account that your representative at the RCN had been put on notice about Colleague 3's non-engagement prior to the start of this hearing, and that a case management hearing had been scheduled in January 2025 to deal with these matters, although this meeting was postponed. Despite this, the panel noted that there was no evidence of any subsequent attempts to secure the attendance of Colleague 3 following the hearing in January 2025.

The panel then considered whether it would be fair to admit the evidence. Due to the seriousness of the charges and the potential adverse impact on you, the fact that the underlying allegations are disputed, and the lack of reasonable efforts by the NMC to secure the attendance of Colleague 3, the panel considered that it would be unfair to you to admit Colleague 3's hearsay evidence.

The panel balanced fairness to you against fairness to the NMC. It determined that your right to a fair hearing outweighed any unfairness to the NMC, particularly in circumstances where the panel was not satisfied that the NMC had made reasonable efforts to secure the attendance of Colleague 3.

In these circumstances the panel refused the application in respect of the following evidence relating to Colleague 3:

1. Colleague 3's local statement dated 3 October 2019, attaching seven screenshots of WhatsApp conversations with you.
2. The notes of the investigatory meeting with Colleague 3 on 31 October 2019.
3. An internal email between members of staff at the Trust dated 2 June 2020,

attaching four screenshots of WhatsApp conversations with you that had been provided by Colleague 3 as part of the disciplinary hearing on 28 May 2020.

4. Three additional screenshots of WhatsApp conversations between you and Colleague 3.

However, the panel acknowledged that some of the evidence of Colleague 3 was already before it in the evidence exhibited by Mr Mercier. The admissibility of this evidence was not challenged at the time, and it would be given such weight as deemed appropriate at the fact-finding stage.

Decision and reasons on application to admit Dr Jude Deacon's written statement as hearsay evidence

The panel heard an application made by Mr Joshi under Rule 31 to allow into evidence as hearsay:

1. Dr Deacon's written statement dated 29 July 2024; and
2. A corresponding exhibit comprising of a redacted letter addressed to you from the Trust dated 22 June 2020, following the disciplinary hearing held on 28 May 2020.

Dr Deacon was not present at this hearing and, whilst the NMC had made sufficient efforts to ensure that this witness was present, she was unable to attend the hearing due to [PRIVATE].

Mr Joshi submitted that the letter following the disciplinary hearing made reference to the WhatsApp conversations between you and Colleague 3, who also appeared as a witness during the Trust's investigation to give account of your alleged behaviour towards her during a night out in early 2019. He submitted that this letter included reference to an admission by you that you had behaved inappropriately towards Colleague 3 during a social night out, and that you said it was an isolated occasion. Mr Joshi submitted that this

evidence was relevant because it effectively set out admissions and evidence that was put before a panel at the Trust.

Dr Graydon reminded the panel of the provisions at Rule 31 and the principles set out in the case of *Thorneycroft v NMC*. He submitted that it would be a matter for the panel to decide whether there was good reason for the non-attendance of Dr Deacon. Dr Graydon submitted that it was somewhat unclear why the NMC wished to rely on Dr Deacon's evidence on an issue that you have clearly set out your position on, but that it would be a matter for the panel to decide on.

Dr Graydon submitted that Dr Deacon's evidence was not relevant in the strict sense of the word, but it simply added to what the panel already had before it and what it had considered. He submitted that the matter was not raised by the NMC in either January 2025 or November 2024, and although that may not be a relevant consideration of the factors, it related to panel's consideration of the seriousness of the charges. Dr Graydon submitted that you did not have prior notice that Dr Deacon's evidence was to be read, and it was "*sprung upon*" your representatives the day before the start of this hearing.

Dr Graydon submitted that Dr Deacon's evidence was sole and decisive because it related to the events at the nightclub. He submitted that the nature and extent of the challenge to the contents of Dr Deacon's evidence was part of the overall context between colleagues who were also friends and socialising outside of work. Dr Graydon submitted that there was no suggestion that Dr Deacon had reasons to fabricate her evidence. He submitted that it was a matter for the panel to decide on this application.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 provides that, so far as it is '*fair and relevant*', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings.

The panel considered the principles set out in paragraph 56 of *Thorneycroft v NMC*, as set out above.

The panel had regard to Dr Deacon's evidence. Dr Deacon was the chair of the local disciplinary hearing and her evidence comprised of her written statement dated 29 July 2024 and corresponding exhibit (a letter addressed to you from the Trust dated 22 June 2020, following a disciplinary hearing held on 28 May 2020). It noted that Dr Deacon's written statement had been prepared in anticipation of being used in these proceedings and contained a signed statement of truth.

The panel considered that Dr Deacon's evidence was relevant to charges 3 and 4.

The panel was satisfied that Dr Deacon's evidence was not the sole or decisive evidence in respect of any of the charges. The panel had before it, other relevant evidence including the screenshots of WhatsApp messages between you and Colleague 3.

The panel noted that you did not appear to challenge the contents of Dr Deacon's written statement, or the contents of the letter.

There was no evidence before the panel to suggest that Dr Deacon had reason to fabricate her evidence.

The panel considered that the charges were serious, involving allegations of a sexual nature, and as such, any adverse findings could have an impact on your career.

The panel considered that there was a good and cogent reason for Dr Deacon's non-attendance at the hearing. It had regard to the email correspondence between the NMC and Dr Deacon's personal assistant (PA), in particular the email dated 4 August 2025, which indicated that Dr Deacon had [PRIVATE] and would therefore not be able to attend the hearing.

The panel was satisfied that the NMC had taken reasonable steps to secure Dr Deacon's attendance.

The panel took into account that your representatives at the RCN had not been put on notice about Dr Deacon's non-attendance until one day prior to the start of this hearing. However, it also noted the short notice of her inability to attend the hearing from her PA.

The panel noted that the letter only made reference to what you said during the Trust hearing, and it did not relay any conversations or discussions with Colleague 3. It therefore found that there was no inherent connection between this evidence and that of Colleague 3.

The panel considered whether you would be disadvantaged by the change in the NMC's position of moving from reliance upon the live testimony of Dr Deacon to that of a written statement at short notice. It noted that in the absence of Dr Deacon, you would not be able to test her evidence in cross-examination, and the panel would not have an opportunity to question her. The panel noted that Dr Deacon in her witness statement referred to a letter sent to you following the disciplinary hearing at the Trust. This letter referred to the position taken by you at the disciplinary hearing, which could be interpreted as an admission to the facts of your alleged conduct towards Colleague 3.

The panel considered your right to a fair hearing alongside the public interest in these issues being explored fully. Taking all of the above matters into account, the panel concluded that Dr Deacon's written statement and corresponding exhibit were relevant to the charges and that it would be fair to admit it into evidence as hearsay, with the exception of the section recording specific comments you made to the panel regarding your behaviour on the social night out towards Colleague 3.

In reaching this decision, the panel noted that it would be able to attach such weight as it deemed appropriate to Dr Deacon's admitted hearsay evidence once it had heard and evaluated all of the evidence before it at the fact-finding stage.

Decision and reasons on applications to amend the charge

The panel heard two applications made by Mr Joshi to:

1. amend the wording of charge 4a; and
2. introduce an additional charge 8.

In relation to the first application, the proposed amendment was to correct the typographical error in respect of the colleague named at the charge. It was submitted by Mr Joshi that the proposed amendment would provide clarity and more accurately reflect the evidence.

The proposed amendment to charge 4a was as follows:

"That you being a Charge Nurse, Band 6

…

4. In or about late April 2019, you sent Colleague 3, a Band 3 nurse inappropriate, sexualised social media messages, namely to the following effect

(a) You "How are u beautiful"

Colleague ~~2~~ **3** "What do you want ?"

You ; "You 😊""

In relation to the second application to introduce an additional charge, Mr Joshi referred the panel to the case of *PSA v NMC & Jozi* [2015] EWHC 764 which set out that panels should play a more proactive role than a judge presiding over a criminal trial in making sure that a case is properly presented, and that the relevant evidence is before it. He submitted that the duty of a panel is not just to look at what evidence is before it, but also to see if there are other matters that could or should properly arise as a result of considering that evidence.

Mr Joshi submitted that despite the evidence of Witness 1, there was nothing within the charges, as presently drafted, to reflect any inappropriate conduct in relation to her. He submitted that as per the provision in *PSA v NMC & Jozi*, the real issue was that the full charges that should have been brought against you were never brought. Mr Joshi submitted that the full extent and severity of your conduct had been pleaded in relation to others, but not Witness 1, who witnessed what happened.

Mr Joshi submitted that Witness 1 was fairly clear about the effect that the incidents had on her and what took place during her tenure at the Trust. He submitted that whilst a great deal was contained in her written statement dated 28 February 2022, she had put forward additions during her live evidence, for example in relation to advances that were made to her by another colleague.

Mr Joshi submitted that the proposed additional charge would fully reflect the extent of what took place on the Ward and what effect your alleged conduct had on Witness 1. He submitted that the additional charge was nothing more than the full charges that should have been brought in this case.

The proposed additional charge was as follows:

"That you being a Charge Nurse, Band 6

…

8. **Your acts in relation to one or more charges 1 and 2 constituted harassment to [Witness 1] in that:**
   (a) You engaged in unwanted conduct of a sexual nature, and
   (b) Your conduct had the purpose or effect of:
   i. **Violating the dignity of the colleague(s) in question, or**
   ii. **Creating an intimidating, hostile, degrading, humiliating or offensive environment for the colleague(s) in question.**"

The panel also heard submissions from Dr Graydon. He indicated that the application in respect of charge 4a was not opposed.

In relation to the second application, Dr Graydon submitted that the application was opposed. He referred the panel to Rule 28(1)(b) which states:

> '*28. — (1) At any stage before making its findings of fact, in accordance with rule 24(5) or (11), the Investigating Committee (where the allegation relates to a fraudulent or incorrect entry in the register) or the Fitness to Practise Committee, may amend—*
> *…*
> *(b) the facts set out in the charge, on which the allegation is based,*
>
> *unless, having regard to the merits of the case and the fairness of the proceedings, the required amendment cannot be made without injustice.*'

Dr Graydon submitted that you have always been entitled to know the case you have to meet and to prepare your defence based on that case. He highlighted the timing of this application, which had only been made after the live evidence of the only live witness the NMC had been able to produce. In addition, he submitted that the panel would need to be clear on the basis of the proposed amendment.

Dr Graydon submitted that this case was not analogous with the case of *PSA v NMC & Jozi*. He submitted that the charges brought in this case were clear and properly included the concerns raised against you, namely in relation to your leadership and conduct of a sexual nature. Dr Graydon submitted that the NMC had brought the full gravity of your alleged conduct to this panel's attention.

Dr Graydon referred the panel to the six grounds of appeal in the case of *PSA v NMC & Jozi* and submitted that it was important for the panel to consider whether the circumstances of this case falls into one of the grounds.

Dr Graydon submitted that this was not a case that had gotten off on a fundamentally misconceived footing, nor was it a case where there had been under charging. He submitted that this was also not a case that involved witnesses that had not been called to give evidence. In addition, Dr Graydon submitted that this case did not involve any serious procedural irregularity.

Dr Graydon submitted that this application had come about because of inconsistencies in Witness 1's evidence. He submitted that she had given live evidence which was not included in her written statement. Dr Graydon submitted that it would be perverse for an application to amend the charges to be made every time a witness gave new evidence in a hearing. He submitted that this would effectively be tailoring the charges to the evidence that had been given and lead to serious procedural irregularity.

Dr Graydon submitted that there had been no second written statement from Witness 1 setting out what the alleged impact on her was, and she cannot speak to the impact it would have had on her other colleagues. He submitted that there was also no written statement from those other colleagues alleging sexual harassment caused by you. Dr Graydon submitted that for the first time, the panel had heard Witness 1 make allegations regarding sexual harassment against you and this is a case which goes back some six years. He submitted that if it was the case that your alleged conduct had an impact on Witness 1, this was not included in her written statement and there was no good or cogent explanation as to why it was not there.

Dr Graydon submitted that it would be procedurally perverse to amend a charge solely on the basis that what a witness had said in live evidence was inconsistent with what was previously said or was deficient in some way, and this would effectively be giving the NMC "*another bite of the cherry to formulate its charges*". He submitted that the NMC would have been expected to craft and draft the particulars after all of the evidence was obtained.

Dr Graydon submitted that with the addition of the proposed charge, the case against you would be different to the case that had been advanced before the application. He submitted that the proposed amendment could not be made without injustice, and that if it were allowed, Witness 1 would have to be recalled as a witness. Dr Graydon reminded the panel that Witness 1 had not provided an additional witness statement evidencing and supported by a statement of truth, and she would have to be called to be cross-examined on her evidence in respect of the charge. He submitted that this would have a practical effect on you as matters would not be dealt with in a prompt and timely manner. Further, Dr Graydon submitted that it was in your interests and the public interest for matters to be concluded promptly and in a timely manner.

Dr Graydon therefore invited the panel to exercise its discretion and to disallow the proposed amendment of introducing an additional charge.

The panel accepted the advice of the legal assessor and had regard to Rule 28.

The panel first considered Mr Joshi's application to correct the typographical error in charge 4a. It was of the view that such an amendment, as applied for, was in the interest of justice. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

The panel then considered the application in respect of introducing an additional charge. It had regard to the merits of the case and the fairness of proceedings to determine whether the proposed amendment could be made without injustice. The panel also considered the case of *PSA v NMC & Jozi* which set out that it ought to have a more proactive role in making sure that a case is properly presented, and the relevant evidence is before it.

The panel considered that during the course of Witness 1's live evidence, she described incidents involving alleged sexual harassment by other colleagues, as well as the effects

of your alleged conduct on her more broadly. The panel noted that Witness 1's allegations, relative to the effect of your conduct on her and potentially amounting to sexual harassment, only came about during her live evidence and was not mentioned in her written statement dated 28 February 2022. In this regard, the panel considered that to allow such an amendment would necessitate the recalling of Witness 1 for questioning on the additional allegation of sexual harassment. She would be invited to give evidence on conduct which occurred six years ago and which she did not mention in her written statement for the NMC.

In considering fairness, the panel considered that you had been made aware of the case against you in advance of this hearing and had already prepared your defence. It considered that the proposed additional charge constituted a fundamental change to the case against you at a very late stage. The panel considered that this additional charge would be very serious and if found proved, would have an adverse impact on you. In addition, an adjournment would be necessary for you to prepare your defence to a fresh charge. The panel considered that you would be disadvantaged by having to respond to a new charge about conduct which occurred six years ago. As a result, the proposed amendment would create unfairness to you. Further, an adjournment would result in further delay to the investigation of allegations referrable to events which occurred six years ago.

Moreover, the panel considered that such a fundamental change could have been considered previously. The panel had regard to Witness 1's undated local statement, which made reference to alleged sexual harassment she was subjected to. In that local statement Witness 1 explicitly said that she felt sexually harassed because of the culture on the Ward which featured constant sexual conversations. It noted that Witness 1 did not attribute this to you at the time but did during live evidence. It is not clear when this local statement was provided to the NMC, although Witness 1 suggested the document was created shortly after she reported her concerns.

The NMC had already included a charge alleging that you failed to provide appropriate leadership and encouraged or permitted a culture on the ward which featured inappropriate and sexualised conversations. The NMC considered that these allegations, along with others, warranted a charge of sexual harassment and that was put to you at charge 7. At no point, prior to this application, did the NMC consider that a charge of sexual harassment relating to Witness 1 should be put to you. As late as January 2025, in the skeleton argument for the hearsay application, the NMC indicated that Witness 1 was only able to give evidence on charges 1 and 2. The NMC, despite having relevant information before it, did not pursue a charge of sexual harassment in respect of Witness 1. The NMC's change in position now comes during the hearing, some six years after the alleged conduct.

There is a public interest in the NMC fully exploring regulatory concerns as a means of protecting of the public and maintaining public confidence in the profession. Consequently, if new concerns arise during the course of the hearing, then the regulator does have an interest in scrutinising them. However, the panel does not consider these to be new concerns. The NMC has had every opportunity over the last six years to bring a new charge of sexual harassment in respect of Witness 1 and decided not to. Moreover, the NMC had still identified the alleged mischief underlying the allegations. That your alleged actions towards Colleague 3 was sexually motivated, were an abuse of power, and amounted to sexual harassment is already included within the allegations. As a result, the mischief at the core of this alleged conduct can still be explored by the panel whether or not the charges are amended.

The panel was not satisfied that the proposed amendment could be made without unfairness and injustice to you. It noted that the effect of the amendment would be to introduce a very serious charge and took into account the potential adverse effect on you if it were to be proved. In considering the public interest, the panel was satisfied that the current charges appropriately represent the alleged mischief surrounding your leadership and the concerns of a sexual nature. The panel therefore decided to refuse the application to introduce an additional charge in relation to Witness 1.

Decision and reasons on application of no case to answer

The panel considered an application from Dr Graydon that there is no case to answer in respect of the charges alleged against you. This application was made under Rule 24(7), which states:

> *'24 (7) Except where all the facts have been admitted and found proved under paragraph (5), at the close of the Council's case, and –*
>
> *(i) either upon the application of the registrant, or*
> *(ii) of its own volition,*
>
> *the Committee may hear submissions from the parties as to whether sufficient evidence has been presented to find the facts proved and shall make a determination as to whether the registrant has a case to answer.'*

Dr Graydon also asked the panel to determine, for completeness, the second provision at Rule 24(8) in relation to impairment:

> *'24 (8) Where an allegation is of a kind referred to in article 22(1)(a) of the Order, the Committee may decide,—*
>
> *(i) either upon the application of the registrant, or*
> *(ii) of its own volition,*
>
> *to hear submissions from the parties as to whether sufficient evidence has been presented to support a finding of impairment, and shall make a determination as to whether the registrant has a case to answer as to her alleged impairment.'*

Dr Graydon submitted that the lead authority in approaching this application is *R v Galbraith* [1981] 1WLR 1039. In relation to these proceedings the test can be put as follows:

1. '*If there is no evidence that a crime has been committed by the defendant, there is no difficulty. The judge will of course stop the case.*

2. *The difficulty arises where there is some evidence, but it is of a tenuous character, for example, because of inherent weakness or vagueness or because it is inconsistent with other evidence.*
   (a) Where the judge comes to the conclusion that the prosecution evidence, taken at its highest, is such that a jury properly directed could not properly convict upon it, it is his duty, upon a submission being made, to stop the case.
   (b) ....'

Dr Graydon submitted that limb 2(a) from the case of *R v Galbraith* was relevant in this case. He highlighted that the panel had only heard the live evidence of one witness, Witness 1. Dr Graydon submitted that it was significant that Witness 1 was a healthcare assistant on the Ward and in her own words, she was in a "*lowly position*", whereas you were in a more senior role. He submitted that there was no other witness evidence from your colleagues, either from other healthcare assistants, or other team leaders or nurses that formed part of your team. Dr Graydon submitted that there was also a dearth of documentary evidence that the panel had not been presented with, such as evidence from your supervisors or other documentary evidence to support any of the substantive allegations against you. He submitted that there were no appraisals upon which the NMC wished to rely, that would indicate that there was a problem with your management or leadership style. Dr Graydon submitted that instead, the panel had been presented with the opinion evidence of one healthcare assistant.

Dr Graydon submitted that whilst the serious nature of the allegations caused concern, it also demanded credible and cogent evidence to support them, however the evidence the NMC had relied on was insufficient. He submitted that it was inherently weak and vague. Dr Graydon submitted that Witness 1's evidence consisted of made-up opinion and generalised assertions without sufficient support, either by way of records that she made or conversations she had with colleagues expressing concerns about you.

Dr Graydon then addressed the panel on each of the charges.

In relation to charge 1, Dr Graydon submitted that the only evidence relied upon was that of Witness 1. He submitted that whilst there was nothing, in principle, preventing the panel from looking at the quality of that evidence, within her written statement Witness 1 had provided an opinion which was devoid of any specificity of any details. Dr Graydon submitted that it did not provide a sense of how matters really were as alleged. He reminded the panel that it was not for you to disprove the charges; it was for the NMC to prove them. Dr Graydon highlighted the differences between Witness 1's written statement evidence and her oral evidence, which he submitted went to the weight of her evidence. He asked the panel to consider the inherent weakness, vagueness or inconsistencies in Witness 1's evidence. He highlighted responses given by Witness 1 in her evidence and submitted that it provided a window into her motivation and the manner in which her written statement had been prepared and signed.

In relation to charge 2, Dr Graydon submitted that there had been no documentary evidence showing the relationship you and Witness 1 shared and the extent to which you both worked together in order for her to come to these conclusions and assertions about your conduct. Dr Graydon referred to Witness 1's written statement and submitted that her evidence was vague, general, inherently weak and lacked specificity. He also took the panel through each of the sub-charges 2a, 2b, 2c, 2d and 2e, setting out how the evidence was vague, inherently weak, and not corroborated.

In relation to charge 3, Dr Graydon submitted that the panel had not heard any live evidence from Colleague 3 to conclude that you made unwanted sexual advances towards her. He reminded the panel that Colleague 3's hearsay evidence had not been admitted into evidence. Dr Graydon reminded the panel that you had admitted to sending messages to Colleague 3, but there was no evidence on the nature of the alleged unwanted sexual advances.

In relation to charge 4, Dr Graydon referred to the messages you had admitted to sending to Colleague 3. He submitted that the context was key and critical to the panel's consideration. He reminded the panel that it had not heard from Colleague 3. Dr Graydon submitted that it was difficult to conclude that the messages were sexualized. He submitted that the evidence in support of the charge was weak, and at its worst, demonstrated you flirting with a work colleague but also with a gym buddy.

In relation to charge 5, Dr Graydon submitted that there was insufficient evidence to enable the panel to conclude that charges 2, 3 and 4 were sexually motivated in that you sought or derived sexual gratification from your actions. He reminded the panel that charge 5 was predicated on charges 2, 3 and 4, and so if those charges fell away, then charge 5 would also fall away.

In respect of charge 6, Dr Graydon reminded the panel that it had not heard any live evidence from Colleague 3, and that the only evidence before it was the WhatsApp messages.

In relation to charge 7, Dr Graydon submitted that there was no witness evidence from the colleagues involved in the incidents at charges 2d and 2e, describing the impact of your alleged conduct on them. He submitted that there was no witness evidence from either Colleague 1, Colleague 2 or Colleague 3 to support the allegation at charge 7 and the issues raised by Witness 1.

In these circumstances, it was submitted by Dr Graydon that these charges should not be allowed to remain before the panel. He submitted, however, that the panel could also find no case to answer on some of the charges.

In addition, Dr Graydon submitted that whilst the case was not at the impairment stage, there had been no evidence advanced by the NMC to support a finding of impairment.

Mr Joshi accepted that the relevant considerations for this application are found in the case of *R v Galbraith*. He acknowledged Dr Graydon's reliance on limb 2(a) but, also brought the panel's attention to limb 2(b):

> '*(b) Where however the prosecution evidence is such that its strength or weakness depends on the view to be taken of a witness's reliability, or other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence upon which a jury could properly come to the conclusion that the defendant is guilty, then the judge should allow the matter to be tried by the jury.*'

Mr Joshi submitted that the panel had to consider whether the evidence presented was so unsatisfactory that it could not find the allegations proved.

In relation to the misconduct aspect, Mr Joshi referred the panel to the NMC guidance on '*Misconduct*' (reference: FTP-2a), which includes key considerations and significantly, makes reference to the Professional Standards Authority's September 2022 report '*Safer Care for All*' and its 2018 report '*Sexual behaviours between health and care practitioners: where does the boundary lie?*'

Mr Joshi submitted that in this particular instance, it was not surprising that the main NMC witness, Witness 1, felt that there was so much going on that it was difficult to provide specificity against a background of constant sexual innuendos. He submitted that when considering the boundaries, the panel had regard to the NMC guidance and the reports

from the Professional Standards Authority, in relation to what was and was not acceptable. Mr Joshi submitted that the panel also had before it your job description, along with the Trust's professional boundary policy, which as the nurse in charge, you were aware of and knew you had to pay attention to. In this regard, Mr Joshi submitted whilst Dr Graydon had concentrated purely on the evidence of Witness 1, the fact was that the panel had to consider all of the evidence before it in considering your deviation from recognised behaviours and policies.

Mr Joshi referred to Witness 1's evidence and reminded the panel that she became quite visibly upset over giving her evidence and what she considered to be relevant factors. He submitted that the panel would have to consider the specificity of all of her evidence, as well as the documentary evidence presented by Mr Mercier, and the weight to attach to this evidence would be another matter. Mr Joshi submitted that contrary to Dr Graydon's submission, Witness 1's descriptions of incidents were quite detailed, clear and cogent about what she saw and heard.

Mr Joshi submitted that the fact that Witness 1 changed her opinion of you was also of considerable note. He submitted that it would have been difficult for Witness 1 to describe, in log form, each and every conversation she had or the conduct of the people around her. Mr Joshi submitted, however, that when it came to specific cross-examination in relation to the incidents, Witness 1 was very particular in terms of the details.

In relation to the totality of the evidence in respect of Colleague 3, Mr Joshi submitted that whilst the panel had decided not to admit her hearsay evidence, looking at the WhatsApp messages and the parts of Dr Deacon's hearsay evidence that had been admitted, there would have to be a balancing exercise. He submitted that the panel would have to consider the WhatsApp messages and decide whether they amounted to "*so called banter*" between gym buddies or otherwise. Mr Joshi submitted that in line with *R v Galbraith*, if there was a possible view that there was evidence on which the panel could come to a particular conclusion, then that is what the panel would have to do in relation to the WhatsApp messages.

In addressing the panel on misconduct again, Mr Joshi referred the panel to the case of *Schodlok v General Medical Council* [2015] EWCA Civ 769 and submitted that the panel would have to look at the individual charges, as well as the totality of the behaviour that had been complained about.

In conclusion, Mr Joshi submitted that the evidence before the panel was such that the charges could be decided upon, and therefore there was a case to answer on each of the charges.

The panel took account of the submissions made and heard and accepted the advice of the legal assessor.

The panel considered the application carefully in respect of each of the charges in this case. It made an initial assessment of all the evidence that had been presented to it at this stage, both written and oral.

The panel was mindful that it was not deciding whether any of the disputed charges was proved, only whether, applying the *R v Galbraith* test to the NMC evidence, sufficient evidence had been presented, such that it could, if applying the law properly, find the charges proved.

Charge 1

The panel considered that Witness 1 had provided evidence about your leadership style. It noted that she had described a rather unpleasant environment on the Ward under your leadership. The panel considered that whilst Dr Graydon had referred to inconsistencies and lack of specificity in Witness 1's evidence, she had maintained her evidence on your leadership style throughout cross-examination. The panel had before it the Trust's policies and code of conduct which would have set out the standards expected of you at the time, as well as the investigation report which provided some information about how you

interpreted your own style of leadership. In addition, it had the screenshots of WhatsApp messages between you and a more junior colleague, which could also provide insight into how you interacted with colleagues.

The panel was therefore satisfied that, at this stage, there was sufficient evidence to support a case to answer in respect of charge 1. It acknowledged that there was some lack of specificity in the evidence of Witness 1. However, the panel did not consider that this lack of specificity was such, so as to render the evidence supporting this charge as tenuous. The panel concluded that Witness 1's evidence, alongside the documentary evidence presented to it, supported a case to answer in respect of charge 1. As such, it was not prepared, based on the evidence before it, to accede to an application of no case to answer. What weight the panel gives to any evidence remained to be determined at the conclusion of all the evidence.

Charges 2a and 2b

The panel noted that there was no direct or specific evidence before it in respect of charges 2a and 2b. It also noted that these allegations only appeared in Witness 1's NMC written statement, and not in her more contemporaneous local statements and it was vague and lacked specificity. There was no other documentary or live evidence before the panel to support the allegation that you discussed your own sexual preferences and/or those of your partners, or that you regularly made sexual jokes and/or comments.

Witness 1 did give some live evidence in relation to these charges which was consistent with her written statement. The panel considered that the vagueness and lack of specificity in Witness 1's evidence overall was a matter of reliability that ought to be considered at the fact-finding stage. As such, it decided not to accede to the application of no case to answer in respect of charges 2a and 2b. What weight the panel gives to any evidence remained to be determined at the conclusion of all the evidence.

Charge 2c

The panel had heard evidence from Witness 1 in respect of charge 2c. It also noted that this particular allegation was raised within the Trust's investigation report, as well as the letter dated 22 June 2020 which was sent to you following the Trust's disciplinary hearing. As such, the panel considered that there was sufficient evidence before it to support a case to answer on this charge.

The panel therefore did not accept the submission that there was no case to answer in respect of charge 2c.

Charges 2d and 2e

The panel noted that Witness 1 had given evidence on the specific incidents set out at charges 2d and 2e. It considered that Witness 1 had given a cogent account of these incidents in live evidence, which was tested in cross-examination, and so it was a matter for the panel to assess at the fact-finding stage.

In addition, the panel noted the evidence that the incident at charge 2d was relayed to Mr Mercier at the time, and he addressed this in his written statement.

As such, the panel determined not to accede to the application of no case to answer in respect of charges 2d and 2e. What weight the panel gives to any evidence remained to be determined at the conclusion of all the evidence.

Charge 3

The panel noted its earlier decision not to admit the hearsay evidence of Colleague 3. It considered that there was no direct evidence to support the incident alleged at charge 3. Indeed, there was no evidence before the panel to give any account of what this alleged unwanted sexual advance entailed.

Accordingly, the panel was satisfied that given the lack of evidence before it in respect of charge 3, there was no realistic prospect that a properly directed panel could find this charge proved. It therefore found no case to answer in respect of charge 3.

Charge 4

The panel had before it the screenshots of WhatsApp messages between you and Colleague 3. It noted that the messages ascribed to you had, in fact, been sent by you.

In light of this, the panel considered that it was a matter for it to determine at fact-finding stage, at which point it would have the benefit of all of the evidence, and be in a better decision to decide on the balance of probabilities whether the messages were inappropriate or sexualised. At this stage, the panel was satisfied that there was sufficient evidence before it to support a case to answer on this charge.

The panel therefore determined that these matters could also be determined at a fact-finding stage and, as such, it did not accept the submission that there was no case to answer in respect of charge 4.

Charge 5

Having found a case to answer in respect of charges 2 and 4, the panel considered that at this stage, there was evidence before it which was not tenuous within the meaning of *R v Galbraith* to support a case to answer in respect of this charge. It noted that sexual motivation is to be determined by inference and deduction from the evidence overall, and it was satisfied that there was some evidence before it, from which an inference could be drawn.

The panel therefore determined that these matters could also be determined at a fact-finding stage and, as such, it did not accept the submission that there was no case to answer in respect of charge 5.

Charge 6

The panel considered evidence of your position as charge nurse on the ward. It noted your job description setting out your role and responsibilities, the more junior position of Colleague 3, and your alleged behaviour towards her. It found a case to answer in respect of charge 4. The panel therefore determined that it had evidence which was not tenuous within the meaning of *R v Galbraith* and found that you have a case to answer in respect of charge 6 as it refers to charge 4.

Charge 7

Having found a case to answer in respect of charge 2 and 4, the panel considered whether at this stage, there was a possible inference that could be drawn from the evidence before it, that your actions constituted harassment.

The panel noted that these charges related to Colleague 1, Colleague 2 and Colleague 3, but that none of these colleagues had provided evidence about the impact of your alleged conduct. It also took into account that the test for harassment required consideration of a subjective test.

The panel considered that Witness 1 had provided some evidence about the overall culture and environment on the Ward as a result of your behaviour, and as far as she was concerned, this behaviour was unwanted by Colleague 3 in particular. However, this amounted to hearsay evidence from six years ago. In the panel's view, the evidence before it in support of charge 7, at its highest, was weak hearsay evidence in respect of one colleague. There was also no evidence from any of the alleged victims.

The panel was therefore of the view that there was no realistic prospect that a properly directed panel could find the facts of charge 7 proved, and so it found no case to answer in respect of this charge.

Impairment

In relation to its powers under Rule 24(8), the panel considered the charges individually. It determined that all of the remaining charges, were serious and all had the potential, if found proved, to amount to misconduct. The panel therefore determined that you have a case to answer on alleged impairment relative to the charges that remain, namely charges 1, 2, 4, 5 and 6.

The hearing adjourned part-heard on 22 August 2025.

Interim order

The panel considered its obligation under Rule 32(5) to consider whether to make an interim order at this stage of proceedings. The NMC did not make an application for an interim order. The panel in its assessment of the evidence could not identify any reason why an interim order would be necessary to protect the public or maintain public confidence in the profession. It therefore did not make an interim order at this stage.

The hearing resumed on 11 May 2026.

Decision and reasons on application to adduce additional documentary evidence

During your oral evidence, Dr Graydon highlighted to the panel that having considered the Trust's '*Code of Conduct*' and '*Dignity at Work*' policy control documents, he had noted that neither of these documents were in effect at the time of the alleged events. Both policies included various '*review history*' or '*approval history*' dates on their respective front pages, but ultimately, the '*Code of Conduct*' policy was signed by the '*Chief*

Executive' acting as the '*chair of the approving committee*' on 11 April 2019, whilst the '*Dignity at Work*' policy was signed by a '*Non-Executive Director*' acting as the '*chair of the approving committee*' on 11 March 2021.

Dr Graydon submitted that both policy documents post-dated the alleged events and so they were of limited use.

Mr Joshi indicated that he would take instructions on the matter, following which, he would address the panel accordingly. After a period of time, Mr Joshi informed the panel that he had made enquiries with the NMC case co-ordinator but had not yet received a response. He therefore invited the panel to allow a short adjournment until 10:00 on day two of the resuming hearing, to allow for a response.

Dr Graydon did not oppose the request for a short adjournment.

The panel accepted Mr Joshi's request for a short adjournment to allow for a response from the NMC case co-ordinator in respect of the two policy documents.

On day two of the resuming hearing, Mr Joshi informed the panel that the NMC had obtained a response from Mr Mercier, who had provided the policy documents that were in force at the time of the alleged incidents.

Mr Joshi subsequently made an application to allow the following documents into evidence:

1. The Trust's '*Code of Conduct (Expectations)*' policy control document which was signed by the '*Chief Executive'* acting as the '*chair of the approving committee*' on 29 September 2015; and
2. The Trust's '*Dignity at Work*' policy signed by the '*Chief Executive'* acting as the '*chair of the approving committee*' on 13 July 2016.

Mr Joshi submitted that these documents were in force at the time of the alleged incidents.

Mr Joshi submitted that following a discussion with Dr Graydon and the legal assessor, he understood that there was no opposition to these documents being admitted into evidence.

Mr Joshi submitted that Rule 31 allows the panel to admit such evidence as it wishes, as long as it is relevant and fair. He also referred the panel to the NMC guidance on '*Directing further investigation during a hearing*' (reference: DMA-5) and '*Evidence*' (reference: DMA-6).

Dr Graydon submitted that he took no issue with the versions of the Trust's '*Code of Conduct*' and '*Dignity at Work*' policy control documents that were in effect at the time of the alleged incidents being admitted into evidence. He submitted that the weight to attach to them would be a matter for the panel in due course.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 provides that, so far as it is '*fair and relevant*', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings.

The panel determined that it would be fair to both parties and relevant to accept into evidence the Trust's '*Code of Conduct*' and '*Dignity at Work*' policy control documents that were in effect at the time of alleged incidents. In reaching this decision, the panel considered that it would be able to attach such weight as it deemed appropriate to these documents once it had heard and evaluated all of the evidence before it at the fact-finding stage.

The panel therefore acceded to the application to adduce these documents into evidence.

Decision and reasons on application to amend the charge

The panel, during its deliberations on the facts, identified two issues, namely in relation to charges 4 and 5 which, in its view, required consideration and representations from the parties.

First, in relation to charge 4, the panel noted a typographical error in the wording of charge 4b which did not appear in the extract of the WhatsApp message it was quoting. The panel noted that charge 4b set out the words '*pretty gril*' in relation to Colleague 3, whereas the WhatsApp message referred to her as a '*pretty girl*'.

Second, in relation to charge 5, the panel considered whether, to fully capture the alleged mischief at charge 5, the charge ought to be amended to include the alternative element of sexual motivation in line with the NMC guidance on '*Particular features of misconduct charging*' (reference: PRE-2e).

In this regard, the panel considered the following proposed amendments:

"That you being a Charge Nurse, Band 6

…

4. In or about late April 2019, you sent Colleague 3, a Band 3 nurse inappropriate, sexualised social media messages, namely to the following effect

   …

   (b) You "First day I saw you, I've really liked you……. Just thought I would let you know. You are a very very very very veerrryyyy pretty **girl** ~~gril~~"

…

5. Your acts in one or more of the charges at 2, 3, and 4 were sexually motivated in that you sought or derived sexual gratification **or the pursuit of a future sexual relationship** from your actions.

The panel therefore resumed the hearing and invited parties to take instructions, prepare submissions and make representations on these matters.

Accordingly, Mr Joshi made an application to amend the wording of charge 4b, as proposed, to correct the typographical error and to better reflect the evidence before the panel.

Dr Graydon indicated that he did not take issue with the proposed amendment to charge 4b. He referred to the screenshots of the WhatsApp messages between you and Colleague 3, which the panel had before it. Dr Graydon submitted that the matter had not been raised by the NMC before this stage. He acknowledged the diligence and care that the panel had taken with the case. Dr Graydon submitted that he did not oppose the amendment of charge 4b in light of the evidence before the panel.

Regarding the proposed amendment to charge 5, Mr Joshi submitted that such an amendment was legally permissible, fair and supported by the evidence in the case. He referred the panel to Rule 28 and highlighted the cases of:

- *R (On the application of Squier) v GMC* [2016] EWHC 2739 (Admin), where the High Court confirmed that fitness to practise panels have a broad discretion to amend charges at any stage of proceedings, albeit with two provisos; firstly, that the amendment does not cause injustice, and secondly, that the registrant has had a fair opportunity to meet the case;
- *NMC v Ogbonna* [2010] EWCA Civ 1216, where the court held that amendments are permissible where they clarify or better reflect the evidence, and do not expand the factual matrix;
- *Basson v GMC* [2018] EWHC 505 (Admin), in which the court emphasised that charges must reflect the actual evidence, not force the panel into artificial findings;
- *R (On the application of Calhaem) v GMC* [2007] EWHC 2606 (Admin), which confirmed that an amendment is not prejudicial where the registrant has been

aware of the general nature of the allegation, the amendment doesn't require him to answer a new factual case, and he has had a fair opportunity to respond;

- *Meadow v GMC* [2006] EWCA Civ 1390, which emphasised that fitness to practise panels must reach findings that are fair, accurate and reflective of the evidence;
- *R v Johal* (1972) 56 Cr App R 348 (CA), which confirmed that amendments are permissible where the essence or gist of the allegation remains the same; and
- *PSA v NMC & Jozi*, which set out that panels should play a more proactive role than a judge presiding over a criminal trial in making sure that a case is properly presented, and that the relevant evidence is before it.

Mr Joshi submitted that you had always been on notice that sexual motivation was alleged at charge 5. He submitted that you had addressed your intentions towards Colleague 3 in interview and had every opportunity to challenge that evidence. Mr Joshi submitted that the proposed amendment to charge 5 would not introduce a new allegation but refine the form of sexual motivation in line with the evidence, and as such, there would be no injustice to you. He referred to the screenshots containing the WhatsApp messages between you and Colleague 3 and submitted that the proposed amendment would be permitted in line with *NMC v Ogbonna*. Mr Joshi submitted that the evidence in this case clearly supported your pursuit of a future relationship and so the amendment would ensure that the charge reflected the true evidence picture as required by *Basson v GMC*.

Mr Joshi submitted that without the proposed amendment, the panel would be forced into a binary choice, in terms of the sexual gratification and whether the charge was supported or not by the evidence. He submitted that a finding of no sexual motivation whatsoever would be completely contrary to the evidence, and so the amendment would allow the panel to make a finding that was true to the evidence and consistent with *Meadow v GMC*.

Mr Joshi submitted that the essence and factual basis of the allegation, namely sexual motivation, remained the same and the amendment would simply clarify the type of sexual motivation alleged. He submitted that you were not being asked to meet a new case. Mr Joshi submitted that sexual motivation was not limited to instant gratification, but also

applied to romantic pursuit, emotional interest or seeking a future relationship, and so this case supported that amended wording of the charge.

Mr Joshi referred to the WhatsApp messages, your conduct, the culture on the Ward, and your own evidence. He submitted that the amendment would not widen the scope of the allegation but rather narrow it and deal with the clarification of the evidence. Mr Joshi submitted that your conduct fit squarely with the duties of the panel under *PSA v NMC & Jozi*.

Mr Joshi submitted that without the amendment, the panel would risk making a finding that was inaccurate, artificial or inconsistent with the evidence or the facts that it had found. He submitted that the amendment would ensure fairness and accuracy.

Mr Joshi submitted that in your oral evidence, you were cross-examined on the substance of sexual motivation, and not on a narrow or technical definition of sexual gratification. He submitted that you were questioned extensively about your intentions towards Colleague 3; the meaning of your messages; what was classed as a rebuff; how your stance on those messages changed to suggesting that you were not pursuing her, wanting a relationship or even asking her out; and whether your conduct was romantic or sexual in nature. Mr Joshi reminded the panel of your evidence in respect of the messages and submitted that the questions asked of you directly addressed the proposed amendment. He submitted that the law does not require that cross-examination matches the exact wording of the charge. Mr Joshi submitted that you knew what was being alleged, and the fact that your intentions and motivations in relation to your conduct towards Colleague 3 were in issue. Mr Joshi submitted that you could not claim unfairness when your own evidence addressed the very issue the amendment would clarify.

In response, Dr Graydon accepted that the panel has the power to amend a charge up to the point of, or before, its findings of fact. He submitted, however, that the NMC had not, before this stage, sought to amend charge 5 in the manner proposed. He submitted that had it not been raised by the panel, the case would not have been advanced by the NMC.

Dr Graydon submitted that this was concerning for you because at least five years had passed before arriving at this juncture in the case. He submitted that there had been a number of points since 2024, where it was open for the NMC to make an application to amend charge 5.

Dr Graydon submitted that amending charge 5 at this stage would also call into question the issue of fairness. He submitted that if this case was one, two or even three years old, this could have been forgiven and it would not have been unfair, but the case had gone on for a number of years, with the allegations relating to events that pre-dated 2019. Dr Graydon submitted that the NMC had already requested an amendment to the charges at earlier stage of proceedings and it could have included the current amendment at that time.

Dr Graydon submitted that the panel had considered the evidence before it in considerable detail. He submitted that contrary to Mr Joshi's submission, you did not have notice of this allegation before because the issue of a relationship was only being introduced for the very first time. Dr Graydon submitted that if this issue had been included in the Trust's local investigation, it had not made its way into the NMC charges because it was not supported by any evidence.

Dr Graydon submitted that whilst it was accepted that amending the charge at this stage would be lawful, such a course would be unfair to you. He submitted that there was a difference between sexual gratification and the pursuit of a future sexual relationship, and that this was acknowledged in the case of *Basson v GMC*. Dr Graydon submitted that it was ultimately an evaluation of your mind. He submitted that you would not accept that you had been put on notice that the proposed amendment formed part of the original case.

Dr Graydon submitted that if the panel were to conclude that Mr Joshi had cross-examined you on the issue, you should still be given an opportunity to give further evidence on the matter because it was distinct and separate, and you had not been put on notice of it. He submitted that if the panel were to conclude that the proposed amendment should be

allowed, procedural fairness would demand for you to be given an opportunity to answer questions and respond as appropriate. Dr Graydon submitted that if you were not given the opportunity, you would be prejudiced and public confidence in the regulatory process would potentially be undermined.

The panel accepted the advice of the legal assessor and had regard to its power to amend in Rule 28.

In relation to the charge 4b, the panel was of the view that the proposed amendment to correct the typographical error, as applied for, was in the interest of justice. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

In respect of charge 5, the panel had regard to the NMC guidance on '*Particular features of misconduct charging*' (reference: PRE-2e), which, in respect of '*Sexual misconduct and sexual motivation*' states:

> '*In cases where we charge sexual motivation, careful consideration should be given to the type of sexual motivation that is being alleged.*
>
> *For example, the motivation may have been sexual gratification or the pursuit of a future relationship. It may be advisable to specify the type of sexual motivation alleged in the charges. Where sexual motivation is charged and is then denied by the nurse, midwife or nursing associate at a hearing, they must be given a clear opportunity to respond to the allegation of sexual motivation in cross-examination.*
>
> *In drafting charges relating to sexualised language and behaviour, careful thought will need to be given to the motivation for the behaviour, particularly when such behaviour occurs in the workplace or is connected to the professional's role, such as sexual behaviour towards a colleague or a current or former patient.*

In cases where sexualised language or behaviour is sexually motivated (for example motivated by sexual gratification or a desire for a future relationship), the sexual motivation alleged should be included in the charges.'

The panel considered that the evidence before it in relation to charge 5 and in doing so, considered the evidence in charges 2 and 4. In considering the application to amend, the panel was mindful of the need to balance fairness to you against fairness to the NMC and it took this into account in relation to both charges 2 and 4. The panel considered that the proposed amendment would have the effect of charging you with sexual motivation in that you sought to pursue a future sexual relationship.

The panel considered that in relation to charge 2, there was no evidence to suggest such acts were motivated by the pursuit of a future relationship. It therefore determined that the proposed amendment would significantly alter the substance of charge 2 and would therefore be unfair to you. It would require you to present a response to charges relating to events in 2019 of which you were previously unaware. The panel considered that fairness to you outweighed any unfairness to the NMC for this reason.

In considering the proposed amendment as it related to charge 4, the panel took into account fairness to the NMC and its duty as statutory regulator to investigate complaints thoroughly so as to ensure that the mischief alleged is addressed. It balanced this against fairness to you, specifically as the behaviours alleged dated back approximately seven years.

The panel considered your entitlement to know the case against you and to be given a reasonable opportunity to defend yourself. It noted that you had, indeed, prepared your case based on what the NMC had presented. The panel considered that the NMC had brought a charge reflecting sexual gratification, which was a separate limb of sexual motivation to the pursuit of a future sexual relationship. It considered whether you would

be taken by surprise if the proposed amendment were allowed at this very late stage and if so, whether your right to a fair hearing would be adversely impacted.

The panel considered all the charges, and in particular charge 4, and decided that the mischief alleged was already captured in charge 4 which made reference to inappropriate, sexualised messages. It considered that the mischief would flow from the sending of those sexualised messages and the panel would need to consider your explanation for sending those messages alongside the context, to determine if they were inappropriate and sexualised. The panel therefore determined that whether you had acted with sexual motivation was closely linked to the allegation of sending inappropriate and sexualised social media messages to Colleague 3, and for that reason, the mischief of sexual motivation in seeking a sexual relationship would be adequately addressed without the necessity to amend charge 5 at this late stage.

The panel considered that the mischief of sending inappropriate, sexualised social media messages would be thoroughly investigated and refusing the proposed amendment at this late stage would not have the effect of preventing the panel adequately considering your alleged behaviour towards a junior colleague in the public interest.

The panel therefore concluded that refusing the proposed amendment was fair in all the circumstances, and as such, it decided to reject the application.

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 Mr Joshi, on behalf of the NMC, and by Dr Graydon, 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:

- Witness 1: Healthcare Assistant on the Ward at the time of the concerns; and

- Mr Daniel Mercier: Team Manager at the Trust who investigated the concerns.

In addition, the panel took account of the written evidence and witness statement from the following witness on behalf of the NMC, which was admitted as hearsay evidence:

- Dr Jude Deacon: Director of Forensic Mental Health at the Trust who chaired the disciplinary hearing regarding the allegations.

The panel also heard evidence from you under affirmation.

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 you.

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

Charge 1

That you being a Charge Nurse, Band 6

1. *Failed to provide appropriate leadership to your ward staff members.*

This charge is found proved.

In reaching this decision, the panel first considered whether you had a duty to provide appropriate leadership to your ward staff members. The panel took into account the Trust's '*job description*' for a Band 6 Charge Nurse on the Ward, which amongst other things stated:

> '*You will be expected to lead a team of nurses and support workers in assessing, planning, implementing and evaluating nursing care to a group of patients.*
> *…*
> *Leading a team of nurses includes managing your team, auditing standards of care within your team and dealing with minor human resource issues. As a team leader you will need to articulate a clear vision of the standards expected within your team and be confident in your human resource management approach.*'

The panel considered that there was a clear expectation on you to act as a leader on the Ward, with responsibility over staff. It therefore determined that as a Band 6 Charge Nurse, you were under a duty to provide appropriate leadership to your ward staff members.

The panel next considered the evidence provided in respect of whether you had failed in your duty to provide appropriate leadership to your ward staff members.

The panel noted Witness 1's evidence about the culture on the Ward during her time there. It noted that Witness 1 was the only direct witness to this charge. The panel considered her NMC witness statement, exhibits and her oral evidence.

Witness 1's two local statements were undated and her NMC witness statement was dated 28 February 2022, some three years after the alleged events. Nevertheless, the

panel was satisfied that there was a consistent theme running throughout her evidence regarding the culture on the Ward.

Witness 1 described a sexualised culture in which a number of colleagues made frequent jokes and comments of a sexual nature. Indeed Witness 1's local interview described inappropriate behaviour becoming normalised across the Ward. She attributed these behaviours primarily to a group of people she called the '*hyenas*' who engaged in constant sexual banter and a range of other inappropriate behaviours.

The panel considered that the term '*hyena*' had a contested meaning. Witness 1 described this term as arising from a culture of sexually inappropriate behaviour on the Ward. You described it is a label attached to members of staff who consumed much of the meat leftover by patients following their meal, and that this term predated your employment with the Trust.

The panel considered Witness 1's evidence against your evidence and whilst it noted your explanation as plausible, nonetheless, it was Witness 1's clear evidence that she associated the '*hyenas*' with a culture of inappropriate sexual behaviour and banter, and that she witnessed such behaviour within the group.

Witness 1's first local statement gave more specific examples of the inappropriate and sexual behaviour she says she experienced on the Ward. Further details were provided in Witness 1's second local statement, and she identified specific colleagues who had subjected her to sexualised jokes and comments. The panel noted that the contemporaneous evidence of Witness 1 did not contain a detailed account on your role in the culture. In her interview, Witness 1 did say that you were the '*Top Hyena*' and constantly talking about sex. However no specific examples were provided to this effect. In the first local statement Witness 1 did mention you, but she described approaching you in the office, you hosting a party, and then referred to comments made about you by others. In Witness 1's second local statement you were only mentioned in relation to the allegation concerning another colleague taking your keys in an inappropriate manner.

Consequently, Witness 1's contemporaneous evidence was general and lacked specificity on your involvement during the incidents she described. Similarly, in her oral evidence Witness 1 described the general culture of inappropriate behaviour on the Ward and was not specific on your role.

The panel determined that whilst Witness 1's evidence was general and did not include great detail on your specific role, it indicated that, overall, boundaries between staff members on the Ward were blurred. The panel was therefore satisfied that it was more likely than not that the culture on the Ward at the time was inappropriate with sexualised conversations and conduct.

The panel noted your denial of this charge. You stated that you were responsible for a discrete team of colleagues and not much wider than that. You said that Witness 1 was not a member of your team. You provided the panel with a diagram illustrating the organisational structure on the Ward, as well as a description of the shift patterns that staff members worked to at the time. You also mentioned that you had only worked with Witness 1 on a few occasions. Witness 1 said that she worked with you more regularly. You acknowledged that you had no responsibility for the rota and allocation of staff. Whilst it was disputed in evidence how often you worked with Witness 1; there was some degree of acceptance that staff members from other teams did overlap during handovers and when there were absences. The panel was therefore satisfied that you worked with Witness 1 on some occasions.

The panel considered Witness 1's direct evidence that there was sexualised banter on the Ward. It took into account your senior position as a Band 6 nurse and your responsibility to provide appropriate leadership to your ward staff members.

Witness 1's evidence about the sexualised banter on the Ward was not disputed by you, but you indicated in oral evidence that such issues were not brought to your attention. In your local interview, you described rumours on the Ward regarding your own private life,

which you said made you feel uncomfortable. You said that you tried not to let such rumours get to you, that you did not wish to create conflict and that overall, you did not pay attention to rumour and speculation.

The panel accepted Witness 1's evidence regarding the general culture on the Ward, and how it made her feel as a junior colleague.

The panel considered your job description and the Trust's '*Code of Conduct*' and '*Dignity at Work*' policies. While the panel understood that you had management responsibility for one of four clinical teams, it considered that it was a requirement of your role as a Band 6 Charge Nurse to provide appropriate leadership across the Ward, and that part of that role required you to promote a neutral and appropriate work environment. The panel considered that by ignoring rumours and speculation, you allowed banter and gossip to continue and made no effort to address it. It considered that this was in breach of your leadership responsibilities.

The panel was of the view that as one of the four team leaders, you were responsible for the standards of behaviour on the Ward and had a duty to lead by example. You had a responsibility to be proactive and intervene in relation to inappropriate behaviour in accordance with the requirements of your role and the '*Dignity at Work*' policy. Ignoring rumours and speculation, which amounted to inappropriate behaviour, was not compatible with your leadership responsibilities.

The panel considered that the answers you gave at the local interview, suggested that you were aware of inappropriate topics, rumours, and speculation circulating on the Ward, and that to some extent things had become normalised. The answers you provided in this interview indicated that you did not wish to take action for fear of causing conflict. The panel considered that by omitting to address and take action on these issues, you did not role model the values and standards expected of you. It determined that your passivity supported the perpetuation of that culture on the Ward.

As such, the panel determined that, on the balance of probabilities, during your time as a Band 6 Charge Nurse at the Trust, you failed to provide appropriate leadership to your ward staff members. It therefore found charge 1 proved.

Charge 2a

That you being a Charge Nurse, Band 6

2. *Encouraged and/or permitted a culture on the ward of inappropriate and sexualised conversations and conduct, including:*
   (a) You regularly discussed on the ward your own sexual preferences and/or those of your partners.

This charge is found NOT proved.

In reaching this decision, the panel took into account the notes of the meeting with Witness 1 at the Trust dated 25 September 2019, which stated:

> '*… (Asked [Witness 1] what sort of thing were said: [Witness 1] stated that they would talk about sexual positions and joke with each other)'*.

The panel noted that Witness 1's evidence in this regard was in reference to a discussion she had had with another staff nurse on her first day on the Ward who told her that staff had '*a lot of banter and jokes amongst themselves*'. This evidence amounted to hearsay and in any event, did not mention you specifically. The panel considered that within this local meeting; Witness 1 did not ascribe the conduct to you specifically, but rather the culture between staff members on the Ward.

The panel considered Witness 1's second local statement, that did not refer to this specific allegation, but nevertheless included the following:

'*…I wanted to make sure that if I ever added to my story, that it was really everything. I have also had time off on paid leave and I have remembered things through conversations with my mum when she has asked me about certain staff members that I did not report.*'

The panel observed that although Witness 1 wanted to make sure that she had included everything in her story, there was no reference in either of her local statements about you discussing your own sexual preferences and/or those of your partners.

The panel also noted Witness 1's NMC witness statement dated 28 February 2022, which stated:

'*Some of the remarks I have heard the Nurse making on shift including the Nurse discussing loudly [PRIVATE]. I cannot recall any specific examples or dates.*'

The panel considered that the only evidence in respect of this charge was from Witness 1, who had provided evidence in her first contemporaneous account about the overall culture on the Ward, which included jokes and banter of a sexual nature between staff members. The panel noted that aside from her reference to you in her NMC witness statement, Witness 1's evidence did not include any evidence of you discussing your sexual preferences and/or those of your partners. The panel noted the importance of contemporaneous records and considered it significant that reference to your participation in discussions regarding your own sexual preferences and/or those of your partners was not mentioned by Witness 1 at local level.

The panel also noted your denial of this charge.

In all the circumstances, the panel was not satisfied, on the balance of probabilities, that you had regularly discussed your own sexual preferences and/or those of your partners.

As such, the panel could not find, to the requisite standard, on the basis of the evidence before it, that the NMC had discharged its burden of proof in respect of this charge.

The panel therefore found charge 2a not proved.

Charge 2b

That you being a Charge Nurse, Band 6

2. *Encouraged and/or permitted a culture on the ward of inappropriate and sexualised conversations and conduct, including:*
   (b) You regularly made sexual jokes and/or comments.

This charge is found NOT proved.

In reaching this decision, the panel took into account the notes of the local investigatory interview with Witness 1 dated 7 November 2019, which stated:

> '*Joel puts himself as top hyena and constantly talks about sex, [PRIVATE]... He hasn't done anything to me but he's central in this culture and key to why the ward is like it is.*'

The panel considered that Witness 1's account in this interview was the only reference she made to sexual jokes and/or comments being made by you. Her evidence focussed on the culture on the Ward but was lacking in detail as to specific examples of jokes or comments made by you. The panel also identified that in both of Witness 1's local statements she named specific colleagues and gave detailed examples of the alleged sexual behaviour they had engaged in. In contrast, you were only mentioned in passing in the quotation above and were not the focal point of Witness 1's allegations until her NMC witness statement.

Witness 1 told the panel in oral evidence that she could not remember giving the local statements and her memory of matters at the time of this hearing was limited, so she could not recall specific dates or incidents. However, the panel noted the importance attached to contemporaneous records when assessing and evaluating evidence, especially given the passage of time. Nevertheless, the absence of specifics in the contemporaneous records was an important factor for the panel in determining this charge and limited the weight the panel could attach to Witness 1's allegations.

The panel also noted your denial of this charge.

In all the circumstances, the panel was not satisfied, on the balance of probabilities, that you had regularly made sexual jokes and/or comments.

As such, the panel could not find, to the requisite standard, on the basis of the evidence before it, that the NMC had discharged its burden of proof in respect of this charge.

The panel therefore found charge 2b not proved.

Charge 2c

That you being a Charge Nurse, Band 6

2. *Encouraged and/or permitted a culture on the ward of inappropriate and sexualised conversations and conduct, including:*
   (c) You took no, or no adequate, action to limit sexualised conversations amongst other staff members.

This charge is found proved.

In reaching this decision, the panel took into account its findings in respect of charge 1, namely that you were aware that inappropriate sexualised conversations were occurring

on the Ward between other members of staff and did not take action to discourage or limit this behaviour.

For the same reasons recited in response to charge 1, the panel was satisfied that on the balance of probabilities, you took no, or no adequate, action to limit sexualised conversations amongst other staff members, and as a consequence, you permitted a culture on the Ward of inappropriate and sexualised conversations and conduct.

The panel therefore found charge 2c proved.

Charge 2d

That you being a Charge Nurse, Band 6

2. *Encouraged and/or permitted a culture on the ward of inappropriate and sexualised conversations and conduct, including:*
   (d) On a date unknown, you permitted and/or failed to prevent Colleague 1 from kneeling between or near your legs to retrieve a key from your belt in a manner to mimic a sexual act.

This charge is found proved.

In reaching this decision, the panel took into account Witness 1's second local statement, which stated:

> '*[Colleague 1] are also very sexual female members of staff. On one of my first handovers, [Colleague 1] needed to take the med keys from Joel who was giving handover, so she went down on her knees to where Joel was and undid Joel's belt and took the keys off. As this looked like a sex act it was very uncomfortable to watch and I was not sure what I had gotten myself into with working on the ward.*'

The panel also took into account Witness 1's NMC witness statement dated 28 February 2022, which stated:

> '*On a date I cannot recall the Nurse had a key on their belt that they needed to give as part of the changeover. In order to retrieve the key, [Colleague 1] knelt down between the Nurse's legs and took the key off their belt. It was very clear that it was meant to represent something sexual. Whilst this was one incident that I can recall, this sort of behaviour was standard and frequent on the Ward.*'

The panel noted that this incident had not been raised in either of Witness 1's initial investigation meeting and investigation, however, she had raised it in her second local statement, which began with the following introductory paragraph:

> *'As [Colleague 3], [Colleague 4] and I reported our experiences at Marlborough House separately there were many incidents or comments made that I did not recall until we shared what we had all reported. It was then that I realised I had missed out information or skimmed over information…'*

The panel considered that Witness 1 had referenced this incident during the local investigation, provided further detail in her second local statement, and answered questions on the incident during her oral evidence. Witness 1 had consistently maintained that she saw Colleague 1 kneeling in front of you, in a manner which resembled a sexual act. Therefore, the panel considered that the occurrence of this incident was supported by the contemporaneous records. The panel also noted that both Witness 1 and you, described Colleague 1 as behaving in a very tactile manner.

The panel took account of your denial. However, it considered that the consistent evidence given by Witness 1 since her local statement, taken with the panel's previous findings that there was an inappropriate sexualised culture on the Ward, where sexual jokes and conduct was normalised, made it more likely than not that that Colleague 1 knelt

between your legs, to recover a key, in a manner which mimicked a sexual act, and you took no action to stop them.

The panel determined that on the balance of probabilities that on a date unknown, you permitted and/or failed to prevent Colleague 1 from kneeling between or near your legs to retrieve a key from your belt in a manner to mimic a sexual act, and in so doing, encouraged and/or permitted a culture on the ward of inappropriate and sexualised conversations and conduct. It therefore found charge 2d proved.

Charge 2e

That you being a Charge Nurse, Band 6

2. *Encouraged and/or permitted a culture on the ward of inappropriate and sexualised conversations and conduct, including:*
   (e) On date unknown, when Colleagues 1 and 2 were in the nurses' station showing each other their bare nipples, you failed to intervene appropriately but instead stated words to the effect of "Can I have a look ?"

This charge is found NOT proved.

In reaching this decision, the panel took into account Witness 1's NMC witness statement dated 28 February 2022, which stated:

> *'…There was one occasion, I do not know when, where I witnessed [Colleague 2] (I cannot recall their full name), nurse, and [Colleague 1] (I cannot recall their full name), nurse, acting and behaving inappropriately such as showing each other their nipples at the back of the nursing station. The Nurse was in the nursing station at the time and was saying "can I have a look". [Colleague 2] and [Colleague 1] did not seem offended by this as they were all laughing together. There were perhaps five or six nurses on the Ward who would not join in…'*

The panel noted that Witness 1 referenced this incident for the first time in her NMC witness statement and gave more detail in oral evidence. It was not mentioned in either of her local statements or in her local interview. The panel noted Witness 1's evidence in her second local statement as to the efforts she made to ensure her story covered all aspects of her concerns. She also stated that her memory would have been better at the time of the second local statement because she had time to think about the concerns, yet it was not mentioned in either local statement. The panel was concerned that such a serious incident was not supported by the contemporaneous records and was only raised for the first time in Witness 1's NMC statement in 2022, nor did it appear in the local investigation in any capacity.

The panel noted that Witness 1 gave evidence of the incident in her oral evidence, but her oral evidence was a more detailed account of the incident. It therefore concluded that Witness 1's evidence had changed over time. The panel noted that the new detail was not in conflict and some aspects of her account remained consistent, for example, that you had asked to have a look.

Having considered the evidence as a whole, taking into account the importance of contemporaneous records and noting that the incident was not mentioned locally by Witness 1 at all, the panel could not be satisfied, on the balance of probabilities, that this incident occurred as alleged at charge 2e. It therefore found this charge not proved.

Charge 4

That you being a Charge Nurse, Band 6

4. *In or about late April 2019, you sent Colleague 3, a Band 3 nurse inappropriate, sexualised social media messages, namely to the following effect*

(a) *You "How are u beautiful"*
Colleague 3 "What do you want ?"
You ; "You 😊"

(b) *You "First day I saw you, I've really liked you……..*

Just thought I would let you know. You are a very very very very veerrryyyy pretty girl"

(c) *Colleague 3 ; "I'm so happy with my partner. I could never look elsewhere sorry"*
You "I knew you wouldn't. Just thought I would express myself"
Colleague 3 "Yeah ofc"
You "He's a lucky guy
Wish I was in his shoe"

This charge is found proved in its entirety.

In reaching its decision, the panel took into account the screenshots containing the WhatsApp messages between you and Colleague 3. These screenshots set out a conversation between you and Colleague 3, and this included the words set out in sub-charges 4a, 4b and 4c.

The panel noted your acceptance that the conversation contained in the screenshots was, in fact, a conversation between you and Colleague 3. It therefore determined that you had sent and received the messages set out in sub-charges 4a, 4b and 4c.

The panel next considered whether the messages you sent were inappropriate and sexualised. In considering this, the panel considered the entirety of the WhatsApp conversation, which, although not included in the charge, was exhibited and provided to the panel. The panel took the entire conversation into account when considering context only. It determined the charge as set out above.

The panel noted that Colleague 3 was a healthcare assistant and therefore a more junior colleague on the Ward. Colleague 3 had not given evidence as a witness in these proceedings and the panel noted its earlier decision not to admit her hearsay evidence. It therefore had no direct evidence from Colleague 3 about this matter.

The panel took into account your evidence that Colleague 3 was not part of the team you had oversight of on the Ward and you did not directly manage her. You stated that Colleague 3 had become your close friend outside of work, and you saw her three or four times a week as she had asked you to accompany her to the gym. You provided the panel with images of you, Colleague 3 and other individuals in different settings outside of work.

The panel had regard to your evidence in the notes of the investigatory meeting on 13 November 2019, where you had stated that:

> '*[Colleague 3] and I are friends outside work – she's my gym partner. [PRIVATE]. [Colleague 3] told me lots of things and I thought that maybe she was after me. She said she was leaving work, so if she wasn't at work I could ask her for a date. But it wasn't sexual. She said no, she was happy with her partner, so I said OK, that's fine. Even up to last month I still chatted to her.*
> *…*
> *She wasn't in my team.*
> *…*
> *I keep my work and social life separate. [Colleague 3] and I hang around outside work and I thought that maybe we could go on a date. I spoke to [Colleague 5] about it afterwards. I said it was banter but she wasn't sure.*
> *…*
> *Yes, I maintain a leadership role outside work too. I enjoy my work. So when I realised she wasn't happy I said it was just banter, I didn't want to make her feel uncomfortable. I spoke to [Colleague 5] and she said she was sure [Colleague 3] would understand. That was the first and last time anything like that has happened with [Colleague 3].*'

In the hearing, however, the panel noted your change in position that you had sent the messages to Colleague 3 because your partner believed that you liked Colleague 3, due to your close friendship at the time, and you wanted to prove that Colleague 3 was not interested in you and there was nothing going on between the both of you. The panel also

noted that at the time, you conveyed to Colleague 3 that the messages you sent were simply banter. It considered that the change in position from the explanation you originally gave to Colleague 3, to the account given to the local investigation, and then in oral evidence cast some doubt on the reliability of your account in respect of this charge.

The panel took into account the Trust's '*Code of Conduct*' policy control document that was in force at the time. It had regard to the section on '*Relationships with Staff*', which did not appear to set out any specific bar on colleagues pursuing relationships with each other but did set out the standards of behaviour expected, including that:

> '*Staff are reminded that conduct away from work in social events and other activities involving colleagues needs to take account of on-going work, required mutual respect and courtesy.*'

However, the panel determined that despite what may have been a close friendship between you and Colleague 3 outside of work, you were still in a significantly more senior position to her at work, and whilst you may not have been in the same team, you both worked on the same ward and as part of the same structure. The panel was of the view that there was a significant power imbalance there and your role as a Band 6 Charge Nurse extended beyond the clinical environment. It also considered the content of the messages and determined that they went beyond what would be appropriate between a senior and junior colleague, even if they were also close friends.

In addition, the panel considered the totality of the WhatsApp messages that were sent, including those specific messages set out at charges 4a, 4b and 4c, and determined that the messages were sexualised because of their content, particular in the response you gave in the message set out at charge 4a, and your initial explanation that you thought *'she was after [you]'* and you thought '*we could go on a date*'. The panel considered that the language of the messages was explicitly referring to a sexual or romantic connection with Colleague 3 and therefore were sexualised.

The panel therefore found charge 4 proved in its entirety.

Charge 5

That you being a Charge Nurse, Band 6

5. *Your acts in one or more of the charges at 2, 3, and 4 were sexually motivated in that you sought or derived sexual gratification from your actions.*

This charge is found NOT proved.

In reaching this decision, having found charges 2a, 2b and 2e not proved and no case to answer in respect of charge 3, the panel took into account its findings in respect of charge 2c, 2d and 4 only.

In relation to charge 2c, the panel considered its findings that you took no, or no adequate action, to limit sexualised conversations amongst other staff members. While the panel was satisfied on the balance of probabilities that the behaviour was inappropriate, there was no evidence before the panel to suggest that you derived sexual gratification from your actions.

In relation to charge 2d, the panel considered its findings that you permitted and/or failed to prevent a colleague from kneeling between your legs to mimic a sexual act. While the panel was satisfied on the balance of probabilities that the behaviour was inappropriate, the panel observed that there was no evidence that you encouraged or participated in this mimicry. There was no other evidence before the panel providing further context on this incident or your reaction to it. Therefore, there was insufficient evidence to sustain the inference that you were motivated by sexual gratification.

In respect of charge 4, the panel took into account the explanations you provided for sending the WhatsApp messages to Colleague 3 during the local investigatory meeting on 13 November 2019 and at this hearing. It was not satisfied that the most recent

explanation you provided during this hearing was plausible. The panel was of the view that your contemporaneous evidence that you seemed to think that Colleague 3 '*was after [you]*' and you wanted to take her on a date was more plausible, as this was consistent with information provided by you at the relevant time.

There was no evidence that you were extracting any sexual gratification from sending the texts, nor was there sufficient evidence before the panel on which such an inference could be sustained.

Consequently, as the wording of charge 5 directed the panel to consider sexual gratification alone, this charge is found not proved.

Charge 6

That you being a Charge Nurse, Band 6

6. *Your acts in one or more charges 3 & 4 were an abuse of your position as a band 6 nurse towards a more junior colleague.*

This charge is found NOT proved.

In reaching this decision, having found no case to answer in respect of charge 3, the panel took into account its findings in respect of charge 4 only. It also took into account that there was no direct evidence from Colleague 3.

The panel considered that abuse of a position required you to act in a manner where you used or exploited your position to get what you wanted from Colleague 3, who was a more junior colleague to you.

The panel had regard to the WhatsApp messages between you and Colleague 3. It heard no direct evidence from Colleague 3. The panel considered the evidence as a whole and determined that there was insufficient evidence to suggest that your behaviour as found at

charge 4 was an abuse of your position as a Band 6 nurse towards a more junior colleague. The panel considered your evidence that you accepted Colleague 3's response and considered that this was consistent with the messages exchanged between you and Colleague 3.

The panel considered whether an advance made by a senior colleague to a more junior colleague is in and of itself an abuse of position. However, the panel had regard to your evidence that you did share a close friendship with Colleague 3. Therefore, in context, while the messages were inappropriate between colleagues, even if those colleagues were close friends, the panel was not satisfied that your actions amounted to an abuse of position.

The panel observed in your responses that you explicitly said you did not want to put Colleague 3 in an uncomfortable position and there was no evidence that you attempted to exert pressure on her. While the messages remained inappropriate and sexualised in view of their content, the panel considered that your behaviour in sending the messages fell short of an abuse of your position towards a more junior colleague.

The panel did not have sufficient evidence before it to suggest that you had abused your position as a Band 6 Charge Nurse by acting in the way that you did as set out in charge 4.

The panel therefore found charge 6 not proved.

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

This case did not conclude on day six of the resuming hearing due to lack of time.

In light of the panel's obligation to consider an interim order at this stage, Dr Graydon made a request that the parts of his submissions that involve reference to your private life

be held in private in order to protect your privacy. The application was made pursuant to Rule 19.

Mr Joshi did not oppose the 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.

The panel decided to hold in private the parts of this hearing that involve reference to your private life, as and when such issues are raised in order to protect your privacy.

Interim order

The panel noted its obligation under Rule 32(5) to consider whether to make an interim order at this stage of proceedings. It invited submissions from parties in respect of this.

Mr Joshi submitted that the NMC held a neutral position in respect of an interim order in this case. He submitted that you had not been subject to an interim order and nothing untoward had arisen since the matters in this case, however, the difficulty was that the panel had now made findings of fact in relation to your conduct, with serious allegations being found proved. Mr Joshi submitted that the panel had also heard from you about your approach and attitude now, some years after the factual events occurred.

Mr Joshi submitted that in terms of public protection and public interest, if the panel were of the view that nothing untoward had arisen over the last few years and there was little likelihood of the issues recurring, then an interim order would not be appropriate. He submitted that bearing in mind the nature of the facts found proved, it would be very difficult, if not impossible to formulate interim conditions of practice that would address the areas of concern.

Dr Graydon referred the panel to the case of *Nursing and Midwifery Council v Persand* [2023] EWHC 3356 (Admin), where the court highlighted that the test of necessity in the public interest is a high threshold to meet. He submitted that the high threshold in that regard had not been met in this case. Dr Graydon submitted that there was no evidence that there had been any repetition surrounding the proven facts against you.

Dr Graydon acknowledged that the panel would have to go on to decide whether your conduct at the charges found proved constitute misconduct and then, whether you are currently impaired. He submitted that, nonetheless, you have continued to work without restriction and the NMC had never previously sought any restrictions on your practice throughout the lengthy period that these proceedings have continued.

In relation to the public interest, Dr Graydon referred to the case of *R (Shiekh) v General Dental Council* [2007] EWHC 2972 (Admin), where the court made it clear that it would be rare to impose restrictions on a registrant on the basis of the public interest ground alone. He submitted that your case did not fall into that category.

In respect of your own interests, Dr Graydon informed the panel that you have continued to work without incident or complaint. He told the panel that you are currently employed as a Band 6 healthcare practitioner with a private company. He submitted that you are no longer in a supervisory or patient-facing position on a daily basis. Dr Graydon submitted that your current employer's organisational structure is different, and the dynamics of your daily routine are different. He submitted that you [PRIVATE] and you are in a non-leadership and non-supervisory role. Dr Graydon submitted that your interaction with your colleagues is very different to that which you had at the Trust.

[PRIVATE]

Dr Graydon submitted that given the lack of evidence of a risk of repetition and the role that you are effectively [PRIVATE], where you conduct assessments of patients to

determine if they are eligible for NHS funding, an interim order would not be necessary in order to protect the public, nor would it be otherwise in the public interest. He submitted that balanced against your interests, an interim order would be disproportionate and unjust in the circumstances.

The panel accepted the advice of the legal assessor.

The panel in its assessment of the evidence could not identify any reason why an interim order would be necessary to protect the public or maintain public confidence in the profession.

The panel considered the facts found proved and noted that there had been no identified risk to patients as a result of your conduct. It therefore could not identify any reason why an interim order would be necessary on the ground of public protection at this stage.

The panel next considered whether to make an interim order on public interest grounds alone. It took into account the decision of the court in *NMC v Persand*, which states:

> '*It seems to me that the necessity test requires the NMC to show that, on the particular facts of a case, there are features of the case which mean that matters are so serious that it is justifiable to restrain the exercise of professional skills by a nurse at a stage when the allegations are unproven. The test is something close to saying that an interim order is essential, in the sense that a responsible regulator would not be acting properly in failing to act on a proven risk to the public.*'

The panel noted that this case differed from *NMC v Persand* in that the facts to support some charges had been found proved. Nonetheless, the panel considered that the guidance in *NMC v Persand*, applied equally here.

The panel, in weighing all factors together, determined that an interim order at this stage would not, otherwise, be in the public interest.

The panel therefore did not make an interim order at this stage.

The hearing adjourned part-heard on 18 May 2026.

The hearing resumed on 27 July 2026.

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 ability to practise safely and effectively without restriction.

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

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

Submissions on misconduct

Mr Joshi invited the panel to take the view that the facts found proved amount to misconduct. He referred the panel to 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code) and the NMC guidance on '*Misconduct*' (reference: FTP-2a) and submitted that your conduct at the charges found

proved was attitudinal, abusive of a position, and something that would not be expected from somebody in a leadership role.

Mr Joshi identified the specific, relevant standards where your actions amounted to misconduct.

In respect of your conduct at charge 1, Mr Joshi submitted that you had breached parts 1.1, 1.2, 20.1, 20.2, 20.4, 20.6 and 20.7 of the Code. He submitted that a Band 6 charge nurse would be expected to set the tone of the Ward, but the facts showed that you actively contributed to and failed to correct a culture that was completely inappropriate. Mr Joshi submitted that this was a serious departure from leadership standards, because you were in charge, you had considerable experience, and anybody would expect you to know better.

Regarding your conduct at charges 2c and 2d, Mr Joshi submitted that you had breached parts 1.1, 1.2, 20.2 and 20.7 of the Code. He submitted that where there were uncomfortable aspects of culture within the Ward, a Band 6 nurse would be expected to intervene and not be part of some of the conversations that took place. Mr Joshi submitted that a greater sense of responsibility and accountability would have been expected from somebody in a more senior position.

In relation to your conduct at charges 4a, 4b and 4c, Mr Joshi reminded the panel of the evidence that your messages were directed at a junior colleague and that they were not appreciated by that colleague.

Mr Joshi submitted that your conduct, particularly in the aspect of leadership, was persistent. He submitted that it was also directed at more junior members of staff in a particular environment where there were vulnerable individuals, and this was contrary to your leadership responsibilities. Mr Joshi submitted that your conduct was not a lapse, but a pattern, and it was not only inappropriate, but fundamentally incompatible with the standards expected of a nurse in that position.

Dr Graydon first addressed the panel in response to Mr Joshi's submission that your conduct was attitudinal and abusive of your position. He reminded the panel that this was contained in charge 6, which had not been found proved, and there had been no findings in relation to abuse of a position.

Dr Graydon went on to refer the panel to the cases of *Roylance v General Medical Council (No. 2)* [2000] 1 AC 311, *General Medical Council v Meadow* [2007] QB 462 (Admin), *Nandi v General Medical Council* [2004] EWHC 2317 (Admin) and *R (On the application of Calhaem) v GMC*. He submitted that your behaviour had been characterised in four ways:

- Leadership failures
- Behaviours around a sexualised culture
- Failing to intervene
- Behaviour between colleagues.

Dr Graydon submitted that having made findings of fact, the panel would need to consider whether each proven allegation separately amounted to misconduct. He submitted that it was not sufficient to "*lump them all together*". Dr Graydon submitted that the panel should apply the test of serious professional misconduct against each of the alleged breaches of the Code. He reminded the panel that breaches of the Code do not automatically amount to a finding of misconduct. Dr Graydon submitted that it was a matter for the panel to determine the issue of misconduct.

Submissions on impairment

Mr Joshi 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.

Mr Joshi submitted that in considering impairment, the panel would have to look at the risks involved, including the risk of your behaviour to colleagues, the risk to public confidence and the risk to professional standards. He referred to the NMC guidance on '*Impairment*' (reference: DMA-1) and took the panel to your bundle of documentation regarding your current insight, reflection and practice. Mr Joshi submitted that you had effectively attempted to present retrospective insight, remorse, remediation and evidence of safe practice. He submitted that your position that you are not currently impaired went against the panel's findings on the facts.

Mr Joshi highlighted specific parts of your reflections on the conduct and submitted that this amounted to partial insight because you avoided the core misconduct of you having been passive within the culture on the Ward. He submitted that you normalised inappropriate behaviour and failed to act despite things that were witnessed. Mr Joshi submitted that the panel's language was stronger, as it had found that by ignoring rumours and speculation, you allowed banter and gossip to continue, and your passivity supported the perpetuation of that culture. He submitted that your reflection needed to address perpetuation through omission.

Mr Joshi highlighted your position regarding your actions at charge 4, where you referred to the close friendship with Colleague 3, there having been a misunderstanding, and there having been no intention to cause discomfort. He submitted that this position undermined the credibility of your claimed insight. Mr Joshi submitted that the conduct was inappropriate regardless of friendship. He submitted that your explanations were sometimes inconsistent, your insight was generic and not specific, and you did not take full accountability for your actions.

Mr Joshi submitted that you had provided generic e-learning modules, such as equality and diversity, and respect in the workplace. He asked the panel to consider whether this signified a behavioural change and to give those certificates minimal weight. Regarding the probation reports from your current job, Mr Joshi submitted that they related to a different role within a different organisation and with different responsibilities. He submitted

that it was fairly clear that you are in a non-leadership role. He submitted that whilst the reports might demonstrate general professionalism, it was not clear how they related to things such as boundary management, leadership, testing challenging behaviours and the ability to manage culture. Mr Joshi submitted that your reflection was self-satisfying and self-certifying and not externally evidenced. He submitted that regarding public confidence, there has to be accountability and the assurance that a senior nurse understands boundaries and corrects leadership failures, but in this case, there were still serious gaps because your documentation failed to address the core issues and did not demonstrate real remediation, reduce the risk of repetition or satisfy public confidence requirements.

Dr Graydon referred the panel to the cases of *Cohen v General Medical Council* [2008] EWHC 581 (Admin) and *General Medical Council v Meadow*. He submitted that the panel would have to consider:

- whether the conduct is remediable;
- whether it has been remediated; and
- whether it is highly unlikely to be repeated.

Dr Graydon submitted that the NMC had characterised your behaviour in the four ways he had previously highlighted, that is, leadership failures, behaviours around a sexualised culture, failing to intervene, and behaviour between colleagues. He submitted that all of these behaviours were remediable, and you relied on your reflections and the actions you have taken over the last eight years. Dr Graydon submitted that your updated reflective statement clearly set out your insight, remorse, steps taken to remediate the concerns identified, the sustained changes you have made to your professional practice, and why you believe there is no ongoing risk of repetition. He submitted that you had been criticised by the NMC because this reflection was considered to be generic.

However, Dr Graydon invited the panel to consider your insight and remorse, the impact this has had on you, the lessons you have learned, your professional development, the

training you have completed, the application of your learning, how your practice has changed significantly and how you have demonstrated remediation. He submitted that you had highlighted that the incidents in the facts found proven occurred more than eight years ago, and you also addressed the risk of repetition, public confidence and the fact that these proceedings had been the most significant learning experience of your professional career, which had fundamentally changed the way you lead teams, communicate with colleagues, maintain professional boundaries and respond to concerns.

Dr Graydon submitted that you have developed insight through sustained reflection, further education, practical experience and continuous self-evaluation over more than eight years. He submitted that throughout this period, you have received consistent, independent and positive feedback regarding your professionalism, leadership and conduct, demonstrating that the changes you have made are genuine, sustained and embedded in your daily practice. Dr Graydon asked the panel to carefully consider your reflection as far from being generic; it was specific. He submitted that whilst you are no longer working in a leadership position, you have still engaged in reflection and the development of insight.

Dr Graydon submitted that based on your reflections, your conduct has been remediated, and the risk of repetition is very low. He submitted that you have developed sufficient insight such as to remediate any misconduct found by the panel across the four areas characterised by the NMC. Dr Graydon referred to the signed probation reports from your current job, and he highlighted the comments on your behaviours and feedback from your line manager, which were all positive. He submitted that there were no concerns regarding the behaviours that led to these proceedings within the feedback from your line manager. Dr Graydon submitted that you also provided your own comments and reflections in the reports. He submitted that, despite this, the NMC had criticised your reflection and the question to be asked was what more could you be expected to do in your current position? Dr Graydon submitted that you are not now in a leadership role, so the risk of repetition of the behaviours complained of, and the findings made in relation to those behaviours simply did not arise.

Dr Graydon referred to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) and submitted that there was no evidence that you were liable in the future to act so as to put patients at unwarranted risk of harm. He submitted that you were not liable in the future to bring the nursing profession into disrepute, based on your efforts and the steps taken to remediate. Dr Graydon submitted that it was less likely that you were liable to breach one of the fundamental tenets of the nursing profession in the future.

Dr Graydon submitted that you have acknowledged the need to maintain public confidence in the profession, and he recognised that a finding of impairment is sometimes necessary to reaffirm to the public and the profession, the standards of conduct that are expected. He submitted, however, that public confidence in the profession would not be undermined if no finding of impairment in the public interest were made. He referred to the case of *Sawati v GMC* [2022] EWHC 283 (Admin), where the court emphasised that insight is a necessary pre-condition for remediation and maintaining public confidence in the profession. Dr Graydon submitted that insight at the personal level also extends to the development of insight in relation to the impact on the public, which you have acknowledged. He also referred to the cases of *GMC v Bramhall* [2021] EWHC (2109) (Admin) and *PSA v HCPC & Doree* [2017] EWCA Civ 319 and submitted that you had provided clear evidence that you have developed sufficient insight, such as to remediate your misconduct, and as such a finding of impairment on public interest grounds was not required because it would not undermine public confidence in the profession if such a finding were not made.

In response to panel questions, Dr Graydon informed the panel that you worked shifts as an agency worker until December 2025 when you moved into your current position. He told the panel that you do not currently do any agency work and your focus is on your current position and your progression with that organisation. By way of a reminder, Dr Graydon stated that you left the Trust out of which these proceedings came in 2019 and became an agency Band 6 nurse for eight months. Then in 2021, you were made

permanent at Signet as a Band 6 nurse. He told the panel that you worked there until April 2024 and then you went back to agency work with Bleep 360 as a Band 5 nurse until December 2025. Dr Graydon stated that you went from a permanent position to an agency position because of [PRIVATE].

The panel also had regard to your bundle comprising of:

- Your reflective statement, dated 3 July 2026
- Three-month and six-month probation reports from your current job, dated 6 March 2026 and 29 May 2026
- Certificate of completion for an '*Equality and Diversity*' course, dated 2 December 2025
- Certificate of completion for a '*Respect in the Workplace*' course, dated 3 December 2025
- Certificate of completion for a '*Recognising Sexual Harassment*' course dated, 4 December 2025
- Certificate of completion for an '*Unconscious Bias*' course dated, 3 December 2025
- Certificate of completion for an '*Understanding and Confronting Sexual Harassment at Work*' course dated, 4 December 2025.

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*, *Nandi v General Medical Council*, *Mallon v GMC* [2007] CSIH 17, *R (On the application of Remedy UK) v GMC* [2010] EWHC 1245 (Admin), *Cohen v General Medical Council, Cheatle v GMC* [2009] EWHC 645 (Admin), *CHRE v NMC and Grant* and *Sayer v General Osteopathic Council* [2021] EWHC 370 (Admin).

Decision and reasons on misconduct

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council*, 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.'*

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

20 Uphold the reputation of your profession at all times
To achieve this, you must:
20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people
20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to
20.10 use all forms of spoken, written and digital communication (including social media and networking sites) responsibly, respecting the right to privacy of others at all times'.

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

Charge 1

The panel noted its earlier finding that you had failed to provide appropriate leadership to staff members. It considered that as a Band 6 Charge Nurse who had a leadership role on the Ward, you were expected to provide effective leadership, and this included a duty to be proactive in challenging the sexualised culture that was present at the time.

The panel also had regard to its earlier finding that you were aware of inappropriate conduct, conversations and speculation circulating on the Ward. However, you gave evidence that you did not wish to take action for fear of causing conflict. The panel considered that this behaviour demonstrated a lack of awareness of your responsibilities as a leader, was in breach of your leadership obligations and in clear breach of the Code. The panel considered that you failed to treat your colleagues with respect and in allowing an inappropriate sexualised culture to continue, you demonstrated no awareness that your inaction could affect and adversely influence the behaviour of others and damage team cohesion.

The panel noted that you were not the only member of staff who held a leadership position. However, it considered that this did not diminish your leadership responsibilities. You held a senior position on the Ward, and it was incumbent upon you to show leadership and to behave as a role model and promote a safe and neutral working environment.

In the panel's professional judgement, a sexualised environment on a ward creates a risk to members of staff who may be exposed to that culture, and a risk that inappropriate behaviours will be allowed to flourish without challenge. There is a risk that members of staff will be distracted by the sexualised culture, and as a consequence be less able to focus on delivering their best for patients, which is utterly unacceptable especially when the Ward was responsible for highly vulnerable patients with mental health difficulties.

The panel found that by failing to address the culture on the Ward, you did not behave as a role model. You allowed the sexualised culture to continue which, in the panel's view, was unacceptable. It considered that registered nurses, particularly those in positions of leadership, must not turn a blind eye to issues that could have an impact on their colleagues and members of staff; to do so is to ignore the wider leadership responsibilities expected of registered nurses.

In the circumstances, the panel found that your actions at charge 1 fell seriously short of the conduct and standards expected of a registered nurse and therefore amounted to misconduct.

Charges 2c and 2d

The panel took into account its findings in respect of charges 2c and 2d. It found that your behaviour at charge 2c was closely linked to the behaviour demonstrated in charge 1, and that your failure to take action to address inappropriate sexualised conduct and behaviour on the Ward was unacceptable. Therefore, for the same reasons given at charge 1, your behaviour fell so seriously short of the conduct expected of a registered nurse so as to amount to misconduct.

The panel considered its findings in relation to charge 2d. It considered that although you may not have directly encouraged the behaviour of Colleague 1, you did not object to it, rather you allowed it to continue in a ward setting in the presence of colleagues including junior staff. In doing so, you failed to show leadership, act as a role model, understand the effect of your behaviour on others and treat others with respect.

The panel considered that as a registered nurse who held a leadership position, taking no action to address a sexual culture on the Ward and allowing a sexualised act to be mimicked was completely unacceptable, a breach of the professional standards expected of registered nurses, and all the more serious given your senior position and leadership responsibilities.

The panel considered that those in leadership roles have a duty to challenge colleagues who act inappropriately. The panel, in exercising its professional view, considered that by not giving a firm response to your colleagues, you contributed to the normalisation of the sexualised culture. The panel considered that a sexualised culture in a hospital setting is never acceptable. Registered nurses, and particularly those in leadership, have a duty to ensure a safe working environment for all colleagues and not allow a sexualised culture to flourish via their inaction.

The panel therefore concluded that your actions at charges 2c and 2d fell seriously short of the conduct and standards expected of a registered nurse and amounted to misconduct.

Charges 4a, 4b and 4c

In respect of charges 4a, 4b and 4c, the panel considered that the messages were inappropriate and sexualised and that in sending them you demonstrated an attitude towards professional boundaries which did not accord with your responsibilities as a Band 6 Charge Nurse. The panel, in its professional judgement, considered that it was not acceptable for you, as a senior colleague, to send messages of that nature to Colleague 3. The panel considered that you showed complete disregard for your leadership role and your responsibility to behave as a role model, both inside and outside of the workplace. It also considered that you disregarded the power imbalance between you and Colleague 3 and that it was completely unacceptable for you to send such messages to a junior colleague. The panel noted your evidence that you and Colleague 3 were close friends. It considered that irrespective of whether you were friends with Colleague 3, you were senior to her and there was an obligation upon you, not only to show leadership, but to respect professional boundaries. The panel at the fact-finding stage determined that you failed to do so.

As such, the panel determined that your actions at charges 4a, 4b and 4c fell seriously short of the conduct and standards expected of a registered nurse and therefore 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.

In coming to its decision, the panel had regard to the NMC guidance on *'Impairment'* (reference: DMA-1, last updated: 28 January 2026) in which the following is stated:

> *'Being fit to practise is not defined in our legislation but for us it means that a professional on our register can practise as a nurse midwife or nursing associate safely and effectively without restriction.'*

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

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

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

undermined if a finding of impairment were not made in the particular circumstances.'

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

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

a) *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) *...'*

Looking to the past, the panel determined that limbs a), b) and c) are engaged in this case.

Regarding your misconduct, the panel found that there was potential for harm to be caused to colleagues and those receiving care. The panel had heard evidence from Witness 1 on how she had been negatively impacted by the sexualised culture on the Ward.

The panel considered that your misconduct had the potential to bring the reputation of the nursing profession into disrepute, undermined the high standard expected of registered nurses and breached the fundamental tenets of the nursing profession, which included treating people as individuals and upholding their dignity, and upholding the reputation of the profession at all times.

In considering current impairment, the panel considered the factors set out in the case of *Cohen v General Medical Council*:

- whether the conduct is capable of being addressed;
- whether it has been addressed; and
- whether it is highly unlikely to be repeated.

The panel considered that the misconduct in this case is capable of being addressed.

In relation to your misconduct, the panel considered that your failure to address the sexualised culture on the Ward over a period of time, and your sending of sexualised messages to Colleague 3 on one occasion, demonstrated a careless and immature attitude towards leadership and professional boundaries and standards, which did not reflect your duties and responsibilities as a senior charge nurse. The panel found that your motivation in not addressing the culture on the Ward was to avoid conflict and considered this to be entirely inconsistent with the policies you were subject to and the expectations on you as a senior registered nurse.

The panel noted that it was considering whether your fitness to practise is currently impaired. It took into account the documents you have provided, including your reflective statements; that you have practised without further concerns being raised for a period of some eight years; and that there is no evidence of repetition. The panel had sight of a testimonial, dated 7 May 2026, from a colleague who worked with you and was aware of the charges, which attested to your professionalism and integrity. The panel also considered earlier testimonials, dated May and July 2024, which spoke positively of your

professionalism, leadership and clinical skills. The panel had regard to your reflective statement which indicated that you recognised the sending of sexualised messages to Colleague 3 was wrong and should not have occurred. It noted that this reflection has been consistent across your reflective statements. Consequently, the panel did not see evidence of a deep-seated attitudinal concern which would be difficult to address and considered that your misconduct is capable of being addressed.

In determining whether you have addressed your misconduct, the panel had regard to your documentary evidence and the submissions made by Mr Joshi and Dr Graydon.

Regarding insight, the panel considered Mr Joshi's submissions criticising your reflections, contained in the reflective statement, dated 3 July 2026, however, it did not concur.

The panel considered that you had provided specific reflections on the key and essential components of the concerns that go to the charges. It considered that you demonstrated an understanding of how your actions impacted Witness 1, did not dispute that she had experienced and was affected by the sexualised culture on the Ward, and apologised for your actions. The panel was satisfied that you had addressed your passivity in the circumstances and your behaviours which enabled the culture, demonstrating an understanding of your own culpability, why what you did was wrong and how this impacted negatively on the reputation of the nursing profession. The panel considered that you sufficiently demonstrated how you would handle the situation differently in the future, by identifying the need for difficult conversations, which you previously avoided at the time of the incidents, and you identified that silence from a senior member of staff can be considered as tantamount to acceptance. You acknowledged your own leadership failings and criticised specific examples of your leadership style at the time, for example, leaving staff to regulate themselves rather than effectively intervening. You also stated that you have continued to lead teams without any repetition of the concerns and maintained that you have demonstrated a sustained period of safe practice.

In relation to the messages you sent to Colleague 3, the panel was satisfied that you had provided insight into the errors in judgement that led to you to send the messages, how it could have made her feel uncomfortable, embarrassed, undermined or unsure about how to respond, and how that the power imbalance could result in Colleague 3 not being able to challenge them. You identified that there is a greater responsibility on those in positions of seniority, and that you should have maintained clear professional boundaries. You also set out your regret for failing to do so. In your reflection, you stated that you now maintain much clearer professional boundaries and you provided examples of how you do this in your new role, including no longer personally messaging colleagues, and keeping communication respectful, clear and appropriate.

The panel considered that your reflection was detailed, specific and spoke to the underlying concerns. It did not see what more you could provide in view of the length of time since the messages and the nature of the concerns, beyond a specific reflection on the underlying issues and an explanation of how you have applied this to your practice. The panel noted that you have undertaken relevant training which is also an indicator of commitment to behavioural change.

The panel accepted that you were remorseful for your behaviour and it determined that you have good insight into what went wrong, which was consistent with the very positive probation reports which indicated that you are working very well with your colleagues, you are valued at work, and you are practising safely and effectively. The panel therefore concluded that you have demonstrated good insight and have sufficiently addressed the misconduct.

In all the circumstances, given your effective reflection, evidence of good insight and remorse, the fact that your behaviours are not attitudinal in nature, and the period of almost eight years that have passed since the misconduct without any further concerns, the panel determined that it is highly unlikely that your misconduct would be repeated in the future.

The panel was satisfied that you have demonstrated that you are now a safe and effective practitioner. The panel therefore determined that, whilst your fitness to practise may have been impaired at the time of the misconduct, given all of the above, your fitness to practise is not currently impaired on public protection grounds.

The panel then carefully considered whether your fitness to practise is impaired in the public interest.

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

The panel considered that whilst you have fully addressed the misconduct, the matters found proved identified that you, as a clinical leader, allowed a sexualised culture to continue, breached professional boundaries and had a negative impact on a colleague. Witness 1 gave evidence on the impact the sexualised culture had upon her and how it led to her feeling unsafe, isolated and unsupported at work. She described [PRIVATE], and how she felt that she could not challenge the behaviour of more senior colleagues. The panel had earlier considered the risks posed by an inappropriate sexualised culture on the Ward and the normalisation of such behaviour for which you shared responsibility. In addition, the panel further considered that you actively breached professional boundaries by sending inappropriate sexualised messages to Colleague 3. Therefore, the panel considered these to be such fundamental breaches of professional standards that a finding of impairment in the public interest is required to uphold the standards of behaviour expected of registered nurses and to maintain public trust and confidence in the nursing profession. It considered that a reasonable well-informed member of the public would expect no less, even when the concerns have been addressed, because such fundamental breaches in professional standards cannot go unmarked.

In reaching this decision, the panel considered the NMC guidance on '*Impairment*' (reference: DMA-1), which identifies that cases involving sexual misconduct, are often so serious that a finding of impairment on public interest grounds is likely to be required. Following careful consideration, the panel determined that this case falls into that category given the fundamental breaches identified.

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

Sanction

The panel considered this case very carefully and decided to make a caution order for a period of two years. The effect of this order is that your name on the NMC register will show that you are subject to a caution order and anyone who enquires about your registration will be informed of this order.

In reaching this decision, the panel had regard to all the evidence that has been adduced in this case and had regard to the NMC guidance on *'The sanctions available'* (reference: SAN-2).

The panel accepted the advice of the legal assessor.

Submissions on sanction

In the Notice of Hearing, dated 10 June 2025, the NMC had advised you that it would seek the imposition of a striking-off order if the panel found your fitness to practise currently impaired. During the course of the hearing, the NMC revised its proposal in light of the panel's findings and Mr Joshi asked the panel to make a suspension order for a period of three months.

Mr Joshi acknowledged the panel's decision that your fitness to practise is impaired on public interest grounds only, and he highlighted the panel's findings and conclusions in respect of impairment. Mr Joshi reminded the panel to consider what sanction to impose, starting from the least restrictive. He submitted that given the panel's explicit finding that you are safe and effective in your nursing practice, but that impairment arises from public interest considerations, a conditions of practice order would not be appropriate in this case. Mr Joshi referred to the NMC guidance on '*The purpose of and approach to sanctions*' (reference: SAN-1) which states:

> '*Where the Committee has found impairment to uphold public confidence and professional standards, it is unlikely that a conditions of practice order will be an appropriate sanction. This is because conditions of practice are intended to allow a professional to practise safely while they strengthen their practice. However in cases where the impairment relates only to upholding standards or public confidence, the panel has already found that there are no concerns about the professional's clinical practice. As such, conditions are unlikely to have any impact on the professional's practice or upholding public confidence and professional standards.*'

Mr Joshi submitted that conditions of practice would not address the public interest concerns identified and would not mark the seriousness of the misconduct.

Mr Joshi referred to the panel's findings regarding your significant evidence of reflection, insight and retraining. He asked the panel to consider the NMC guidance on 'Susp*ension order*' (reference: SAN-2d) and submitted that a short suspension order would be an appropriate sanction for this case. In particular, Mr Joshi highlighted the following from the guidance regarding circumstances where a suspension may be appropriate:

> '*…what went wrong is so serious that public confidence in the profession and professional standards could not be maintained if the professional were able to continue practising without stopping for a period of time*'.

Mr Joshi submitted the panel had found that '*these [were] such fundamental breaches of professional standards that a finding of impairment in the public interest is required*', that '*such fundamental breaches in professional standards cannot go unmarked*' and that '*cases involving serious sexual misconduct, are often so serious that a finding of impairment on public interest grounds is likely to be required*'. He submitted that the seriousness of the misconduct, including allowing a sexualised culture to persist, failing to challenge inappropriate behaviour, breaching professional boundaries with a junior colleague, causing distress, and the aspect of what that behaviour was within a secure mental health environment required a sanction that marked the gravity of the behaviour and maintained public confidence.

Mr Joshi submitted that a three-month suspension order would reflect the seriousness of the misconduct, uphold public confidence in the profession, maintain proper professional standards, recognise your insight and the low risk of repetition, and avoid a disproportionate restriction. He submitted that this would be the least restrictive sanction capable of meeting the public interest.

The panel also bore in mind Dr Graydon's submissions. He submitted that he did not wish to go behind the panel's findings in respect of misconduct and impairment, but asked it to consider the following mitigating factors:

- The social media messages sent to Colleague 3, were sent to a friend and colleague, and not out of the blue to a person not known to you. There was a friendship or relationship outside of work and you were entitled to have that friendship with Colleague 3 outside of work.
- In relation to the issue regarding Witness 1, you were one of several clinical leaders and you did not supervise Witness 1 directly.
- The issue of culture in any organisation is a nebulous concept, and the panel had not found that you were the "*kingpin or ringleader or creator*" of the culture that existed. You were "*a cog*" in the organisational culture, but there were other people,

including clinical leaders, involved and it would simply be unfair and unjust to lay all of the blame on you.

- You were demoted in the workplace from Band 6 to Band 5 for a six-month period, and whilst this panel was not bound by the decisions made at the local level, you were not dismissed from your role. There was a suspension during the local investigation, but the Trust was happy for you to return, albeit demoted from Band 6 to Band 5 for six months, before you resigned.
- At no point did the NMC ever apply for an interim order restricting your practice either on the grounds of public protection or the public interest. These proceedings have lasted a number of years, with the allegations having been made in 2018. Had there been any concern regarding the public interest, one would have expected the NMC to have engaged the emergency jurisdiction of interim orders and made an application, but that did not take place. Whilst the functions of interim orders and sanctions are very different, it was fair to say that at that earlier point in time, an interim order application would have been pertinent and relevant to the overall investigation.
- You demonstrated insight and strengthening of your practice since the incidents and you apologised to the people affected. You bore no animosity towards Witness 1 or Colleague 3, and you have worked safely and professionally in the same and similar roles since the concerns were raised.
- You undertook relevant training.

Dr Graydon referred to the case of *Raschid v General Medical Council* [2007] EWCA Civ 46 and submitted that the mitigation in this case was such that a suspension order was disproportionate.

Dr Graydon submitted that the regulatory process has had a huge impact on you over the last eight years, and in that time, several significant events have taken place in your life, as [PRIVATE]. He submitted that the public interest also included the progress in which matters have unfolded. Dr Graydon submitted that whilst not to criticise any organisation, you have fully engaged at all points, both with the Trust and the NMC, and you have

always presented yourself and engaged with this hearing. He submitted that you have no history of disciplinary or regulatory concerns beyond these proceedings, and you have an unblemished record. Dr Graydon submitted that an informed and fair-minded member of the public would consider those elements in considering the issues of sanction and which appropriate and proportionate sanction to impose, if at all, to uphold the standards of behaviour expected of registered nurses and to maintain public trust and confidence in the profession.

Dr Graydon submitted that the imposition of a suspension order on your practice would [PRIVATE]. Dr Graydon asked the panel to also consider your interests in its balancing act.

Dr Graydon submitted that the starting point was not an automatic sanction. He highlighted the panel's determination of impairment on public interest grounds and submitted that the finding of misconduct and impairment was sufficient to mark the seriousness of the concerns that were raised, satisfy the public interest and uphold proper standards of behaviour for registered nurses. Dr Graydon submitted that if the panel were not persuaded that no sanction was appropriate and proportionate, it could consider a caution order for the same reasons.

Dr Graydon submitted that it would be difficult to see how conditions of practice could be formulated to address the public interest. He submitted that there would be a material and non-material impact if a suspension order were imposed on your practice. Dr Graydon submitted that the panel would have to consider whether a suspension order would be appropriate, proportionate or necessary, even if it satisfied the public interest. He submitted that a suspension order would be disproportionate given the factors and mitigating features he had raised. Dr Graydon submitted that a fair-minded member of the public may conclude that a suspension would be disproportionate and inappropriate given the history of this case.

Dr Graydon submitted that a striking-off order would be disproportionate and inappropriate in the circumstances, and it would not serve the public interest because it would deprive the profession of an experienced and committed nurse who is currently fit to practise. He highlighted your probation reports, which included comments from your colleagues on your performance, despite the difficulties you had and the concerns that were raised about your behaviour some eight years ago. In addition, Dr Graydon submitted that the NMC itself had not contended for a striking-off order, although he acknowledged that it was a matter for the panel in any event. He asked the panel to consider the case of *Bijl v General Medical Council* [2001] UKPC 42, where the court said that a committee should not be obliged to erase an otherwise competent and useful healthcare professional who presents no danger to the public in order to satisfy public demand, blame or punishment.

Dr Graydon submitted that if the panel were to conclude that a suspension order is appropriate and proportionate, a review of the order at the end of the period would not be necessary on the basis that you were not found to be impaired on public protection grounds, you are currently fit to practise and you do not pose a risk to the public.

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. 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 decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Your misconduct comprised of repeated failings of leadership in the context of a sexualised culture.
- Your misconduct occurred in a ward environment providing care to vulnerable patients.

The panel also took into account the following mitigating features:

- You demonstrated remorse and offered apologies in your reflection to those affected by your behaviour.
- You have completed training courses relevant to the concerns.
- You have addressed the concerns, reflected and shown sufficient insight into your misconduct.
- You have worked safely and professionally in nursing roles for some eight years since the events causing the concern.

The panel considered that your misconduct involved you allowing a sexualised culture to continue unaddressed in a hospital setting. Your misconduct had a negative impact on Witness 1 and resulted in a breach of professional standards. In addition, your misconduct further involved the sending of sexualised messages to a junior colleague. The panel noted that the impact on Witness 1 was not solely your responsibility, as she was affected by the overall sexualised culture on the Ward and the actions of others. However, the fact that others shared responsibility for the culture, did not diminish your responsibilities as a senior charge nurse and team leader. The panel therefore considered that you played a part in enabling that culture and in the distress experienced by Witness 1, even if you were not solely responsible for it.

The panel considered that the leadership failings arose out of you omitting to act and challenge others, rather than you engaging in a deliberate course of action.

The panel first considered whether to take no action. It had regard to the NMC guidance on '*Taking no further action*' (reference: SAN-2a) which indicated that taking no further action may be appropriate '*where the Committee has found impairment solely to uphold professional standards, but the remediation and insight shown by the professional are so exceptional that a sanction is not necessary to uphold public confidence in the profession*.'

While the panel commended your insight and evidence of safe and effective practice, it did not consider this to be so exceptional that no sanction is required. The panel considered that the underlying matters were still serious and so would not be marked by no further action as this would not appear on your entry on the register. On this basis, the panel decided that it would be neither appropriate, proportionate, nor in the public interest to take no further action.

Next, in considering whether a caution order would be appropriate in the circumstances, the panel had regard to the NMC guidance on '*Caution order*' (Reference: SAN-2b) in which the following is set out:

> *'A caution is only appropriate if the Committee has decided there's no risk to the public or to people using services that requires the professional's practice to be restricted. This means the case is at the lower end of the spectrum of impaired fitness to practise, but the Committee wants to mark that what happened was unacceptable and must not happen again.*
>
> *A caution may be appropriate when any of the following factors are apparent (this list is not exhaustive):*
>
> - *significant evidence of re-training and reflection*
> - *significant insight which makes repetition highly unlikely*
> - *a sanction is necessary to uphold professional standards and public confidence in the profession, but the professional is able to practise safely and a more restrictive sanction would be disproportionate'.*

The panel considered a caution order could be appropriate in this case as it would meet the public interest and send a public statement that the underlying matter was unacceptable and must not happen again. It noted that there was no risk to the public or people using services that require your practice to be restricted. Further, the panel was satisfied that you had provided significant evidence of re-training and reflection, and

significant insight which made repetition highly unlikely. For these reasons, the panel determined that your misconduct was neither of the lower end of the scale of seriousness, nor at the upper end. The panel determined it to be moderately serious.

The panel noted that you have shown sufficient insight into your conduct and apologised for your behaviour, showing evidence of genuine remorse. It also noted that there was no evidence that there have been any adverse findings in relation to your practice either before or since the incidents.

Therefore, the panel considered that a caution order was the most appropriate sanction in this case. Nevertheless, it went on to consider the restrictive sanctions available.

The panel considered whether placing conditions of practice on your registration would be appropriate. The panel was mindful that any conditions imposed must be relevant, proportionate, workable and measurable. The panel had regard to the NMC guidance on *'Conditions of practice order'* (reference: SAN-2c).

The panel did not consider that there was any evidence of issues with your clinical practice, and indeed there was no risk to public safety, nor were you impaired on public protection grounds. In view of the nature of this case, the panel was of the view that there were no relevant, proportionate, workable or measurable conditions that could be formulated.

The panel went on to consider whether a suspension order is appropriate in this case. The panel had regard to the NMC guidance on *'Suspension order'* (reference: SAN-2d) in which the following factors on when a suspension order may be appropriate are set out:

- *'the impairment is very serious but not fundamentally incompatible with continuing to be a registered professional*
- *an outcome less severe than strike-off would still satisfy the over-arching objective.'*

The panel also had regard to the key considerations as set out in the NMC guidance to weigh up before imposing a suspension. It noted the following list of circumstances that may make a suspension order an appropriate sanction:

- *'the charges found proved are at the most serious end of the spectrum and call into question the professional's suitability to continue practising, either currently or at all*
- *while it is possible that the professional could be fit to practise in future, only a period out of practice would be sufficient to allow them to fully strengthen their practice through reflection, the development of their professional skills and / or development of insight and remediation*
- *there is a risk to the safety of people using services if the professional were allowed to continue to practise even with conditions*
- *what went wrong is so serious that public confidence in the profession and professional standards could not be maintained if the professional were able to continue practising without stopping for a period of time*
- *despite the seriousness of what happened, the professional has engaged in the proceedings and has shown at least some meaningful insight which evidences a realistic possibility that they will continue to develop this insight, address their concerns and return to practice.'*

The panel considered that whilst the misconduct in this case was moderately serious, it was not fundamentally incompatible with you remaining on the register, nor was it so serious that a temporary removal from the register was necessary in the public interest.

The panel balanced the public interest against your interests and noted that you have practised safely and effectively for a period of eight years after the incidents. It noted the impact of a suspension order on you and considered that such an order would temporarily impact upon your ability to practise and [PRIVATE]. The panel considered that there was a public interest in keeping competent nurses on the register when there are no concerns about their clinical practice. The panel considered your strengthened practice and insight,

which meant that a suspension order of any duration was not required to satisfy the public interest and would be disproportionate.

The panel did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate.

In all the circumstances, the panel remained of the view that a caution order was the most appropriate and proportionate sanction in this case. It noted that a caution order may be appropriate where, according to the '*Caution order*' guidance, '*a sanction is necessary to uphold professional standards and public confidence in the profession, but the professional is able to practise safely and a more restrictive sanction would be disproportionate*'. The panel was satisfied that this applied to your case. It found that the misconduct in this case was moderately serious, but a suspension order would be disproportionate.

The panel considered that a caution order of two years' duration was necessary to satisfy the public interest and mark the unacceptable nature of your conduct. It noted that a caution order may impact your employment status should you wish to change jobs or explore other opportunities, and whilst it did not seek to be punitive, the panel was satisfied that, on balance, a period of two years is appropriate and proportionate in this case.

For the next two years, your employer - or any prospective employer - will be on notice that your fitness to practise had been found to be impaired and that your practice is subject to this sanction.

A caution order for a substantial period of two years would enable you to continue to practise as a nurse, in a supportive environment, whilst also sufficiently marking the public interest.

At the end of the two-year caution order the note on your entry in the register will be removed. However, the NMC will keep a record of the panel's finding that your fitness to practise had been found impaired. If the NMC receives a further allegation that your fitness to practise is impaired, the record of this panel's finding and decision will be made available to any practice committee that considers the further allegation.

This decision will be confirmed to you in writing.

That concludes this determination.