# Nursing and Midwifery Council
# Fitness to Practise Committee

**Substantive Hearing**
**Monday, 18 May – Friday, 22 May 2026**

Virtual Hearing

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| **Name of Registrant:** | Obinna Julius Onwukwe |
| **NMC PIN** | 22B1776O |
| **Part(s) of the register:** | Registered Nurse – Adult Nursing<br>RNA – (23 February 2022) |
| **Relevant Location:** | Reading |
| **Type of case:** | Misconduct |
| **Panel members:** | Derek Artis (Chair, Lay member)<br>Purushotham Kamath (Registrant member)<br>Jane McLeod (Lay member) |
| **Legal Assessor:** | Richard Tyson |
| **Hearings Coordinator:** | Nicola Nicolaou |
| **Nursing and Midwifery Council:** | Represented by Naa-Adjeley Barnor, Case Presenter |
| **Mr Onwukwe:** | Present and represented by Jack Ventress, counsel instructed by the Royal College of Nursing (RCN) |
| **Application to offer no evidence:** | Accepted in relation to charge 4c |
| **Facts proved by way of admission:** | Charges 3, 4a, 4b, 5, and 6 |
| **Facts not proved:** | Charges 1a, 1b(i), 1b(ii), 1b(iii), 1b(iv), 2, and 7 (in relation to charges 3, 4a, 4b, 5, and 6) |

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| **Fitness to practise:** | Impaired |
| **Sanction:** | **Suspension order (9 months)** |
| **Interim order:** | **Interim suspension order (18 months)** |

**Decision and reasons on application to amend the charges**

The panel heard an application made by Ms Barnor, on behalf of the Nursing and Midwifery Council (NMC), to amend the wording of the stem of charges 1, 2, and 4. This application was made under Rule 28 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

It was submitted by Ms Barnor that the proposed amendment would provide clarity and more accurately reflect the evidence.

**Charge 1**

That you, a registered nurse:

1) On **or around** 17 May 2023 behaved inappropriately towards Patient A in that you: […]

**Charge 2**

2) **On or around 17 May 2023 you** ~~T~~**t**ouched Patient A's penis on one or more occasion, without clinical justification;

**Charge 4**

4) On **or around** 5 September 2022, behaved inappropriately in that you: […]

Mr Ventress, on your behalf, submitted that you do not oppose these amendments.

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

The panel 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.

**Decision and reasons on application to admit hearsay evidence**

The panel heard an application made by Ms Barnor under Rule 31 to admit the local statements of Karla Barrett, Jason Harrop, Kirstie Johnson, Simon Triscott, Arran Rogers, and Charlotte Bower, as exhibited by Danielle Watts in her investigation report dated 21 October 2022. Ms Barnor submitted that Patient B will not be attending this hearing, nor have they provided a witness statement for these proceedings. Ms Barnor referred the panel to the factors set out in the case of *Thorneycroft v NMC* [2014] EWHC 1565 (Admin). She submitted that the evidence of Mr Harrop, and Ms Johnson, in particular, is sole and decisive in relation to charge 4c. Ms Barnor stated that, upon speaking to Mr Ventress this morning, he has confirmed that you are content to accept Ms Watts' statement, and therefore, Ms Watts will not need to be called to give evidence at this hearing.

Ms Barnor submitted that there is no evidence before the panel to suggest that these witnesses had any motivation to fabricate the contents of their local statements. She submitted that the consistency in accounts between Miss Barrett, Ms Johnson, and Mr Harrop, following their conversations with Patient B, is capable of supporting their reliability.

Ms Barnor submitted that the allegations in this case are extremely serious, and if proven, have the potential to gravely affect your nursing career. She further submitted that Patient B would not be attending this hearing to give evidence and explained that an error was made by the Trust in that Patient B was incorrectly identified, and therefore, incorrect information was passed onto the NMC in relation to this patient, which, regrettably, was

not immediately picked up by the NMC. Ms Barnor submitted that as a result of the incorrect information that was received from the Trust, the NMC very recently pursued this inquiry. She submitted that the NMC have contacted the Trust to ask for correct contact details for Patient B, but have not received a response.

Ms Barnor submitted that Mr Triscott, Ms Bower, and Mr Rogers were not approached to provide NMC witness statements as their involvement in the local investigation was limited. She submitted that it was therefore deemed inappropriate to approach these individuals to obtain witness statements. With regard to Mr Harrop and Ms Johnson (who speak directly to charge 4c), Ms Barnor submitted that the NMC did not identify the need to take a statement from these individuals until last week.

Ms Barnor submitted that you have been aware since last year that none of these individuals would be attending this hearing. She submitted that Ms Barrett was a named witness who was due to attend this hearing to give evidence, however, it was agreed this morning that she no longer needed to be called to give evidence.

Ms Barnor finally submitted that the contemporaneous reporting, consistency of accounts, absence of evidence of fabrication, and the prior notice to you, provides sufficient counterbalancing safeguards such that the admission of this evidence is fair.

Mr Ventress opposed this application. He submitted that whilst the evidence of Mr Harrop and Ms Johnson is relevant to charge 4c, it is hearsay evidence. He submitted that there is no direct evidence from Patient B in relation to this charge, and that Patient B is not attending this hearing to give evidence. Mr Ventress submitted that there is no good reason for Patient B's non-attendance at this hearing. He referred to the error on behalf of the Trust, in that they provided incorrect information in relation to Patient B, and submitted that this is not a good reason for Patient B's non-attendance at this hearing.

Mr Ventress therefore invited the panel to refuse 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 factors set out in *Thorneycroft* when making its decision. It considered that the local statements of Mr Harrop and Ms Johnson are the sole and decisive evidence in relation to charge 4c. The panel considered that there is no evidence before it to suggest that these witnesses had any motivation to fabricate their evidence. The panel acknowledged that the allegations that you face are extremely serious, and if found proved, could have a negative impact on your nursing career. It took into account that Patient B is not attending this hearing to give evidence, however, the panel did not consider that the NMC have provided a good reason for Patient B's non-attendance, nor have they taken sufficient steps to secure Patient B's attendance at this hearing. The panel noted that you were aware that these witnesses would not be attending this hearing.

The panel considered that it would not be fair to admit the local statements of Mr Harrop, Ms Johnson, Mr Triscott, Mr Rogers, and Ms Bower into evidence. The panel noted that in considering the protection of the public, and the proposed sanction bid in this case, charge 4c would be unlikely to affect any decision later on in these proceedings, should they progress that far.

The panel took into consideration all of the other witnesses to the local investigation, i.e. Mr Triscott, Mr Rogers, and Ms Bower, and considered that this evidence was not relevant to its consideration of the charges in this case. The panel therefore decided that it would not be fair to admit this evidence as hearsay.

**Details of charge (as amended)**

That you, a registered nurse:

1) On or around 17 May 2023 behaved inappropriately towards Patient A in that you:
   a) suggested that Patient A meet you outside of your working hours without clinical justification;
   b) used words to the effect of:
      *i) You're a sweet little boy; God has plans for you;*
      *ii) You are not meant to be unhappy;*
      *iii) What we can do, is meet up when you get out of here;*
      *iv) We can meet up at yours or mine and have good sex;*

2) On or around 17 May 2023 you touched Patient A's penis on one or more occasion, without clinical justification;

3) Failed to maintain professional boundaries in that between 25th May 2023 and 25th June 2023, on one or more occasion, contacted Patient A through social media platforms without consent and or clinical justification

4) On or around 5 September 2022, behaved inappropriately in that you:
   a) touched and/or stroked Patient B's shoulder without consent and/or clinical justification;
   b) referred to Patient B as a '*cute boy'* or words to that effect*;*
   c) asked Patient B if they were a footballer as they were "*really cute*" or words to that effect

5) On or after 5 September 2022, breached patient confidentiality by accessing Patient B's clinical records and/or taking their mobile number without the necessary authority and/or clinical justification;

6) On 6 September 2022, failed to maintain professional boundaries in that, having obtained Patient B's number, you called them on their mobile without clinical justification;

7) Your conduct at any, or all of charges above, was sexually motivated in that you sought sexual gratification, or in the alternative, in relation to charge 1(b)(iv), sought to pursue a sexual relationship;

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

The panel heard from Mr Ventress, who informed the panel that you made admissions to charges 3, 4a, 4b, 5, and 6.

The panel therefore finds charges 3, 4a, 4b, 5, and 6 proved, by way of your admissions.

**Background**

The panel was informed that NMC received a referral on 9 January 2024 by the Associate Chief Nurse at Royal Berkshire NHS Foundation Trust ('the Trust'). The referral raised concerns that are said to have taken place both in and outside of professional practice between September 2022 and May 2023, while you were working as a band 5 staff nurse in the emergency department at Royal Berkshire Hospital ('the Hospital'). You were employed by the Trust from 23 February 2022 until you resigned on 27 August 2023.

It is alleged that on 17 May 2023, Patient A attended the Hospital's Accident and Emergency Department following a mental health episode, where he was subsequently sectioned under the Mental Health Act. On 23 June 2023, Patient A informed the Trust that when he went to the Emergency Department on 17 May 2023, you had touched his penis and made suggestions of a sexual nature.

Patient A also alleged that you added him on social media platforms, and had tried to contact him. These allegations were reported to the police.

It is also alleged that a similar incident had occurred previously in September 2022, when you allegedly inappropriately touched Patient B on the shoulder, referred to him in inappropriate terms, and contacted him on his personal mobile phone.

**Decision and reasons for the hearing to be held partly in private**

During the course of Patient A's oral evidence, reference was made to his health and private life. The legal assessor indicated that these elements should be heard in private, in accordance with Rule 19.

Neither Ms Barnor, nor Mr Ventress opposed this suggestion.

The panel determined to go into private session as and when matters regarding Patient A's health and private life are raised in order to protect his privacy.

**Decision and reasons on offering no evidence**

Ms Barnor mentioned in her opening of this case, and again in closing submissions, that the NMC would be offering no evidence in relation to charge 4c. Ms Barnor submitted that as the local statements contained within Ms Watts' Investigation Report dated 21 October 2022 were not admitted as hearsay evidence, there is no evidence before the panel to support charge 4c. Ms Barnor therefore submitted that there is no longer any realistic prospect of charge 4c being proved.

The panel had regard to the NMC Guidance on *'Offering No Evidence'* (ref: DMA-3 last updated 1 September 2025) which advises that where there is no longer any realistic prospect of the factual allegation being proved, the NMC will apply to offer no evidence. The panel has made an initial assessment of all the evidence that had been presented to it at this stage. The panel determined that, taking account of all of the evidence before it, there was no evidence to support charge 4c. The panel therefore considered that there

was no realistic prospect that it would find charge 4c proved. The panel therefore accepted the NMC's application to offer no evidence.

**Decision and reasons on facts**

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Ms Barnor on behalf of the NMC and by Mr Ventress, 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: Patient A
- Alison Drew: Head of Safeguarding at the Trust at the time of the alleged incidents

The panel also heard evidence from you under oath.

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

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

The panel firstly made a decision in relation to charge 2, as its findings in relation to charge 2 would inform other charges relating to Patient A.

**Charge 2**

2) Touched Patient A's penis on one or more occasion, without clinical justification

**This charge is found NOT proved.**

The panel considered that the only evidence before it in relation to this charge is that of Patient A, and your evidence. The panel took into account Patient A's Medical recommendation for admission for assessment form dated 17 May 2023 which stated:

> *'He is a 26 year old gentleman with Asperger's syndrome, and he attended A&E because his employer was very concerned about his current mental state.*
>
> *Based on the assessment, it appears that he is presenting with mental disorder of psychotic nature as his mental state has deteriorated considerably in the past few days, he has elaborated grandiose delusional beliefs as he believes that he has a chip inserted in the back of his head by super natural forces such as Avengers, in order to collect information from different time line, with a view to prevent something bad going to happen on this earth in the near future. He believes that supernatural forces communicate with him through the chip as he hears them talking to him. He believes that he's "Racoon" and born with green blood. He has persecutory delusions as he believes that he's being followed by the secret services, and that he nearly died 14 times in the past few days as someone tried to suck life out of him.*
>
> *There are significant concerns about his risk to self and his health because he appears to be very vulnerable, acutely psychotic, there is a risk of him acting on his delusional beliefs, and it's likely that his health will deteriorate further if he doesn't receive appropriate treatment.* […]*'*

The panel considered that although Patient A presented to the Emergency Department experiencing a mental health crisis, this does not mean that his evidence cannot be relied upon. The panel took into account the NMC Guidance *'Making decisions on sexual misconduct'* (ref: DMA-7 last updated 27 February 2024) which sets out:

> *'When making decisions in cases about sexual misconduct, panels should be mindful of the myths and stereotypes surrounding rape and other forms of sexual misconduct. Panels should take account of the CPS guidance in this area and should ensure that their reasoning is not influenced by these common myths and stereotypes.'*

The panel also had regard to the specific element of this Guidance entitled *'pre-existing mental ill health and potential psychological reactions to sexual abuse'.*

The panel had received no expert evidence on the impact that Patient A's severe psychotic state might have had on his perception of reality.

Further, the panel did not consider that Patient A reporting this incident to the Trust four weeks after it is said to have occurred had any effect on the credibility of his account.

In reaching its decision, the panel took into account Patient A's police statement dated 18 July 2023 which stated:

> *'*[…] *THE DOCTOR placed his right hand down on my penis. He did this with the back of his hand, over my clothes. I was initially unsure why he did this, but thought it might have been a distracting technique. I instantly froze up and did not move or say anything to him.* […]*'*

The panel also took into account Patient A's email to the NMC dated 27 March 2025 which stated:

*‘At that time Obinna kept walking past my room the looking in and as I was laying on the bed he walked over telling me to relax after eating a sandwich and a drink he put his hand and cupped my genitals within his hand leaning over the top of me.*
[…]’

The panel noted that Patient A provided different accounts as to how he alleged that you touched his penis, namely, touching his penis with the back of your hand, and then later by cupping his genitals. Patient A also stated that this incident occurred for five-minutes.

The panel took into account your statement dated 10 March 2026 which stated:

*‘I deny this charge.*
*This incident never occurred. I would never touch any patient in an intimate area unless I was required to do so for clinical reasons and, if so, I would always explain to the patient why I would need to touch them there and seek their consent first.*
[…]*’*

The panel took into account your evidence that you were assigned to four cubicles in the majors area of the emergency department, one of which included a *“mental health cubicle”*. You described this room as being small and incapable of fitting a bed. You stated that the only piece of furniture in the room was the chair that Patient A was sitting on. You maintained in oral testimony that there was only ever a chair in Patient A’s cubicle, during the time you were assigned to it. In answer to panel questions, you explained that the chair was a dining chair which did not recline.

The panel noted that Patient A maintained that he was lying on a bed in this room when the alleged incident took place. It considered your evidence that a bed would not be able to fit in this room, due to the room being too small. You also stated that you had placed four more chairs in the room for the mental health team to use when they conducted their assessment with Patient A. The panel was unable to conclude on the balance of probabilities whether there was ever, in fact, a bed in this cubicle.

When considering your evidence, the panel noted that you were previously of good character, and that you had made admissions to a number of charges in this case. The panel considered that your admissions informed its decision as to whether the remaining charges in this case should be found proved. The panel considered that you denied charges 1, 2, and 7, and that your denials in relation to these charges were consistent.

The panel reminded itself of the legal advice that it had received, that the more improbable the event alleged, the stronger the evidence was required to establish it. The panel considered that the events alleged in charge 2 could be construed as improbable. The panel therefore did not consider that it had been provided with the necessary strong, cogent evidence from the NMC to establish it in light of the different accounts that Patient A had given over the nature of the alleged touching of his penis, and the panel's doubts as to whether there was ever a bed in the cubicle at that time. The panel therefore did not find charge 2 proved on the balance of probabilities.

**Charges 1a, 1b(i), 1b(ii), 1b(iii), and 1b(iv)**

That you, a registered nurse:

1) On 17 May 2023 behaved inappropriately towards Patient A in that you:
   a) suggested that Patient A meet you outside of your working hours without clinical justification;
   b) used words to the effect of:
      *i) You're a sweet little boy; God has plans for you;*
      *ii) You are not meant to be unhappy;*
      *iii) What we can do, is meet up when you get out of here;*
      *iv) We can meet up at yours or mine and have good sex;*

**These charges are found NOT proved.**

In reaching its decision, the panel took into account Patient A's police statement dated 18 July 2023 which stated:

> '[…] *THE DOCTOR said "HEY, YOU'RE A SWEET LITTLE BOY. GOD HAS PLANS FOR YOU. YOU WERE NEVER MEANT TO BE UNHAPPY", or words to that affect. THE DOCTOR continued to say "WHAT WE CAN DO IT MEET UP WHEN YOU GET OUT OF HERE AND GET BETTER. WE CAN MEET UP AT YOURS OR MINE AND HAVE GOOD SEX" or words to that affect.* […] [sic]*'*

The panel also took into account the Datix form dated 26 June 2023 which stated:

> '[…] *Person came on the line stating they were a patient in the hospital about 4 weeks ago when they came to ED* (Emergency Department). *While in ED they have said a member of staff touch him "down there" and made "blatant" suggestions of a sexual nature/sexual acts.'*

The panel heard from Patient A in oral evidence that he could not recall exactly what you had said to him due to the passage of time, but that the information contained in his earlier police statement was accurate. Patient A had explained that he was experiencing auditory hallucinations at the time, but that he could see and hear you clearly.

The panel also took into account your statement dated 10 March 2026 which stated:

> *'I deny this charge. This incident never occurred. I would never proposition any patient or ask them to meet me.* […]*'*

The panel considered that Patient A's account within his police statement dated 18 July 2023 was clear and consistent. However, the panel also considered that your position, in that you did not suggest that Patient A meet you outside of your working hours, was also clear and consistent.

The panel considered that the only evidence before it in relation to this charge, is that of Patient A, and your evidence. When assessing the reliability of each of the two participants, the panel noted that each had given inconsistent accounts on different occasions in relation to different charges. The panel reminded itself, however, that the burden of proof lies with the NMC.

The panel reminded itself of the legal advice that it had received, that the more improbable the event alleged, the stronger the evidence was required to establish it. In line with its reasoning under charge 2 above, and given that this was part of the same incident alleged to have taken place simultaneously, the panel considered that the NMC has not provided strong evidence to prove, on the balance of probabilities that you acted in the manner that is alleged in charge 1. The panel therefore did not find charge 1 proved.

**Charge 7**

7) Your conduct at any, or all of charges above, was sexually motivated in that you sought sexual gratification, or in the alternative, in relation to charge 1(b)(iv), sought to pursue a sexual relationship;

**This charge is found NOT proved.**

The panel took into account your statement dated 10 March 2026 in which you consistently stated that [PRIVATE]. The panel did not take this factor into account when assessing charge 7. The panel considered each charge found proved in turn.

With regard to charge 3, the panel carefully considered each of the social media comments. It considered that whilst it was inappropriate for you to contact Patient A on social media without clinical justification, it was not satisfied that there was any evidence before it to suggest that your conduct in relation to charge 3 was sexually motivated.

With regard to charges 4a, and 4b, the panel took into account your written statement which stated:

> *'*[…] *Patient B had a plaster cast on his leg. He asked me to retrieve his shoe from underneath the trolley. As I bent down to pick up the shoe my leg brushed the plaster cast, causing a bit of discomfort to the patient. I instinctively put my hand on Patient B's shoulder and said "sorry".* […]
>
> *When I entered the nurse station ,sat down on one of the chair and I approached Aisha and asked her "what has happened to this cute patient?" I did not direct the question or make any comment directly to the patient.'*

The panel took into account that it did not hear evidence from Patient B at this hearing, nor did Patient B provide a witness statement. The panel took into account Ms Barnor's submission that the NMC intended to call Patient B to give evidence at this hearing, but were unable to secure his attendance. The panel considered that you admitted to touching Patient B's shoulder, and also admitted to referring to Patient B as a *"cute boy".* However, as the panel was not able to question Patient B regarding this incident, nor indeed Mr Harrop or Ms Johnson, it considered that there was insufficient evidence before it to determine whether your conduct at charges 4a, and 4b was sexually motivated.

With regard to charges 5 and 6 the panel considered your statement dated 10 March 2026 which stated:

> *'I completely accept that I used my own mobile phone to call patient B, but I did so to check on his welfare and patient B was aware I would be obtaining his number from his records.'*

The panel also took into account your statement within Ms Watts' Investigation Report dated 21 October 2022 which stated:

*'[…] The I went back to my seat and the conversation between him and nurse Aisha and I continues while he said he will go for the competition with his leg ,that was when I asked how the incident happened he told me is gymnasium sport they are doing, and after his jump he heard a crack on his limb , then I said and you want to use this leg to go for the competition, Aisha also asked same question, he replied saying that he does not want to disappoint his friends . There I asked him if he want to displease himself in order to please his friends he said he will manage that was when I asked him if he is his family last child he laughed and asked me why I asked so, and I said because is only last child that are stubborn to advices , then he chuckled. I stood up to go for my break and I said to him I will find out tomorrow if you really go for this competition your talking about but I doubt the leg will allow you because the pain is yet to come we laughed and j left there. Later after, I remembered I did not ask for his contact so I took it from our epr copied it in a toilet paper hoping to check on my patient following our discussion. After the shift I went home forgetting about all that , it was on 6th the next day night shift when I was almost at the entrance of the hospital that I decided to trash papers and used face masks in my bag that I have used before that I came across the number and I quickly called the patient saying is this XXXX? He said yes. And I said do you know who is calling .he said no and I respond is that nurse that said to you are you the last child of your family,and he said yes yes. I asked how is your leg and he answered it is still hurting . And I asked again did you attend the competition as you said , he said no and I said to him, I told you that it will be impossible for you to use that leg to there. Well if you feel the pain is unbearable you can come to ED again to see the doctor . I called to check up on . Take care bye. And there and then I tore the paper and discard it along with the other used paper and facemask from my bag . All this call was made close to the entrance of the hospital at about 6.10pmwhile coming for the night shift .and after about 5hours of the call I was called out ..* [sic]*'*

While you accept that you did obtain Patient B's mobile number, and did call him thereafter on it, without clinical justification, the panel noted that you gave different

accounts as to why you did so. One account was that you wanted to ensure that Patient B had not undertaken a sporting activity on the following day. The other account was to ensure that your disturbance of his plaster cast had not caused him further injury or inconvenience. Both of these accounts suggest that the call was welfare related only. The panel was not satisfied that the NMC has established, on the balance of probabilities, that the matters that you admit in charges 5 and 6 were sexually motivated.

**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.

**Submissions on misconduct**

Ms Barnor invited the panel to take the view that the facts found proved amount to misconduct. Ms Barnor referred the panel to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code).

Ms Barnor identified the specific, relevant standards where the NMC say that your actions amounted to misconduct. Ms Barnor submitted that your failings are serious and would be seen as deplorable by a fellow practitioner. She further submitted that your conduct fell far short of the standards expected of a registered nurse, and that the areas of concern identified relate to basic nursing knowledge and fundamental tenets of the nursing profession. Ms Barnor submitted that your actions were grossly inappropriate and amount to misconduct.

Mr Ventress submitted that although it was inadvisable for you to act in the ways found proved in this case, your conduct was not so serious as to amount to misconduct.

**Submissions on impairment**

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

Ms Barnor submitted that limbs a, b, and c of Dame Janet Smith's *test* are engaged in this case. She submitted that Patient A suffered emotional and psychological harm as a result of your conduct, as he felt fearful that you would find out where he lived or worked. Ms Barnor submitted that your conduct breached fundamental tenets of the nursing profession by abusing your position of trust and initiating improper contact with two patients. She submitted that your conduct brought the nursing profession into disrepute, and that public confidence in the nursing profession would be undermined if a finding of current impairment was not made. Ms Barnor submitted that you have not addressed the concerns in this case. She referred to your testimonials which, she submits, are of limited value as they do not address the concerns in this case. Ms Barnor referred the panel to your training certificates, completed in March and April 2026. She submitted that whilst these training courses are relevant to the concerns identified, they are insufficient to fully address the concerns in this case. Further you have not been able to embed any learning from this training into your professional practice, nor have you incorporated any of it into your reflective piece. Ms Barnor therefore invited the panel to make a finding of current impairment.

Mr Ventress referred the panel to your reflective piece, in which you show insight. He also referred the panel to the training certificates which are related to the concerns identified in this case. Mr Ventress submitted that the public would be reassured by the steps you have

taken to address your conduct. Mr Ventress therefore submitted that a finding of current impairment is not necessary.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *Bar Standards Board v Howd* [2017] EWHC 210 (Admin).

**Decision and reasons on misconduct**

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.

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

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 breaches of the Code. Specifically:

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

*To achieve this, you must:*

***1.1** treat people with kindness, respect and compassion*

***1.5** respect and uphold people's human rights*

***5 Respect people's right to privacy and confidentiality***

*As a nurse, midwife or nursing associate, you owe a duty of confidentiality to all those who are receiving care. This includes making sure that they are informed about their care and that information about them is shared appropriately.*

*To achieve this, you must:*

***5.1** respect a person's right to privacy in all aspects of their care*

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

*To achieve this, you must:*

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

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

***20.3** be aware at all times of how your behaviour can affect and influence the behaviour of other people*

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

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

***20.10** 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. The panel also took into account the NMC Guidance on *'Using social media responsibly'* which states:

*'The Code emphasises the importance of putting the interests of people using or needing nursing or midwifery services first. You should always make sure that your behaviour on social media is in line with this.'*

The panel noted that you had already received disciplinary action for obtaining Patient B's phone number without clinical justification, and then subsequently contacting Patient B on his personal mobile number without clinical justification. The panel took into account Ms Watts' Investigation Report dated 21 October 2022 which stated:

'[…] *OO has shown remorse for this telephone call and has since carried out his own research and found understanding of why this was inappropriate.* […]'

The panel noted, however, that you repeated this conduct some seven months later by contacting Patient A on social media without clinical justification. The panel considered that the repetition of your conduct, despite receiving disciplinary action, was serious, and would be considered deplorable by a fellow practitioner. The panel therefore considered that your conduct at charges 3, 5, and 6 amount to misconduct.

With regard to your conduct at charge 4a, the panel considered that whilst it may have been inappropriate to touch Patient B's shoulder without consent or clinical justification, your conduct, in isolation, was not so serious as to amount to misconduct.

With regard to your conduct at charge 4b, the panel considered that whilst it may have been inappropriate to refer to Patient B as a *"cute boy"*, your conduct, in isolation, was not so serious as to amount to misconduct.

The panel went on to consider the charges cumulatively. In light of the panel's findings in relation to charges 3, 5, and 6, the panel considered that your conduct overall amounted to misconduct.

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

**Decision and reasons on impairment**

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

In coming to its decision, the panel had regard to the NMC Guidance on *'Impairment'* (Reference: DMA-1 Last Updated:28/01/2026) 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) …’*

The panel heard from Patient A that he felt fearful that you would find out where he worked or where he lived. The panel also took into account Patient A’s police statement dated 18 July 2023 which stated:

> *‘*[…] *I looked at the profile picture that sent me that message and saw a profile picture that looked like THE DOCTOR. This caused me quite a lot of alarm and distress* […]*’*

The panel noted that Patient A suffered emotional or psychological harm as a result of your misconduct. The panel considered that your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into

disrepute by your failure to maintain professional boundaries, and by your breach of patient confidentiality. Accordingly, the panel determined that limbs a, b, and c of Dame Janet Smith's *test* were all engaged as to the past.

Regarding insight, the panel noted that you made admissions to some of the charges at the outset of this hearing, which were the only charges, in fact, found proved. The panel took into account your reflective piece in which you demonstrated some insight into, and remorse for, your misconduct. The panel took into account the outcome letter of the Early Resolution Approach dated 22 December 2022 which stated:

> *'*[…] *I also explained to you this will also mean that you must commit in future to only using EPR in the course of your duty in providing care to patients and to never again use it to view the records of any other person unless it is during the course of your duty of providing care as a nurse. I would also like to make it clear that in future you should have no unsolicited contact with any patient further to providing them with care.'*

The panel noted that you repeated this behaviour by contacting Patient A on social media some five months after receiving this disciplinary sanction from your employer. The panel considered that you did not address in your reflective piece that you had, in fact, repeated this behaviour within a matter of months after being told not to do so, and undertaking not to do so. Neither did you demonstrate how you would act differently in the future to ensure that this misconduct would not be repeated, despite the fact that you had previously received a disciplinary sanction which was very clear in its expectations of your future conduct.

It also considered that you did not set out in your reflective piece sufficient depth of understanding as to how such conduct in respect of Patient A and Patient B could:

- cause harm to patients, particularly those who are vulnerable;
- undermine the public confidence in the nursing profession;

- fail to uphold proper standards of conduct and behaviour expected of a registered nurse

The panel noted your remorse for your conduct, but this was not matched by demonstrable remediation in your reflective piece. The panel therefore considered that you have limited insight in relation to your misconduct.

The panel considered the factors set out in the case of *Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin) and determined that the misconduct in this case is capable of being addressed. The panel had regard to the bundle of documents supplied by you, and the submissions of Mr Ventress, in determining whether you had in fact addressed your misconduct. The panel also took into account that your reflective piece demonstrated an understanding that your actions were inappropriate. The panel acknowledged that you had undertaken training courses in relation to the concerns identified in this case. Whilst these were relevant to the regulatory concerns, the panel noted that they were online and rather short. Three of particular relevance had been completed in the weeks or days before the date of your reflective piece, yet there was no reference made to them, or, importantly, what learning and insight into the regulatory concerns you had gained having completed those courses. Accordingly, the panel considered that you have not taken sufficient steps to address your misconduct.

The panel considered that it could not attach much weight to the testimonials provided, as they were limited in nature.

The panel further considered that there was a lack of sufficient evidence before it for it to be satisfied that the misconduct would not be repeated in the future. The panel therefore considered that, as there is a risk of repetition, you are liable in the future to put patients at unwarranted risk of harm, breach fundamental tenets of the nursing profession, and bring the profession into disrepute. The panel therefore decided that a finding of impairment is necessary on the ground of public protection.

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 public confidence in the nursing profession, and the NMC as the regulator, would be undermined if a finding of current impairment was not made. It considered that a member of the public would be shocked to learn that a registered nurse had inappropriately contacted a patient on social media without clinical justification after receiving disciplinary action for similar conduct with another patient some months prior. They would also be shocked to learn that you had accessed a patient's medical records to obtain their personal telephone number, on which you then contacted them. The panel therefore determined that a finding of impairment on the ground of public interest is also required to maintain public confidence in the nursing profession and the NMC as the regulator, and also to uphold proper professional standards.

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

**Sanction**

The panel has considered this case very carefully and has decided to make a suspension order for a period of nine months. The effect of this order is that the NMC register will show that your registration has been suspended.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC and last updated on 28 January 2026.

**Submissions on sanction**

Ms Barnor submitted that taking no further action, or imposing a caution order would be inappropriate as they would not reflect the seriousness of the misconduct, nor would they protect the public or maintain public confidence in the nursing profession.

Ms Barnor submitted that a conditions of practice order would also be inappropriate as the misconduct was not directly related to your clinical practice. She submitted that your actions of contacting a patient without clinical justification was repeated, and therefore suggests a deep-seated attitudinal concern.

Ms Barnor submitted that the only appropriate and proportionate sanction in this case is a suspension order. She submitted that the charges found proved are at the most serious end of the spectrum, and that public confidence in the nursing profession, as well as professional standards, cannot be maintained unless you are prevented from practising as a registered nurse. Ms Barnor submitted that a striking-off order would be disproportionate in this case.

Ms Barnor invited the panel to impose a suspension order for a period of 12-months

Mr Ventress accepted that taking no action and imposing a caution order would be inappropriate, given the panel's finding of current impairment.

Mr Ventress submitted that a suspension order would also be inappropriate. He submitted that you have already been suspended from practice between February and September 2024, in the form of an interim suspension order. You were then permitted to return to practice subject to interim conditions in September 2024. Mr Ventress submitted that it is fair to assume that those conditions were designed to address the very serious allegations which have now been found not proved. He submitted that a conditions of practice order would enable you to build on the work that you have done so far, by way of your reflections and training,  and by applying that learning to your clinical practice.

Mr Ventress invited the panel to impose a conditions of practice order.

The panel accepted the advice of the legal assessor.

**Decision and reasons on sanction**

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

The panel took into account the following aggravating features:

- Two separate instances of breaching professional boundaries, the second after having been disciplined and warned for the first
- The vulnerability of Patient A, and that the misconduct caused him psychological harm
- Abuse of a position of trust
- Limited insight and remediation

The panel also took into account the following mitigating features:

- Early admission of the facts
- Undertook some relevant training courses

The panel first considered whether to take no action, and had regard to the NMC Guidance on *'Taking no further action'* (Reference: SAN-2a Last Updated: 28/01/2026) in which the following is stated:

*'The Committee can choose to take no further action and impose no sanction immediately after it has decided that a professional's fitness to practise is impaired. However, the Committee will only do this in exceptional circumstances, and it should explain its decision very clearly.* […]*'*

The panel concluded that these are not exceptional circumstances, and therefore, taking no further action would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor protect the public, nor would it be in the public interest to take no further action.

The panel next considered a caution order and had regard to the NMC Guidance on *'Caution order'* (Reference: SAN-2b) in which the following is stated:

*'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 that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. It considered that the three points above are not engaged. The panel decided that it would be neither

proportionate nor protect the public, nor would it be in the public interest to take no further action.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG on *'Conditions of practice order'* (Ref: SAN-2c), in particular:

- *…*
- *identifiable areas of the professional's practice in need of assessment and/or retraining*
- *competence cases where there is a realistic likelihood that the concerns about their practice can be resolved*
- *potential and willingness to respond positively to retraining*
- *…*
- *people using services will not be put at risk either directly or indirectly as a result of the conditions*
- *conditions can be created that can be monitored and assessed.*

The panel considered that the misconduct in this case was behavioural, and not related to your clinical practice. It considered that there are no identifiable areas of your clinical practice that are in need of retraining. The panel considered Mr Ventress' examples of possible conditions of practice, but considered that these would be insufficient to protect the public and maintain public confidence in the nursing profession, and would also be largely unworkable.

The panel took into account the NMC Guidance on 'The purpose of and approach to sanctions' (Ref: SAN-1), particularly, the section entitled *'Previous interim orders and their effect on sanctions'* in which the following is stated:

*'It may be relevant for the Committee to consider whether the professional was subject to an interim order while the FtP process was ongoing. They should consider the effect this might have on sanction, but remember that interim orders have a separate purpose from final sanctions. The purpose of* interim orders *is to manage risk while a case is being investigated and before the Committee makes a final decision. The purpose of a final order is to decide how best to protect the public once a professional's fitness to practise has been found to be impaired.'*

The panel in this case, having found the facts that it did and taking into account that it was not performing a risk assessment, considered that imposing a conditions of practice order was not appropriate, as it would not protect the public or be in the public interest.

The panel considered that there are no practical or workable conditions that could be formulated to protect the public, or engage the public interest, given the nature of the charges in this case.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The latest edition of the SG on *'Suspension order'* (Ref: SAN-2d) states:

*'This order suspends the professional's registration for a period of up to one year. The professional will not be able to practise while the suspension order is in place. It may be appropriate in cases where:*

- *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.*

[…]

*Key things to weigh up before imposing this order include (but aren't limited to):*

- *whether the risk posed to the public, or to people receiving care, can only be managed by temporary removal from the Register?*
- *will suspension be sufficient to protect people using services, public confidence in the profession, or professional standards?*
- *is it realistic that the professional could return to unrestricted practice in the future, even if it is not appropriate for them to do so now?*
- *What would the registrant need to do in order to be fit to practise in the future? Is it realistic that they will be able to do this?'*

The panel considered that the above factors are engaged in this case. The SG also states that in considering a suspension order the panel should take into account a number of key factors the most relevant of which were:

- *is it realistic that the professional could return to unrestricted practice in the future, even if it is not appropriate for them to do so now?*
- *What would the registrant need to do in order to be fit to practise in the future? Is it realistic that they will be able to do this?*

The panel was satisfied that in this case, the above two points are engaged, and that the misconduct was not fundamentally incompatible with remaining on the register. It considered that you made early admissions to the only charges found proved, and have demonstrated some level of insight through training courses and reflection. The panel considered that a period of suspension would not only protect the public, maintain public confidence, and uphold proper professional standards of conduct, but it would also give you an opportunity to take additional steps to remediate your misconduct, and further develop your insight with a view to you returning to unrestricted nursing practice in due course.

The panel did go on to consider whether a striking-off order would be proportionate, and had regard to the SG on *'Striking off order'* (Ref: SAN-2e). Taking account of all the information before it, and of the mitigation provided, the panel accepted Ms Barnor's

submission that a striking off order would be disproportionate. The panel took into account the NMC Guidance on *'Deciding between suspension and strike off'* (Ref: SAN-3) and, in coming to this decision, whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in your case to impose a striking-off order.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause you. However, this is outweighed by the public interest in this case.

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

The panel determined that a suspension order for a period of nine months was appropriate in this case to mark the seriousness of the misconduct, and would also provide you with sufficient time to address your misconduct and develop your insight.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Your continued engagement with the NMC
- Up to date testimonials, in particular, from a current employer
- An updated reflective piece which covers your developed insight, any additional relevant training undertaken, and the matters of concern highlighted in this determination

**Interim order**

As the suspension order cannot take effect until the end of the 28-day appeal period, or if an appeal is made, until that appeal has been finally disposed of. The panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in your own interests until the suspension sanction takes effect.

**Submissions on interim order**

The panel took account of the submissions made by Ms Barnor. She submitted that an interim suspension order is necessary for the protection of the public, and also in the public interest. Further Ms Barnor submitted that an interim order is necessary to cover the period of any possible appeal. Ms Barnor invited the panel to impose an interim suspension order for a period of 18 months.

Mr Ventress did not provide submissions in relation to an interim order.

The panel accepted the advice of the legal assessor.

**Decision and reasons on interim order**

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

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's

determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to allow time for any possible appeal.

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

This will be confirmed to you in writing.

That concludes this determination.