

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

**Substantive Hearing
Monday, 5 January 2026 - Friday, 16 January 2026
Monday 5 October 2026 – Friday 16 October 2026**

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

Name of Registrant:	Adam Michael Fitton
NMC PIN:	15G0651E
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing (Level 1) – 18 December 2015
Relevant Location:	Stevenage & Bury
Type of case:	Misconduct
Panel members:	Geraldine O'Hare (Chair, lay member) Ivan McGlen (Registrant member) Janine Green (Lay member)
Legal Assessor:	Charlotte Mitchell-Dunn (5 – 16 January 2026) Christopher McKay (5 – 16 October 2026)
Hearings Coordinator:	Priyam Jain (5 – 16 January 2026) Andrew Ormsby (5 – 16 October 2026)
Nursing and Midwifery Council:	Represented by Ben Edwards, Case Presenter
Mr Fitton:	Present and represented by Roy Donnelly, Royal College of Nursing (RCN)
Facts proved:	Charges 1, 2, 3 and 4
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim order:	Interim suspension (18 months)

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

At the outset of the hearing, Mr Edwards, on behalf of the Nursing and Midwifery Council (NMC), made an application pursuant to Rule 19 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended ('the Rules'), for the entirety of the hearing to be held in private.

Mr Edwards submitted that the charges concern serious allegations of a sexual nature and that two of the witnesses to be called by the NMC are the complainants to whom the allegations relate. He submitted that it was necessary for the hearing to be held in private to enable the evidence to be explored properly and effectively, and to enable the witnesses to give their best evidence. He also submitted that the hearing was likely to involve personal matters concerning you which should not be heard in public.

Mr Edwards submitted that he had considered whether the hearing could be conducted partly in public and partly in private. However, given the nature of the allegations and the evidence likely to arise throughout the proceedings, he submitted that it would be impracticable to move repeatedly between public and private sessions. He stated that doing so could also cause disruption, particularly in relation to the preparation of the transcript and the management of any observers. He therefore invited the panel to direct that the entire hearing be held in private.

Mr Donnelly supported the application on your behalf. He submitted that the hearing would involve a number of matters concerning your personal life which you wished to remain private, in addition to the personal evidence relating to the witnesses. He agreed that, given the dynamic nature of the evidence, it would be impracticable to divide the hearing into public and private sessions and that attempting to do so could inhibit the proper exploration of the evidence.

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 carefully considered the principle of open justice. However, it determined that the entirety of the hearing should be conducted in private. The panel took into account the serious and sensitive sexual nature of the allegations, the intimate and personal evidence expected from Persons 1 and 2, and the private matters concerning your personal life which were likely to arise throughout the hearing.

The panel considered whether it would be possible to conduct only parts of the hearing in private. However, it concluded that the sensitive evidence was likely to arise throughout the proceedings and could not readily be separated from the remaining evidence. Moving repeatedly between public and private sessions would be impracticable, potentially disruptive and could inhibit the proper exploration of the evidence.

Having balanced the interests of the parties against the principle of open justice, the panel was satisfied that conducting the entire hearing in private was necessary and proportionate. The panel therefore granted the application.

The panel also considered the attendance of an NMC senior investigator who wished to observe the hearing for professional purposes. Having been informed of the observer's identity and role, Mr Donnelly confirmed, following consultation with you, that you had no objection to their attendance. The panel permitted the observer to remain, subject to the confidentiality requirements applicable to these private proceedings.

Details of charge

That you, a registered nurse;

1. On 01 June 2023 attempted to have sexual intercourse with Person 1 without Person 1's consent or reasonable belief that they consented

Found proved

2. Your conduct at Charge 1 was sexual **Found proved**

3. On an unknown date in August 2022 masturbated Person 2 without Person 2's consent or reasonable belief that they consented

Found proved

4. Your conduct at Charge 3 was sexual **Found proved**

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

Background

The charges in this case concern two separate allegations of sexual conduct involving Person 1 and Person 2.

At the time of the matters giving rise to Charges 1 and 2, Person 1 and his partner, Witness 3, were friends with you.

On the evening of 1 June 2023, you, Person 1, Witness 3 and others attended a nightclub, where alcohol was consumed. You, Person 1 and Witness 3 subsequently went to your parents' address (your parents were not at home) and spent time in a hot tub with others who were present.

In the early hours of 2 June 2023, Person 1 left the hot tub and went into the downstairs bathroom to get dressed. It is alleged that you entered the bathroom and attempted to have sexual intercourse with Person 1 without his consent or a reasonable belief that he consented. Witness 3 subsequently witnessed part of the interaction between you and Person 1. Person 1 and Witness 3 then left the address, and the matter was reported to the police.

You accept that sexual activity took place between you and Person 1 in the bathroom. However, your case is that Person 1 initiated and consented to that activity and that you did not attempt to have sexual intercourse with him without his consent.

Charges 3 and 4 concern a separate incident involving Person 2 on an unknown date in August 2022. You and Person 2 were friends and had developed a close relationship. Person 2 regularly stayed at your home before later moving into the property.

It is alleged that, while Person 2 was asleep in bed beside you, you pulled down his underwear and masturbated him without his consent or a reasonable belief that he consented. Person 2 states that he awoke while this was taking place and that you stopped when he woke up.

You accept that you touched and briefly masturbated Person 2. However, your case is that Person 2 was awake, that sexual activity had previously taken place between you both and that his words and actions led you to believe that he consented. You deny that Person 2 was asleep when the activity began and maintain that the interaction was consensual.

The NMC alleges that your conduct in relation to both Person 1 and Person 2 was sexual and that, by reason of the matters alleged, your fitness to practise is impaired by reason of misconduct.

Decision and reasons on application for special measures

The panel heard an application made by Mr Edwards, on behalf of the NMC, for special measures to be put in place while Persons 1 and 2 gave their evidence. The application was made pursuant to Rule 23 of the Rules.

Mr Edwards submitted that Persons 1 and 2 should be treated as vulnerable witnesses because they are the subjects of allegations of a sexual nature.

In relation to Person 1, Mr Edwards applied for a screen to be placed within the hearing room so that Person 1 could not see you, and you could not see Person 1, while he gave evidence. He submitted that this measure would enable Person 1 to give their best evidence. He further submitted that the screen would not prevent you

from hearing Person 1's evidence or otherwise participating effectively in the hearing.

In relation to Person 2, Mr Edwards informed the panel that Person 2 had expressed concern about giving evidence while you were present in the same room. Person 2 had not seen you since the events giving rise to the allegations. Mr Edwards therefore applied for you to observe Person 2's evidence from a separate room within the building using Microsoft Teams, with your camera switched off. He submitted that, although this was an unusual measure, it would not prevent you from hearing and observing Person 2's evidence, communicating with Mr Donnelly or otherwise participating effectively in the hearing. He submitted that the proposed arrangement would enable Person 2 to give their best evidence without causing unfairness or prejudice to you.

Mr Donnelly, on your behalf, did not oppose the applications. He confirmed that you were content for the panel to determine the arrangements it considered most appropriate.

The panel accepted the advice of the legal assessor. She referred the panel to Rule 23 of the Rules and the NMC guidance - Supporting people to give evidence in hearings. She advised that a person who is the subject of an allegation of a sexual nature may be treated as a vulnerable witness. She also reminded the panel that both parties agreed to the proposed measures and that the panel should consider whether the measures were necessary to enable Persons 1 and 2 to give their best evidence while ensuring fairness to you.

The panel determined that Persons 1 and 2 should be treated as vulnerable witnesses due to the nature of the allegations and the sensitive evidence they were expected to give.

The panel was satisfied that the use of a screen while Person 1 gave evidence was necessary and proportionate. The screen would prevent Person 1 and you from seeing one another, while ensuring that you could hear the evidence, communicate with Mr Donnelly and continue to participate effectively in the hearing.

The panel was also satisfied that it was necessary and proportionate for you to observe Person 2's evidence from a separate room using Microsoft Teams, with your camera switched off. The panel considered that this arrangement would address Person 2's concerns and assist them to give their best evidence. It would also enable you to see and hear the proceedings, communicate with Mr Donnelly and participate effectively throughout Person 2's evidence.

The panel was satisfied that neither measure would cause injustice or unfairness to you. It therefore granted both applications.

Decision and reasons on application for an additional support measure for Person 2

The panel heard a further application made by Mr Edwards, on behalf of the NMC, for Lale Gungor, an NMC Senior Case Manager involved in this case, to be permitted to remain in the hearing room while Person 2 gave evidence.

Mr Edwards submitted that Ms Gungor had been in contact with and had supported Person 2 in the period leading up to the hearing. She had also been supporting Person 2 within the building while he waited to give evidence. He proposed that Ms Gungor sit at the back of the hearing room, where she could be seen by Person 2, and provide him with the reassurance of a familiar face.

Mr Edwards submitted that the continuity of Ms Gungor's support would assist Person 2 to give his best evidence.

Mr Donnelly, on your behalf, did not oppose the application.

The panel accepted the advice of the legal assessor. She reminded the panel that it had already determined that Person 2 was a vulnerable witness under Rule 23 of the Rules and had directed that special measures be put in place while Person 2 gave evidence. She advised that permitting a supporter to remain in the hearing room would constitute an additional measure for the panel to consider. She also referred

the panel to the NMC guidance entitled '*Supporting people to give evidence in hearings*'.

The panel considered that Ms Gungor was already familiar to Person 2 and had supported them in preparing to attend and give evidence at the hearing. It was satisfied that her presence would provide reassurance to Person 2 and assist him to give his best evidence.

The panel was also satisfied that Ms Gungor would be present solely to provide support and would take no part in Person 2's evidence. It determined that her presence would not cause any unfairness or prejudice to you.

The panel therefore granted the application and permitted Ms Gungor to sit at the back of the hearing room, where Person 2 could see her, while Person 2 gave evidence.

Decision and reasons on application to admit further evidence

The panel heard an application made by Mr Donnelly, on your behalf, for six colour photographs of the downstairs bathroom at your parents' address to be admitted into evidence.

Mr Donnelly informed the panel that the photographs had been provided during the course of the hearing and invited you to authenticate them in your oral evidence.

You confirmed that the photographs showed the downstairs bathroom at your parents' address, being the bathroom relevant to Charges 1 and 2. You stated that the photographs had been taken during the weekend immediately preceding your evidence. You further stated that the bathroom had been completely refurbished in 2019 and had not changed substantially between the date of the alleged incident on 1 June 2023 and the date on which the photographs were taken.

Mr Edwards did not make any submissions in relation to the application, and the panel did not require further advice from the legal assessor.

The panel viewed the photographs and considered the information provided by you concerning when they were taken and whether the bathroom had changed since the alleged incident.

The panel considered that the photographs were relevant because they showed the size, physical layout and features of the bathroom in which the alleged incident concerning Person 1 was said to have occurred. The panel took into account that the photographs had been taken recently rather than at the time of the alleged incident. However, it also took into account your evidence that the room had not changed substantially since 1 June 2023.

The panel determined that it was fair and appropriate to admit the six photographs into evidence. It would assess what weight, if any, to place upon them when considering all the evidence at the facts stage.

Decision and reasons on application to adjourn the hearing for you to obtain [PRIVATE] evidence

The panel heard an application made by Mr Donnelly on your behalf to adjourn the hearing for you to obtain [PRIVATE] evidence, pursuant to Rules 32 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended ('the Rules').

[PRIVATE]

[PRIVATE] He further submitted that the application was made as soon as reasonably practicable following the issue arising in evidence. He submitted that no injustice would be caused to any party, and that fairness required that you be afforded the opportunity to obtain such evidence, particularly given the seriousness of the allegations and the potential consequences being the possibility of a strike-off.

Mr Donnelly acknowledged the public interest in the expeditious disposal of proceedings but submitted that, in this case, efficiency would not be materially undermined by an adjournment. He noted that all witnesses had already given their

evidence and that the case was likely to go part-heard in any event. He submitted that an adjournment at this stage would not cause inconvenience to witnesses and would be in your interest, ensuring that the panel was able to determine the case on the basis of all relevant evidence. He therefore invited the panel to accept the application to adjourn this hearing for you to obtain [PRIVATE] evidence.

[PRIVATE]

The panel accepted the advice of the legal assessor. She advised the panel to balance the public interest in the timely conclusion of proceedings against the need to ensure fairness to you, and to consider whether refusing the application would result in injustice. She also advised the panel to take into account the stage the proceedings had reached and any potential inconvenience caused by an adjournment. [PRIVATE]

In reaching its decision, the panel considered all the information before it, including submissions from Mr Donnelly and Mr Edwards. The panel also bore in mind the legal advice it received.

[PRIVATE]

The panel took into account that all witnesses have been heard and that an adjournment at this stage would not cause inconvenience to witnesses. While mindful of the public interest in the efficient disposal of proceedings, the panel determined that this was outweighed by the need to ensure fairness to you, given the seriousness of the charges and the potential impact on your professional registration.

Having considered all the circumstances, the panel determined that it was fair and appropriate to grant the application to adjourn the hearing to allow you the opportunity to obtain relevant [PRIVATE] evidence. The panel was satisfied that granting the adjournment would not cause injustice to the NMC and would assist the panel in reaching a properly informed decision ensuring public confidence in the regulator.

Accordingly, the panel adjourned the hearing. This panel is seized of the case as the case has opened.

The panel makes the following directions:

1. Defence to serve their expert report within 12 weeks or on or before 13 April 2026.
2. Any additional evidence sought to be relied upon by the registrant will also be provided by 13 April 2026.
3. Upon receipt of the expert report NMC are to notify defence within 2 weeks but no later than 27 April 2026 if they intend to serve an expert report.
4. If NMC indicate an intention to serve an expert report in response; the report should be served no later than 22 June 2026.
5. If requested by either party, written questions may be put to the expert or experts for consideration and response and a joint report produced identifying areas of agreement and any remaining areas of disagreement.
 - a. The form of questions will be agreed within two weeks and no later than 6 July 2026.
 - b. The experts joint report will be provided within a further 6 weeks and no later than 17 August 2026.
6. A case management hearing to be listed before this panel on first available date after 17 August 2026 to address any remaining case management issues.
7. Parties are to notify NMC as soon as reasonably practicable if the case management hearing is not required.

Case management

At a case management hearing on 28 September 2026 the NMC made an application, under Rule 31 of the Rules that Witness 3, Person 1 and Person 2 be recalled to provide live witness evidence in relation to new evidence adduced on your behalf, and that this evidence should be interposed, and heard before your evidence was concluded.

Mr Donnelly, on your behalf, supported this application.

The panel received advice from the legal assessor.

The panel accepted the application and allowed for Witness 3, Person 1 and Person 2 to be recalled and cross-examined in relation to the further evidence adduced on your behalf.

The hearing resumed on 5 October 2026 and heard further evidence from Witness 3, Person 1, and Person 2.

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 Edwards on behalf of the NMC and by your representative Mr Donnelly.

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:

- Person 1: Complainant in relation to Charge 1 and 2;
- Person 2: Complainant in relation to Charge 3 and 4;
- Witness 3: Partner of Person 1.

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

- Jack Wade: Biomedical Scientist at Manchester Royal Infirmary and your friend;
- Lucie Clarke: Senior Emergency Medical Technician at East of England Ambulance Service and knew you in a professional capacity;
- Liam Swanston: Senior Delivery Manager, Safeguarding Lead at the Proud Trust and your friend;
- Kylie Lewis: Technician at West Midlands Ambulance Service and was your flatmate between February to September 2022.

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 your representatives.

The panel was directed to and considered s.78 of the Sexual Offences Act 2003, 'sexual' is defined as whether a reasonable person would consider that:

- a. whatever the circumstances or any person's relation to it, it is sexual due to its nature; or
- b. because of its nature it may be sexual and because of the circumstances or the purpose of any person in relation to it (or both) it is sexual.

The panel noted the case of *Basson v GMC* [2018] EWHC 505 (Admin), in which the High Court defined acting with sexual motivation as conduct done either in pursuit of sexual gratification or in pursuit of a future sexual relationship.

The panel also took into account that, when considering sexual motivation, it should reach its conclusions from all the facts and circumstances of the case, looking at the material in the round. It understood that the best evidence of sexual motivation may be the behaviour itself. Where there was no plausible, alternative explanation as to why the registrant engaged in conduct or actions of an overtly sexual nature, then a panel would be entitled to conclude that the motivation was sexual.

The panel also took account of NMC guidance 'Sexual motivation' FTP-2a-ii (2026), in particular the following:

'Consent

Depending on the charges presented to a panel, we may need to consider whether the alleged victim consented to the activity that took place. However, it is important to note that in some cases consent may not affect whether or not misconduct took place. For example, if a person receiving care consented to a relationship with a professional providing them with care, this would still amount to misconduct.

Where the panel needs to consider consent, they must consider both whether the alleged victim consented, including whether they had the capacity to

consent, and whether the professional reasonably believed that the alleged victim consented. When considering whether the professional reasonably believed there was consent, the panel must consider all the relevant circumstances. This will include what the professional did to confirm whether or not the alleged victim consented. Panels may need to consider whether the alleged victim was unable to consent because they were drunk, drugged or unconscious.

Myths and stereotypes

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, as well as their own biases. 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. While the CPS guidance refers only to rape, the sections referring to context and how people react to rape are likely to apply to any non-consensual sexual activity.'

The panel also received a good character direction and noted that there was no evidence of previous fitness to practise proceedings or findings against you.

The panel took into consideration the character references provided by you.

The panel then considered each of the disputed charges.

Background in relation to 1 June 2023 allegation (in relation to charges 1 and 2)

1 June 2023

Person 1 and his partner, Witness 3, were friends with you. After a night where alcohol was consumed, although not by Witness 3 as he was the designated driver, all of you, including Mr Liam Swanston and Mr Michael Gracey, went back to your parents' house.

Person 1 states that he was in the downstairs bathroom of the property when you entered and attempted to have intercourse with him without his consent.

It is the NMC's case that Witness 3 witnessed the activity through an external bathroom window which looked out into the grounds of the home.

Person 1 reported the incident to the police and provided an (Achieving Best Evidence) ABE interview to the police.

Witness 3, and Mr Swanston, also provided a written statement.

Witness evidence in relation to 1 June 2023

Person 1

Person 1 provided a recorded police witness statement, dated 2 June 2023, and a videoed police interview, which took place at approximately 14:45 on 2 June 2023. He also provided a victim personal statement, dated 7 July 2023, and an NMC statement dated 22 May 2024.

The panel noted Person 1's police interview, particularly the following:

'I had, at that point, two Jack Daniels and cokes plus the three vodka and lemonades that I'd had in the club. So, I was very sort of tipsy and well onto my way to being drunk because I don't normally drink Jack Daniels, so I was definitely on my way. I, a couple of hours went past, I think it was around about half past three, four o'clock, I nudged [Witness 3] to sort of say, '[Witness 3], I'm ready to go home', or, 'I need to go because I'm going to be sick'. I just looked at him, [Witness 3] knew what I was getting at. And then Adam then showed us out of the hot tub into the house, which I'm walking over the plastic steps that he's got in the garden from the hot tub to his conservatory, because I remember feeling that it was plastic, which really surprised me at that time in the morning. Walked into the conservatory, taken a right into the kitchen and then another right into the hallway and into the like,

into the downstairs toilet, at which point I locked the door behind me, which, from previous experiences and what I'm going through at the minute, that's a standard procedure to make sure it's locked and that nobody can get in.

I was stood having a wee, which, I mean, it was a long wee because I had been drinking, and I thought I heard the door unlock but I didn't think anything of it because I kind of thought, 'Well, [inaudible] upstairs', and I then remember Adam popping his head round and going, 'Are you done yet?'. I was like, 'No, I'm still weeing'. He sort of closed the door. A couple of seconds or it felt like seconds went past, he popped his head round again. He popped his head round three or four times and, on the last time he popped his head round, I wasn't weeing. I was just stood there with my hand, my right hand on the wall above the toilet to sort of catch my balance because I wasn't able to stand up properly from drinking, which is normal for me anyway.

And he was like, 'Are you done?', and I was like, 'Yeah, no, I'm still peeing', and then the next thing I know, he's come in, sort of stood behind me and sort of then pushed me towards the toilet, at which point I've then already had my hand on, my right on the wall above the toilet, and I put my left hand on sort of the wood, the ledge, to sort of balance myself, at which point he's separated my cheeks on my bum and started licking my bum hole area and then, for what felt like seconds – it could've been minutes in the blur – and then I remember him sort of spinning himself round to the left of me to attempt to suck my penis or get it erect, which I'd just been for a wee so that wasn't gonna [sic] happen anyway. And then I'm still against the wall at this point and he started to thrust himself against me, which obviously I was pulling away close to the wall but there was only so far I can go without falling into the toilet, at which point he tried to insert his penis into my rectum and he kept pushing and he was like, 'Is it in?', I was like, 'No, it's not'. The only thing I can remember any verbal, the only verbal words coming out my mouth was, 'No, it's not', and as [inaudible] but this, I don't remember saying, 'Stop'. I know in my head I definitely did but I don't know if I got it out. I don't know if I verbalised it. But I think again I was more in shock to say anything. And when he did try to insert it, it hurt that much to the point, at one point, I was sort of

like face-to-face with the wall, at which point he just kept trying to thrust me. And then I turned to go left to sort of say something and that's when I've seen [Witness 3's] sort of bright orange jacket that he's had on all night in the mirror and then [Witness 3] sort of storm off.

Adam then let go and just stood staring at me, going, 'Are you done yet? Hurry up', or, don't know, 'Hurry up, hurry up, hurry up'. Then I'm stood there with no clothes at this point because, when I went into the toilet, I took all my clothes off because I was getting changed to go back home. And, in my head, I was just like, 'What are you telling me to hurry up for? My partner's just caught us doing something in the toilet'. I wanted to get dressed quick as I can so I can go and defend my three-year relationship [...]

Witness 3

Person 1 provided a police witness statement, dated 2 June 2023, and an NMC statement dated 22 May 2024.

'I first met Adam when I was working at St Johns Ambulance in 2019. We would communicate in a social capacity over social media infrequently when I was [PRIVATE] and then near daily when I turned [PRIVATE]. When I turned [PRIVATE], we then met regularly in person doing things like going for dinner and staying at his house. We were good friends.

[...]

Adam's demeanor [sic] with people was always very sexually orientated. He was very flirty, but I would just brush that off as him being "Adam". He would make advances on me, but they didn't go any further as I didn't allow them to. He would regularly send me pictures of himself naked'

In his police statement Witness 3 described you invited him and his partner, Person 1, to meet for a few drinks in Bury at approximately 23:00. He states that he, along with Person 1, drove to meet you and a few other friends at a club, whereupon they

had some alcoholic drinks, although Witness 3 himself was not drinking as he was driving. He stated that you all left the bar at 12:30 after last orders and that he drove the group back to your parents' address in Bury.

Witness 3 described the layout of your parents' address and described there being a downstairs toilet down a corridor behind a white door:

'I entered the property, down the corridor behind a white door and straight in front is the downstairs toilet, with one toilet inside. If you stand in front of the toilet, to the right of the kitchen and to the left is the dining room. Through the kitchen is a set of floor length curtains which leads to the conservatory. Outside the conservatory on the right is a bed of stones which leads to the hot tub which looks like it is usually covered.'

Witness 3, in his police statement, stated that when the group entered your parents' property you prepared a hot tub. He stated that the group entered the hot tub once it was prepared and that they stayed in there until approximately 04:05, during which time you all behaved in a light-hearted manner. He went on to describe the following:

'At one point Adam put [Person 1] on top of him as joke, or that is what I took it as at the time. On a number of occasions Adam had grabbed both mine and [Person 1's] crotch, at the time it seemed light hearted, Adam was drunk and he can get quite giddy however this [sic] more forward than usual. We talked about things that [Person 1] had been through, [Person 1] expressed how much I meant to him [...]

[Person 1] and I got out of the hot tub, we went inside and Adam followed us, at this point I noticed he only had a towel wrapped around his waist and nothing else because I saw him remove his shorts.

Adam then put his hands up the left hand side of my shorts and said "IM NOT TOUCHING IT" I stated, "I KNOW YOUR NOT, OK" and I walked off. I saw [Person 1] going into the downstairs bathroom, he was still wearing his shorts and had a towel with him. I the heard [Person 1] lock the bathroom door as he entered. I then went upstairs to get changed, I went through the kitchen and

into the conservatory, I put my clothes on the table and turned towards the left, went onto the patio and looked towards the left where the downstairs toilet was.

I was approximately 4ft away from the bathroom and I could see that the light inside was on and this was amplified by the darkness outside. Through a window I could see [Person 1] bent forward and Adam stood directly behind him close enough to be touching. looked to be bent forward over the toilet, he was leaning forward so much that I could still see his head slightly to the left. Adam was stood directly behind [Person 1] I could see slight movement which looked like Adam thrusting himself.

I went through the property and opened the door, I saw Adam arranging himself, I saw the top of his buttocks as he was pulling up his towel. It looked like he was removing himself from [Person 1]. I couldn't see what [Person 1] was wearing. just the colour of his skin.

In this moment I felt immediate anger, closed the door and said "IF THAT IS WHAT YOU TWO WANT" and left feeling very upset and was shaking. Adam followed me out and denied anything happened, he opened his towel and flashed himself to me and he repeatedly told me to look at his penis as he "WAS NOT HARD" but I didn't look. Me and Adam had a back and forth argument, he was in a fit of rage.

He kept saying things like "YOU BELIEVE WHAT YOU WANT" and how he wanted to get [Person 1] alone to talk about [...] Adam walked off, I went to the door and asked if [Person 1] was staying or if he was coming with me, but he was vomiting in the bathroom.'

You

You stated that on 1 June 2023 you went for a drink with Person 1, Witness 3, Mr Liam Swanston, and Mr Swanston's friend Mr Michael Gracey and that you all returned to your parent's house at 01:20 according to doorbell camera footage.

You stated that once you arrived at your parent's house, you went to prepare the hot tub, whilst Mr Swanston and Mr Gracey went to put swimming shorts on. You said that Mr Swanston knew where these swimming shorts were as he had been to the house on multiple occasions. You said that Witness 3 already had swimming shorts on, which you thought was odd as you had originally said that you did not want to get into the hot tub. Further, you stated that, as you walked through the kitchen after you arrived at the house, and before you turned the hot tub on, Person 1 walked behind you and grabbed your bottom and groin, through your jeans, and that after this you also touched his bottom and his penis, again outside of his jeans, and that neither of you objected to this touching of each other's intimate area.

You stated that everyone spent two approximately two hours in the hot tub:

'When we were in the hot tub with everyone, I was sitting in one corner with Liam opposite, [Witness 3] was in the other corner with Michael opposite. Person 1 sat between me and [Witness 3]; Person 1 was stroking my leg and thigh under the water. He also sat on my lap in the hot tub. [Witness 3] was present during this and appeared to encourage it. I can recall him commenting, "Just sit on Adam, but if you get to touch Adam, so do I", to Person 1. Liam made a comment, which, to the best of my recollection, was "you don't touch someone without them consenting". [Witness 3] and Person 1 responded to this by saying to the best of my recollection "We do consent, you can touch in or out of our shorts".'

You stated that you got out of the hot tube at approximately 04:00 and remembered wrapping a towel around you and putting on a hoodie, and removed your shorts under a towel *'in order not to flash anyone'*. You stated that you do this after using the hot tub to avoid dripping water through the house.

You stated, in your oral evidence, that Person 1 had told you about some important information in relation to Person 2 and the ongoing investigation into Person 2's allegation against you:

'Okay. Person 1 had told me earlier in the day a piece of information pertaining to Person 2, something that I thought was incredibly important

potentially for my police and criminal case. I, at this point, had had a number of drinks.'

You went on in your oral evidence to state the following:

'So on 1 June Person 1 had sent a number of messages about Person 2. One of these messages I thought was particularly relevant, but was something that I should probably speak to him in person about. And I contacted my criminal barrister for the case to say there might be something relevant. I'm going to ask a question this evening and then put this person in contact with you not this evening, sorry. I'm going to ask this person a question when I see them and then put this person in contact with you because I knew I would probably see [Witness 3] and Person 1 at some point over the coming days. They happened to come that evening. Nothing was said at the time. It wasn't until they were getting ready to leave that it came back into my head and I wanted to say it. The timing was probably due to alcohol, but that is what I wanted to ask him. The contents of that comment is what I don't know whether it would – I'm just going off from the other day when we stopped for some time about information that had been added and whether we had to look at asking those individuals about that information is basically'

You stated that Person 1 went to the downstairs toilet to get dressed and that you showed Witness 3 to the bottom of the stairs, after which Witness 3 went upstairs to the upstairs bedroom.

You said that you wanted to chat to Person 1 in private in relation to how Person 2 had treated Person 1 as you were aware of a previous dispute between them:

'I went to the downstairs toilet to talk to Person 1 who was in the toilet. I knocked on the toilet door and went to open the door. I do not recall the door being locked. I did not unlock it, [...] Person 1 stated "I am just peeing" before I was able to open the door fully and so I closed it again. I knocked on the door a number of times and each time was told "I'm still weeing." After 3 or 4 knocks, Person 1 said to the best of my recollection, "I am done, you can come in", and I opened the door and I went in. Person 1 was standing naked,

facing me, and his penis was semi-erect. He was stood upright and was not visibly unsteady. To the best of my recollection, he smiled at me, and I knelt down in front of him. I asked him “are you sure you want to do this” and Person 1 replied with “yes”. I placed Person 1’s penis into my mouth for about 10 seconds. I stopped and then I stood up as I remember thinking I didn’t want to make things awkward. Person 1 then turned around and rubbed his bottom against my upper legs, trying to reach my penis. I had a towel around me as I had also got out of the hot tub. I became erect and opened my towel, I then placed my penis against Person 1’s bottom. Person 1 pushed back against me, I remember being pushed back into the door as he was pushing his bottom into me and I applied a little pressure to his bottom as well. My penis did not penetrate Person 1’s bottom.

Person 1 said it was painful/sore. I stopped and used my hands to move him away from me and to the best of my recollection said “If you want to do that you will need lube”. I had my back to the toilet door with Person 1 standing in front of me, and at that time [Witness 3] opened the toilet door. The door opened into my back and could not open further due to the space. I don’t know what [Witness 3] saw, but he started shouting. Witness 3 and Person 1 left the house at 04:11 as seen on the Ring doorbell where again he exits, turns around, closes the door and lifts the handle and walks away. He does not appear unsteady on this video similar to what I observed in the toilet.’

Liam Swanston

In his witness statement, dated 24 December 2025, Mr Swanston stated that he went to a bar in Bury with you. He stated that he messaged his friend Mr Gracey and asked him to come out. He said that a short time later Person 1 and Witness 3 arrived and, later on, Mr Gracey also arrived.

Mr Swanston stated that you and Witness 3 went to the bar whilst he and Person 1 discussed the allegations brought against you by Person 2. Mr Swanston stated that it was during this conversation that Person 1 said “sexual assault is the easiest thing to throw out there in a situation” and they both agreed that everyone fears that kind

of allegation due to both of them all working within jobs where they were both responsible for safeguarding people.

Mr Swanston described Person 1 intending to '*drink as much as he could*', saying that he wanted to get drunk, and having shots every time his glass was empty. He said that you were all tipsy but not drunk by the time you left Bury.

Mr Swanston described Person 1 and Witness 3 deciding that they wanted to go to the hot tub and that you told him and Mr Gracey that they wanted to go back to your house for this reason and that you invited them along. He also stated that Person 1 and Witness 3 brought their swim shorts with them in Witness 3's car.

Mr Swanston described Person 1 being '*touchy feely*' with you:

'Michael and I borrowed swim shorts off Adam, and we all got into the hot tub and carried on drinking alcohol. I remember that Person 1 was very touchy feely with Adam in front of [Witness 3] in the hot tub.

I would describe Person 1's behaviour as flirty as he kept on touching Adam while he spoke to him. [Witness 3] did not seem bothered by any of this at all. It appeared to me that Person 1's personality must just be quite flirty. Adam, Person 1 and [Witness 3] were all touching each other's chests and legs. I made a comment, "We don't touch anyone without expressed consent". This was because of the comment that Person 1 had made earlier in the evening about it being easy to throw out a sexual assault allegation and I did not want to be in any situation where anyone could potentially accuse anyone of anything.

[Witness 3] or Person 1 said, "That's fine, there is consent, you can touch in or outside our shorts for all I care," and the other agreed, this comment was made directly to Adam, and it struck me as weird. Person 1 then tried to sit on top of Adam's lap in the hot tub and kept moving towards him slowly. There were some sexual conversations in the group surrounding "coming out" and sexual encounters but nothing directed at anyone about implied sexual activity

that night with each other that I was aware of or that was mentioned in front of me.'

Mr Swanston described everyone being coherent and that nobody at the end of the night struck him as particularly drunk. He said that no one was feeling sick or stumbling about when getting in and out of the hot tub. He said that he wanted food and that you ordered McDonalds on your phone and then soon after Witness 3 and Person 1 said that they were getting out to get dressed and leave. He then described you getting out of the hot tub to show them out:

'Adam got out too to show them out. I remember him wrapping himself in a towel and then he took his swim shorts off so as not to drip water all over the house. [Witness 3] popped back outside to grab some of his stuff like his vape etc then went back inside. I got out not long after and walked into the conservatory and heard a conversation between Adam and [Witness 3].

Person 1 was silent, standing to the side of them. I had no idea what the context of the conversation was, but I heard Adam explaining that nothing had happened and he said, "I just wanted to talk to him away from you, in case there was something he wanted to share on his own.

[...]

I don't believe the charges and believe they are an attack on Adam. I believe from Person 1's behaviour that night that he wanted some form of sexual interaction from Adam due to how he was behaving in the hot tub. It strikes me that Person 1 would have made up the allegations to defend his behaviour which would have upset [Witness 3].'

Charge 1

That you, a registered nurse;

1. On 01 June 2023 attempted to have sexual intercourse with Person 1 without Person 1's consent or reasonable belief that they consented

This charge is found proved.

You denied this allegation.

The panel noted that both you and Person 1 agree on the fact that, in the early hours of 2 June 2023 you attempted to have sexual intercourse with Person 1.

The panel noted that you denied that you attempted to have sexual intercourse without Person 1's consent or without a reasonable belief that Person 1 consented.

You stated that you thought that Person 1 might have made these allegations because he got caught by his boyfriend, Witness 3, cheating and subsequently made the allegation to cover up cheating.

You went on to state, in your witness statement, that everything you did in the early hours of 2 June 2023 was done in response to clear indications from Person 1, both verbal and physical, that Person 1 was consenting to the interactions. You also emphasised that, although arrested on 2 June 2023 at 04:57, the police did not proceed with charges against you.

The panel also noted Mr Swanston's witness statement, in which he stated that he believed from Person 1's behaviour during the night of 1 June 2023, that Person 1 wanted some form of sexual interaction with you, due to how he was behaving in the hot tub.

The panel took account of evidence of conversations relating to 'threesomes' and flirting between you and Person 1 from both your evidence and Mr Swanston's evidence. The panel noted that this evidence might, on one level, support the view that Person 1 may have consented to the attempted sexual intercourse in the downstairs bathroom in the early hours of 2 June 2023.

Further, the panel decided that possible flirtatious behaviour earlier in the night could not be taken as convincing probative evidence of consent to sexual intercourse in the downstairs bathroom in the early hours of the morning.

The panel further considered Mr Swanston's assertion that he believed that Person 1 made up the allegations to defend his behaviour having been caught by his boyfriend, Witness 3.

The panel examined the evidence and considered that Person 1's evidence had been consistent, firstly, from when he had an emotional breakdown in the car being driven home from your parent's property by his boyfriend, Witness 3, shortly after the alleged incident. He then repeated his account of events in his videoed police interview at approximately 14:30 on 2 June 2023, only 10 hours after the alleged incident, and repeated it again in his NMC witness statement, dated 7 July 2023, and his oral evidence at the hearing.

The panel heard evidence of a potential motive for Person 1 to make up false allegations as a means of covering up a sexual encounter with you. However, the panel do not believe this was the case and this did not take away from the NMC's evidence.

The panel noted the NMC guidance '*Sexual Misconduct*' (2026) regarding consent, in particular the requirement that panels take account of CPS guidance relating to myths and stereotypes:

- *'There is no typical response to rape. People react in a variety of ways.'*
- *Each occasion is specific and consent needs to be given for each occasion, and can always be given under certain conditions or withdrawn entirely including during an act which was initially consensual.*
- *Consent is active and there is no requirement to articulate the absence of consent.*

Victim Behaviour

[...]

- *Consent cannot be implied from what might be interpreted as flirtatious behaviour or from the way a person is dressed or simply by the act of going back to someone's house.*
- *Consent cannot automatically be implied simply because the victim shows signs of sexual arousal or stimulation'.*

The panel noted that you and Mr Swanston referenced Person 1's alleged flirtatious conduct with you on the night in question.

However, the panel was also cognisant of Person 1's evidence that there was a degree of flirtatious behaviour but that it was not sufficient to be seen as a 'green light'. He stated that you had rubbed his legs, but stated that he did not remember sitting on your lap and that you tried to put your hand up his shorts in the hot tub, and did not remember you touching his crotch through his jeans or Person 1 touching yours through your jeans. Under cross-examination Person 1 specifically denied rubbing your leg in the hot tub.

The panel noted that Person 1's evidence, from his police evidence interview, recorded on 2 June 2023 to his oral evidence at the hearing, that he had been consistent in his description of events and his assertion that he had locked the bathroom door. Furthermore, he was consistent in that he did not ask you to leave when you entered the bathroom; that he was naked when you entered the bathroom having taken off his shorts to go to the toilet, but before he got dressed into his clothes, and that he did not try to cover himself up when you entered the bathroom. The panel took this into consideration, however, it concluded that this was consistent with somebody getting changed out of wet clothing and not an invitation for sexual activity.

The panel also considered Person 1's evidence in relation to his denial that you said words to the effect of '*Do you want me to?*' before putting Person 1's penis in your mouth.

The panel accepted Person 1's evidence under cross-examination where he stated that he did not ask you to stop.

The panel considered the evidence and preferred that of Person 1.

Person 1 also consistently stated that he did not tell you to stop when you attempted to anally penetrate Person 1:

'Q. If I go back to the evidence you gave to the police on 2 June 2023, the general point is that at no point did you say, 'Stop' to him when he was trying to give you penetrative sex. That's correct?

A. Correct.

Q. Okay. You say that here on page 15 of the NMC exhibit bundle when you say, 'I don't remember saying, "Stop"'. You say, 'I know in my head I definitely did, but I don't know if I got it out'.

A. Correct.

Q. So the evidence is that you didn't actually say, 'Stop' to him at any time when he was trying to give you penetrative sex. That's correct?

A. That's correct.'

The panel also noted that Person 1 had been consistent in his evidence in relation to being close to the wall and saying that your penis was not 'in' when you asked whether it was:

'Q [...] you say, 'I was pulling away, close to the wall, but there was only so far could go without falling into the toilet, at which point he tried to insert his penis into my rectum, and he kept pushing. And he was like, "Is it in?" I was like, "No, it's not"'. So you clearly remember saying to him, 'No, it's not in' or something to that effect, yes?

A. Correct.

Q. Then if we turn to page 46 of the same document, about halfway down the first paragraph, you say, 'He tried to get it in. No matter how much he pushed it, it just wasn't going in. I do remember saying, "That's hurting"'. So you recall saying, 'That's hurting' at the time.

A. Correct

Q. And also saying, when you were asked 'Is it in?', you said, 'No, it's not'.

A. Correct.

- Q. *But at no time did you say, 'Stop'.*
- A. *Correct.*
- Q. *Or indicate to him that you didn't want him to continue, is that right?*
- A. *Correct.*
- Q. *So isn't it true that you in fact did want to have penetrative sex with him at the time?*
- A. *That's incorrect.*
- Q. *Isn't it true you didn't give him any indication that you didn't want to have sex with him?*
- A. *I'd say that's incorrect.*
- Q. *Didn't you give him every indication that you did want to have sex with him?*
- A. *That's incorrect.*
- Q. *Isn't that why you were naked in the room in the first place?*
- A. *That's incorrect.*
- Q. *And isn't that why you didn't say, 'Stop'?*
- A. *That's incorrect.*
- Q. *Isn't that why you didn't try to leave?*
- A. *That's incorrect.'*

The panel considered that Person 1's admission that he did not tell you to stop and that he was not sure if he *'got the words out'* was plausible and that there was not a requirement on his part to articulate the absence of consent, particularly as it was you who followed him into the bathroom whilst he was going to the toilet, and there was no evidence that he had asked you to follow him, or asked you to engage in sexual activity in the bathroom.

The panel was conscious of your claim to have followed Person 1 to the bathroom, to ostensibly discuss a private issue. Further, it bore in mind that Person 1 was already naked in the bathroom, had not been expecting you to follow him, that he had locked the door, and had drunk alcohol over the course of the night, and was going to the toilet when you entered, which would have left Person 1 in a vulnerable position.

Further, the panel did not find your explanation plausible that you had followed Person 1 to the toilet to speak with him about an *'incredibly important piece of information'* regarding the police investigation relating to Person 2. The panel considered that it was more likely, that you went to the small downstairs bathroom with the intention of engaging in sexual activity with Person 1:

'Q. Right. You say at paragraph 16 that you wanted to chat to Person 1 in private about how Person 2 had treated Person 1, and this was the appropriate moment to do that, was it?

A. At that moment in time I thought so. I think alcohol probably clouded my judgment on the timing but it was the first time that I'd had the opportunity properly with him to be able to talk to him on his own.'

The panel noted that you had many opportunities to discuss the 'important issue' with Person 1 earlier in the night in the bar, and in your parents' house. It further took account of your failure to discuss this important issue when you entered the bathroom and saw Person 1 naked.

Furthermore, the panel preferred Person 1's evidence in relation to your engaging in oral sex with him:

Q. You say, 'Then I remember him sort of spinning himself around to the left of me, attempting to suck my penis or get it erect, which I'd just been for a wee so that wasn't going to happen anyway'. Did you tell Mr Fitton at the time that wasn't going to happen? Is that what you mean by that?

A. Not from my recollection. I don't believe I actually said anything to him at that point.'

The panel also considered that, given Person 1's consistency in his evidence from his near contemporaneous evidence given to the police on 2 June 2023 to his evidence at the hearing, that his evidence was reliable, and that it was unlikely that you asked Person 1 whether he wanted sexual intercourse, whether it be fellatio or penetration.

The panel took into consideration Mr Donnelly's submissions in relation to Person 1's reluctance to provide his mobile phone to the police, at the time of the incident, but acknowledged that Person 1 had asserted that this was his work phone, and that he needed it for work. This was a potentially valid explanation for his refusal.

The panel also noted that when the police arrived at your parents' address, and after you had been informed that he was being arrested on suspicion of rape, you replied:

'Adam then made the significant comment "have literally just been left by someone who had sex with me in my bathroom"'

In the circumstances, the panel considered that it was more likely than not that Person 1 did not consent to sexual intercourse in the small bathroom in your parent's property in the early hours of 2 June 2023.

The panel then turned to consider whether the NMC had proved that you did not have a reasonable belief that Person 1 had consented to have sexual intercourse with you. The panel took Mr Donnelly's submissions into account, particularly the following:

'Whether the Registrant may have held a reasonable belief that Person 1 was consenting requires a subjective assessment as to whether he held such a belief. Belief is less than knowledge, and it has been described as the state of mind where the person says to themselves "I cannot say for certain that [the circumstance exists] but there can be no other reasonable conclusion in the light of all the circumstances, in the light of all that I have heard and seen"'. The assessment of reasonableness is an objective test to be assessed according to the particular factual circumstances, and there is no obligation to have taken any specific steps to ascertain consent, but where steps have been taken, they must be taken into account in deciding whether D's belief was reasonable'

The panel accepted the legal assessor's advice that this was an accurate summary of the rule.

The panel determined that a reasonable person would not have believed that Person 1's silence and lack of physical resistance, after having drunk alcohol during the course of the night, and having gone to the small downstairs toilet to urinate and get changed, having locked the door, would have constituted consent to sexual intercourse after having been unexpectedly followed to the downstairs toilet by you.

In the circumstances, the panel determined that Person 1's evidence was more plausible than your account of the incident, and considered that you did not take sufficient steps to establish consent.

Therefore, the panel found that it was more likely than not that, on 1 June 2023 you attempted to have sexual intercourse with Person 1 without Person 1's consent or reasonable belief that they consented.

Accordingly, the panel determined that charge 1 is found proved.

Charge 2

2. Your conduct at Charge 1 was sexual

This charge is found proved

The panel considered that a reasonable person would clearly consider your conduct in attempting to have sexual intercourse with Person 1, without consent or a reasonable belief of consent, to be sexual, due to the nature of that conduct.

Accordingly, the panel determined that charge 2 was found proved.

Background in relation to unknown date in August 2022 allegation (in relation to charges 3 and 4)

Person 2 was your friend, although some years younger, and lived with you, albeit platonically.

The NMC's case is that on one occasion, when sharing a bed with you, Person 2 awoke to find you masturbating him without his consent.

Person 2 was younger than you, with an approximately 10-year age difference, and you originally met him through Person 1 and Witness 3. He sometimes stayed over, and he eventually moved into your flat. You occasionally sent each other sexual messages. Person 2 was not living with you at the time of the alleged incident but moved into your flat in October 2022.

Jack Wade, in his oral evidence, confirmed that it was commonplace within the LGBTQ+ community for friends to share sexual images via social media without an intention of a relationship forming.

You also stated, in your oral evidence, that it was common in the gay community for friends to send sexual images without the expectation of it meaning a sexual act is wanted or will take place.

You stated that there had been previous non-penetrative sexual activity between you and Person 2 whilst Person 2 stated that there had not been any sexual activity before this alleged incident.

You stated that you woke up in the morning and you were 'spooning' Person 2 and he had his hands in your shorts.

Witness evidence in relation to unknown date in August 2022

Person 2

Person 2 stated, in his witness statement dated 24 September 2024, that he had just turned [PRIVATE] when he met you. He said that you both started talking via text and then met up regularly as friends. He stated that you were always just friends, without a romantic or consensual sexual relationship, and that, when you became his best friend, he moved in.

Person 2, in his oral evidence, stated that sexual images and videos had been shared with you:

'We were friends when I was [PRIVATE]. I was coming out of foster care. I had very limited friends. I'd just become fully comfortable with my sexuality. I'd never had a gay friend before. Mr Fitton is also gay, and he was one of my first-ever gay friends. I was trying to understand him, navigate, and what it's like to be friends with other gay people. I already looked up to Mr Fitton as a role model clinically. I was very junior in my role in the medical profession, and I looked up to him clinically. I looked up to him as a person as well. So I would often, you know, I was trying to figure out what was normal in these friendships, what wasn't normal in these friendships. The sexual pictures, you know, a hug and a kiss in a nightclub, a flirtatious message, they were all things that Mr Fitton and his other friends that he introduced me to were doing. And as I slowly became more involved with those people, that seemed normal to me.

That's what I assumed was normal. I'm now [PRIVATE], and I don't deem that normal, and that's not the type of friendships I have anymore. But I was trying to navigate a completely new thing for me. That didn't mean that I wanted someone to touch me while I was asleep. Just because I have sent text messages previously, sent images previously, flirted previously to my best friend who I'm trying to navigate if this is normal or not, and trusting. That doesn't mean I want that to happen. I didn't want that to happen. And I think Mr Fitton knew that because he stopped when there were signs of me waking up.'

You stated the following in oral evidence, when asked about your specific relationship with Person 2:

'Relationships and friendships are incredibly complicated. Some days I would see him as – some days we were best friends. Some days he was my counsellor or I was his. Some days we didn't get on. Some days we did disagree. I remember having a go at him for leaving washing in the washer for four days or something. There were sexual elements to our friendship, to our relationship. I do not believe at any point that it was romantic. I can't answer for him.'

Person 2 described the alleged incident as follows:

'I started living with Adam in 2022. His current flat mate hadn't moved out at this point so we were sharing a bed. This was normal for me and I had done it with many friends. In August 2022, I am not sure of the exact date, I had fallen asleep in bed next to Adam and I woke up to my boxers half way down my thighs and Adam was masturbating my penis. His hand was around my penis and he was moving it up and down aggressively. I was in shock so just lay still for around 2-3 minutes as I didn't know what to do or how to get him to stop. I then stretched my arms out and made some groaning noises to let him know that I had woken up and his hand came flying off me and he said "oh morning" as if noting had happened. I did not consent to this happening.'

Person 2 stated that he did not move out of your flat immediately as he was not in a financial position to and that the incident had an impact on his mental health.

'The incident went unspoken about for months. I think it was a trauma response but I almost forgot about the incident. I knew it had happened, but I didn't think about it until about 3-4 months later when I saw a video about consent and sleeping and it clicked in my head and I remembered the incident. I was in a relationship by this point and I rang my partner and told him that I realised now that what happened was sexual assault. It was like finding out for the first time.'

About 5-6 months after the incident, I confronted Adam and I tried to record him admitting it. He said that there were two side to every story and he kept repeating "I don't know" and "sorry" but he never admitted it. He kept asking if

I was going to tell the police and I told him no. I don't know if I have the recording anymore but there is nothing in it, he didn't admit anything.'

Person 2 stated that he decided to tell the police about the incident about six months later when police attended your flat. The police took a statement and questioned you about the incident but Person 2 did not provide a formal police statement as, he says, he was told by a detective that it would be his word against yours and that sexual images he sent would be disclosed and used as evidence in court. Person 2 stated that the police told him that you had stated that that alleged incident was consensual, and that Person 2 had asked you to do it the night before which Person 2 stated was untrue.

Your evidence

You stated that Person 2 had made sexual advances towards you and sent you sexual images:

'I knew Person 2 through a mutual friend and not through our work. We met regularly as friends; however, Person 2 did frequently send nude images of himself to me and, on several occasions, made sexual advances towards me (many of which were witnessed). This included sending me a video of him masturbating on my sofa in my flat whilst I was at work, sending me pictures of himself semi-undressed in the reflection of my mirror in my bedroom again whilst I was at work, and a photo of him naked on my bed, including his penis and semen on him. Throughout our friendship, Person 2 often visited my flat and would usually request to share my bed, despite me offering the sofa bed I had in my lounge.'

You were arrested on 24 April 2023 following an allegation of sexual assault upon Person 2. You stated that shortly after this Person 2 and his boyfriend left a Facebook chat group for the flat:

'On the morning of 24 April 2023, I was arrested following the allegations. I had been part of a Facebook group chat for the flat which included Person 2 and his boyfriend Sidney. On 24 April 2023 at 19:23, Person 2 posted a

message saying, 'lol, bye' and left the chat. Shortly after, on 25 April 2023 at 18:56, Person 2's boyfriend also left the group after leaving a gif which said, 'Time's up girl, bye!'

You stated that between the date of the alleged assault in August 2022 and April 2023 Person 2 continued to interact with you *'with no indication or suggestion that he was concerned or traumatised by the incident of physical intimacy that occurred'* between you in August 2022 and you provided a number of photographs, GoodSam calls and a request for a character reference as evidence.

The police took no further action.

Kyli Lewis gave evidence, on your behalf, as a former flatmate who had observed interactions between you and Person 2 in your flat and, in her written evidence, described Person 2 as manipulative:

'I met Person 2 on multiple occasions and felt that he was always trying to get something more than what he could achieve and that he was manipulative, that he was using Adam for what he could get.'

However, in her oral evidence she confirmed that her reference to manipulation related to acts such as Person 2 taking your food from the fridge without your permission. The panel concluded that this did not raise concerns about Person 2's credibility because of the nature of your relationship.

The panel also heard evidence from Lucie Clarke on your behalf. Ms Clarke told the panel about occasions where she had been present during social events where you and Person 2 had been in attendance. These events had occurred after August 2022. Ms Clarke told the panel that she had not observed anything that would suggest Person 2 was distressed in your presence. The panel considered this evidence and did not place significant weight as explained in the NMC guidance on *'Sexual misconduct'* referenced above, and the evidence from Person 2 that he did not realise that he had been a victim of sexual assault in the immediate aftermath of the opinion.

Charge 3

That you, a registered nurse;

3. On an unknown date in August 2022 masturbated Person 2 without Person 2's consent or reasonable belief that they consented

This charge is found proved.

You denied this allegation.

You stated in your evidence that you had had sexual relations with Person 2 before the incident but not penetrative sex.

You stated in evidence that you woke up in your bed with Person 2's hand in your underwear and that you did not know whether he was awake or not as Person 2 was facing away from you and you could not see his eyes. You stated that Person 2 rolled onto his back with his eyes open before you put your hand in his shorts.

Further you stated in oral evidence that you did not masturbate Person 2 aggressively, but rather moved your hand *'backwards and forwards maybe two or three times'*.

In your oral evidence you were asked how the action in masturbating Person 2's penis stop. You answered that you removed your hand from Person 2's penis after Person 2 removed his hand from your shorts:

'Because he took his hand out of – not just let go of my penis, but removed his hand from my shorts. So I took that as him wanting to stop. So I moved my hand from his penis up onto his stomach and laid it on his stomach.'

When asked why Person 2 removing his hand from your shorts gave you an indication to stop you stated the following:

- ‘Q If, Mr Fitton, you thought that he was consenting and knew that you – and was awake and knew that you were masturbating his penis, why does his removing his hand from your shorts mean that you had to stop what you were doing then? Why did that give you the indication to stop in your mind?’*
- A. If he wanted to carry on, my thought process would be, he would have started doing the same to me.*
- Q. I’m going to suggest that the reason why you stopped was because you realised that he was waking up and that he – and you knew at that point that he wasn’t consenting to you masturbating him. Do you agree with that or not?’*
- A. No, I don’t.’*

The panel noted that you drew attention to the fact that Person 2 moved into your flat after the alleged incident and the seemingly paradoxical behaviour of someone maintaining a friendship with a perpetrator after an alleged sexual assault.

The panel considered the NMC guidance ‘*Sexual Misconduct*’ (2026) regarding consent, in particular the requirement that panels take account of CPS guidance relating to myths and stereotypes, in particular the following CPS guidance:

- *‘The body’s response to the trauma of rape can impair a victim’s ability to give a clear and coherent account of the event.*
- *Some victims may return to the suspect after the event and/or contact them with friendly messages to reduce the risk of being raped again by the perpetrator, or because they want to block out the abuse in order to return to a sense of normality.’*

The panel further noted that Person 2’s evidence indicated that he was in financial difficulties and had limited alternative options for accommodation given that he had recently left the care system.

The panel considered Mr Donnelly's submission relating to Person 2's request to fraudulently add Person 2 and his boyfriend [PRIVATE]), who had moved into the flat in January 2023, to your lease to assist in their prospects of securing a new property. He further submitted that Person 2's allegation was in response to your refusal to add them to the lease. Having considered the evidence of Person 2 the panel concluded that Person 2 reported the assault allegation to the police only when they attended your property for another matter.

Mr Donnelly submitted that there was evidence of Person 2 providing misleading information regarding the reason he withdrew support for the police investigation. Mr Donnelly referred the panel to documentary evidence from the police which indicated that Person 2 did not want to give the police access to his mobile phone messages and images. Mr Donnelly stated that this was in contradiction to Person 2's oral evidence in which he stated that the police had discouraged him from making a statement, by allegedly saying that there was little chance of a successful prosecution. The panel was not persuaded by this submission.

Further, the panel was also cognisant of the evidence of text messages, dated 31 May 2023, between you and Person 1 alluding to the possibility that Person 1 had information regarding Person 2 and possible previous allegation, namely *'threatening Josh with a sexual assault claim'*. You provided a supplementary statement, dated 8 March 2026, to accompany these screenshots of the messages:

'A few nights before 1 June 2023, Person 1 was messaging me and said that this was not the first time Person 2 had made accusations about people. Person 1 said that Person 2 had also threatened to do this to him (Person 1) as well. I then messaged [Witness 3] about making a list. I didn't know if Person 2 had told [Witness 3] that Person 2 had threatened him as well. The only screenshot I have saved from that conversation is provided'

Mr Donnelly, on your behalf, stated that, at a minimum, there is evidence of at least a suspicion of Person 2 making a false allegation against someone called 'Josh', although it is unknown who Josh was or indeed specifics of the said allegation.

However, the panel took account of the fact that it is not known who Josh was, and Josh has not provided the panel with any evidence.

Further, the panel bore in mind that the recalled witnesses, namely Person 1, Person 2 and Witness 3, were unable to assist the panel with any information relating to Josh. It also took account of the fact that, in oral evidence, Person 1 denied that he had told you that Person 2 had threatened to make false allegations about him.

In the circumstances, the panel considered that there was very limited evidence in relation to a history of false allegations.

The panel concluded that Person 2's evidence was consistent and detailed and that his witness evidence was reliable. Furthermore, the panel the panel concluded that Person 2's account of the incident was more likely to be true.

The panel accepted that it was more likely than not that Person 2 was asleep when you began to masturbate Person 2. Consequently, if Person 2 was asleep, he clearly could not have consented, and a reasonable person could not come to the view that you had a reasonable belief in Person 2's consent.

Therefore, the panel found that, on an unknown date in August 2022 that you masturbated Person 2 without Person 2's consent or reasonable belief that they consented.

Accordingly, the panel determined that charge 3 is found proved.

Charge 4

4. Your conduct at Charge 3 was sexual

This charge is found proved

The panel considered that a reasonable person would clearly consider your conduct in masturbating Person 2, without Person 2's consent or a reasonable belief of consent, to be sexual, due to the nature of the conduct.

Accordingly, the panel determined that charge 4 is found proved.

Decision and reasons on 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 kindly, safely and professionally.

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

The panel adopted a two-stage process in its consideration. Firstly, 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.

The panel has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. [PRIVATE]. The panel considered your further training certifications, CV, evidence of awards and testimonials received at this stage.

Submissions on misconduct & impairment

Submissions on behalf of the NMC

Mr Edwards submitted that your fitness to practise was impaired by reason of misconduct, both in relation to charge 1 and charge 3.

Mr Edwards referenced the NMC The Code: Professional standards of practice and behaviour for nurses, midwives and nursing associates (2015) ('the Code'), drawing the panel's attention to the fact that much of the Code relates to clinical practice. Mr Edwards referred the panel to the sections of the Code which were relevant to conduct outside of professional practice, specifically sections 1.1; 20; 20.1; 20.3; 20.5, and 20.8 and stated that your conduct fell well below the standards expected of a registered nurse. He stated that your conduct, which led to the proven charges, was extremely serious and that *'it really did not get any more serious in relation to professional misconduct'*.

Mr Edwards reminded the panel that it had heard that you were friends with both Person 1 and Person 2 at the respective incidents. He stated that Person 2 had lived with you for a period of time, that he had recently left the care system, and that you were his first friend who was homosexual. He stated that Person 2, at the time of the incident, was just finding his feet and coming to terms with his sexuality.

Mr Edwards stated that, firstly, there was quite a significant age gap between you and Person 2, and that the panel might consider that there was an imbalance of power, given the nature of the relationship and also given the fact that Person 2 was living in your flat. Mr Edwards asserted that, in light of Person 2's background, Person 2 could be considered vulnerable, and that you took advantage of this vulnerability. He also reminded the panel of its findings at the fact stage that it was satisfied that Person 2 was asleep at the time of the incident, which consequently inferred that Person 2 was in an even more vulnerable state, and was neither able to consent nor have any control over what was happening to him.

In relation to the 1 June 2023 incident, Mr Edwards stated that the night had started off in a positive way and that the panel heard that alcohol had been consumed, with Person 1 describing himself as *'quite drunk'*. Mr Edwards stated that, although a number of people were drinking, including you, Person 1 was particularly drunk, having consumed a large number of drinks, and that this must have had an effect on

his decision making, leaving him in a particularly vulnerable position. He also reminded the panel that the incident took place in your parents' property, not a place that Person 1 was necessarily familiar with.

Mr Edwards stated that the incident relating to Person 1 took place in a small downstairs bathroom and that Person 1 felt that he could not easily get out of the room. Mr Edwards submitted that the panel might consider that, given the evidence, Person 1 was in a particularly vulnerable state given his level of intoxication, the setting in which the incident occurred, and the very nature of the incident itself in the downstairs bathroom.

Mr Edwards submitted that it is clear that even in their personal lives, nurses and midwives are expected to act with professionalism and integrity at all times. He further submitted that registered nurses must consider the way they behave towards others outside of their professional practice and the effect that their actions have on others.

Mr Edwards submitted that you took advantage of both Person 1 and Person 2 and that your actions had caused not only upset and distress, and that you did not act as a role model of professional behaviour. He stated that taking this all into consideration, he invited the panel to find that the facts amounted to misconduct.

In relation to impairment, Mr Edwards referred to the cases of *CHRE v NMC and Grant* [2011] EWHC 927 and *Cohen v GMC* [2008] EWHC 581 (Admin) and submitted, firstly, that sexual offences and sexual misconduct are extremely serious and the panel may consider that sexual offences and sexual misconduct are difficult to remediate. However, Mr Edwards submitted that one can show insight and an understanding into that kind of misconduct.

Mr Edwards stated that you had submitted lengthy evidence of positive testimonials and evidence of expansive training. However, he argued, that this did not detract from the actions that led to your misconduct.

Mr Edwards submitted that that your misconduct is likely to be repeated given that you have provided no evidence that you have remedied the conduct that led to these charges. Further, he stated that the charges relate to two separate serious incidents against two separate people, both within the same friendship group, one incident in 2022 and the other in 2023, and this did evidence, or lead to an assumption, of there being a likelihood, and real risk of a repetition of similar behaviour. He stated that this was particularly so given the lack of evidence that the panel has before it to show an understanding and insight into your conduct.

Mr Edwards invited the panel to find that your fitness to practise is impaired on public protection grounds, and also invited it to find impairment on the grounds of public interest in order to uphold proper professional standards and public confidence in the profession. He stated that, were a finding of impairment not made on public interest grounds, public confidence in the NMC as a regulator would be undermined.

Submissions on your behalf

Mr Donnelly stated that you accepted the panel's findings, and further accepted that these findings are likely to amount to misconduct.

Mr Donnelly stated that you did not seek to argue that your fitness to practise was not impaired on the grounds of public interest.

With respect to public protection, Mr Donnelly asked the panel to consider that a finding of impairment on public protection grounds was not necessary, and was not something supported in the evidence.

Mr Donnelly stated that you had provided extensive evidence of a very high standard of clinical care and professionalism since you were registered in 2016, and since you volunteered at St John's Ambulance from 2010 onwards. He informed the panel that you have been subject to an interim order since approximately 2023 and had continued to work in non-registered roles providing clinical care, and there had been no concerns regarding your professionalism or risk to others.

Mr Donnelly stated that you had provided evidence of having cared for vulnerable patients and of supporting junior staff, sometimes in times of great stress, such as working as a paramedic or in an emergency department, including during the Manchester bombings in 2017. Mr Donnelly referred the panel to 21 positive testimonials provided by 16 different individuals. He took the panel to three of these which commented on your integrity, acting in the best interests of patients, and being a model professional.

Mr Donnelly stated that there had been no repetition of any such conduct over the last three years since June 2023, and submitted that the events occurred contextually in circumstances where there was already physical intimacy between close friends. He emphasised that this did not justify sexual contact without consent, but stated that the 2023 events occurred at the tail end of a drunken hot tub party amongst your close friends.

In relation to the 2022 incident, he stated that this occurred when sleeping in the same bed as a close friend who was an adult, albeit [PRIVATE]. Further, Mr Donnelly submitted that you did not use any power imbalance as a professional to gain sexual gratification. He stated that you had known Person 2 for some time in this context, and argued that this incident occurred as a 'one-off' and was not repeated. He further submitted there was no evidence that you had taken advantage of junior colleagues or that you would do so in the future.

Mr Donnelly concluded by submitting that the proven allegations took place in isolated circumstances, it was an unreasonable extrapolation to say that you are a risk to the public or that it is necessary to find your fitness to practise impaired on public protection grounds.

Decision and reasons on misconduct

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments.

In the case of *Nandi v GMC* [2004] EWHC 2317, Mr Justice Collins adopted the approach of Lord Clyde in the case of *Rylands v GMC* [1999] Lloyd's Rep Med 139 that professional misconduct is *'a falling short by omission or commission of the standards of conduct expected among medical practitioners and such falling short must be serious'*. The adjective *'serious'* must be given its proper weight and conduct which would be considered deplorable by fellow practitioners, whilst not a legal threshold, may be a helpful benchmark. Lord Clyde went on to say that *"It is of course possible for negligent conduct to amount to serious misconduct but the negligence must be to a high degree"*.

The panel also had regard to the case of *Meadow v General Medical Council* [2006] EWCA Civ 1390 in which Auld LJ quoted with approval what Collins J had said in the case of *Nandi v General Medical Council* [2004] EWHC 2317 (Admin) where he said that serious misconduct would be *'conduct which would be regarded as deplorable by fellow practitioners'*.

Decision and reasons on misconduct

When determining whether the facts found proved amount to misconduct, the panel considered that the following sections of the Code were pertinent to the charges:

'1.1 treat people with kindness, respect and compassion

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

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

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

1 June 2023 incident (charges 1 and 2)

The panel considered whether your actions in respect of Person 1 amounted to misconduct.

The panel reminded itself of its findings at the facts stage that you had attempted to have sexual intercourse with Person 1 without Person 1's consent or reasonable belief that he consented.

The panel determined that your actions in respect of Person 1 amounted to a departure from sections 1.1; 20.1; 20.3; 20.5; 20.8 of the Code, and that members of the public and members of the profession alike would consider your behaviour deplorable.

The panel considered that all cases of sexual misconduct are necessarily serious and noted that your actions in attempting to engage in sexual intercourse without Person 1's consent was particularly serious.

The panel concluded that Person 1 was vulnerable at the time of the incident, due to his level of intoxication and the fact that he was alone with you in a small, confined room.

Further, the panel considered that your actions in following Person 1 to the downstairs bathroom at your parent's property were opportunistic and deliberate, and failed to treat Person 1 with dignity, taking advantage of his situational vulnerability.

The panel therefore considered that you had engaged in conduct which would be regarded as deplorable by fellow practitioners and members of the public.

In the circumstances, the panel found that your actions in attempting to have sexual intercourse with Person 1 without Person 1's consent or reasonable belief that he consented, clearly fell so far short of the standards of conduct reasonably to be expected of a registered nurse as to amount to misconduct.

August 2022 incident (charges 3 and 4)

The panel considered whether your actions in respect of Person 2 amounted to misconduct.

The panel reminded itself of its findings at the facts stage that you had masturbated Person 2 without Person 2's consent or reasonable belief that he consented.

The panel determined that your actions in respect of Person 2 amounted to a departure from the same sections of the Code referred to in relation to charges 1 and 2.

The panel considered that all cases of sexual misconduct are necessarily serious and noted that your actions in masturbating Person 2, without Person 2's consent, or a reasonable belief in his consent, was particularly serious.

The panel concluded that Person 2 was vulnerable at the time of the incident, given that he was [PRIVATE], he was in financial difficulties and was living in your flat with limited alternative options for accommodation, having recently left the care system, and was asleep at the time of the incident. The panel determined that a power imbalance was apparent and that your actions had been deliberate and that you took advantage of Person 2's vulnerability.

The panel therefore considered that you had engaged in conduct which would be regarded as deplorable by fellow practitioners and members of the public.

In the circumstances, the panel found that your actions in masturbating Person 2 without Person 2's consent or reasonable belief that he consented, clearly fell so far

short of the standards of conduct reasonably to be expected of a registered nurse as to amount to misconduct.

Decision and reasons on impairment

Having found that the facts found proved amounted to serious misconduct, the panel went on to consider whether, as a result of that misconduct, your fitness to practise was currently impaired.

The panel bore in mind that its task was to consider your current fitness to practise. This involved necessarily looking at your past misconduct and also considering what, if anything you had done to remediate the misconduct and any insight gained.

The panel must determine whether your fitness to practise is impaired today, taking into account your conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and whether there is any likelihood of repetition. The panel is also required to have regard to the wider public interest, and to consider whether a finding of impairment is necessary in order to promote and maintain public confidence in the nursing profession and to promote and maintain proper professional standards and conduct for members of that profession.

The panel reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the panel's judgement alone.

Whilst there is no statutory definition of impairment, the panel had regard to the case of *CHRE v NMC and Grant* [2011] EWHC 927 where Dame Janet Smith's observations in the Fifth Report of the Shipman Inquiry were endorsed. Dame Janet Smith suggested that questions of impairment could be considered in the light of the following considerations:

'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 also noted paragraph 76 of *Grant* in which Dame Janet Smith stated the following:

‘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.’

The panel had regard to the case of *Cohen v GMC* [2008] EWHC 581 (Admin), and took into account the requirement that *‘conduct which led to the charge is easily remediable; that, second, it has been remedied; and, third, that it is highly unlikely to be repeated’* if impairment is not to be found.

In terms of insight the panel considered *Sawati v GMC* [2022] EWHC 283 (Admin) which defined insight as *‘an acknowledgment or appreciation of failings’*. Insight (or lack of it) applies whatever the risk of repetition.

When determining whether the facts found proved amount to impairment, the panel had regard to the terms of the Code, in particular FTP 15(a):

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

[...]

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

The panel, having found that the facts found proved amounted to misconduct, went on to consider whether, as a result of that misconduct, your fitness to practise is currently impaired.

The panel firstly considered whether your conduct, which occurred outside professional practice, was capable of impairing your fitness to practise. In reaching this decision the panel considered the NMC guidance *‘Concerns outside professional practice’* (FTP-2a-i), in particular the following:

‘To determine whether conduct outside professional practice could impair FtP, we will consider all the facts involved. Examples of important factors include:

- *the duration or frequency of the conduct in question*
- *the professional’s relationship or position in relation to those involved*
- *the vulnerabilities of anyone subject to any alleged conduct.’*

Long-term or repeated misconduct is more likely to suggest risk of harm, as will conduct involving imbalances of power, cruelty, exploitation and predatory behaviour [...]

Having had regard to this guidance the panel concluded that this conduct was capable of impairing your fitness to practice.

In considering impairment, the panel first considered whether your misconduct was remediable.

The panel bore in mind that the authority *Yeong v GMC* [2009] EWHC 1923 (Admin) indicated that sexual misconduct is not easily remediable.

The panel also took account of NMC guidance in relation to ‘Misconduct’ (FTP-2a-i):

‘Vulnerability in misconduct

The Code states that professionals must “treat people in a way that does not take advantage of their vulnerability or cause them upset or distress.”

As explained in What we mean by vulnerability, while there are some people who will always be considered vulnerable, most people will be on a sliding scale of vulnerability. As a result when considering allegations of misconduct we should consider whether the alleged victims were in a vulnerable position at the time.

Protecting people from harm, abuse and neglect goes to the heart of what professionals do. Failure to do so, or intentionally causing a person harm, will always be treated very seriously due to the high risk of harm to those receiving care, if the behaviour is not put right. It may also harm the public’s confidence in the professions we regulate, even if harm, or failure to protect from harm, occurs outside of professional practice.’

The panel concluded that both Person 1 and Person 2 were vulnerable at the time of the incidents.

The panel considered that your attempt to engage in sexual intercourse with Person 1, without his consent or a reasonable belief in his consent, whilst he was intoxicated, alone and naked in a downstairs bathroom at your parents’ property, had been opportunistic and deliberate in light of his vulnerability.

The panel considered that your actions in masturbating Person 2, without his consent or a reasonable belief in his consent, whilst he was asleep, [PRIVATE], vulnerable, and living in your flat with limited alternative options for accommodation given that he had recently left the care system, had been opportunistic and deliberate in nature.

The panel found that you knew that both Person 1 and Person 2 were vulnerable at the time of the respective incidents. The also panel found that you knew that you were taking advantage of their vulnerability and that your conduct could potentially cause them upset or distress. However, you chose to deliberately disregard acceptable standards in pursuit of sexual gratification.

Further, the panel considered that your opportunistic and deliberate behaviour towards Person 1, when he was vulnerable, whilst you were already under investigation for your sexual conduct towards Person 2, indicated a deep-seated attitudinal component to your misconduct.

The panel therefore concluded that, whilst potentially remediable, your misconduct was difficult to remediate.

The panel then went on to consider whether your misconduct had been remedied, including looking for evidence that demonstrates insight and genuine remorse.

The panel noted that you had not apologised for your misconduct, either to Person 1 or Person 2 or indeed to the panel.

The panel considered that the evidence of remediation that it had received went to your clinical skills and could not remedy your sexual misconduct.

The panel considered the positive testimonials provided on your behalf, which spoke of your good clinical skills and demonstrated that you are highly regarded practitioner.

However, given the seriousness of its findings, and the fact that the testimonials did not address the sexual misconduct in this case, the panel attributed little weight to them in assessing the risk of repetition or reaching its determination on impairment.

In the circumstances, the panel concluded that given the absence of any insight or evidence of remediation, there remained a risk of repetition, particularly as you had opportunistically and deliberately sought out Person 1 whilst under active investigation in relation to your conduct towards Person 2.

Further, the panel acknowledged that your actions had a tangible impact upon both Person 1 and Person 2.

The panel also considered that your actions breached fundamental tenets of the profession in that you failed to treat others with kindness, respect and compassion, and had brought the profession into disrepute.

In reaching its decision as to whether your fitness to practise is currently impaired, the panel considered the test set out in *Grant*, above. It concluded that limbs a, b and c of the test were applicable in this case

The panel concluded that given that you did not demonstrate any insight, and identified a risk of repetition, a finding of current impairment was necessary in order to protect the public.

The panel considered that, given the seriousness of its findings, a finding of impairment was necessary in order to maintain public confidence in the nursing profession and to promote and maintain proper professional standards and conduct for members of the nursing profession.

The panel considered that a member of the public would be appalled, and could be deterred from reporting concerns of a similar nature if a finding of impairment were not made.

Accordingly, the panel determined that your fitness to practise was impaired by reason of your misconduct.

Sanction

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

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had regard to the NMC Guidance, namely '*The sanctions available*' (2026) (SAN-2), '*Deciding between suspension and strike off*' (2026) (SAN-3) and '*Sanctions for the highest risk cases*' (2026) (SAN-4).

The panel has reviewed its findings at the facts and impairment stages and taken into account any relevant evidence received during the earlier stages of the hearing. The panel also received your further reflections at the sanction stage, consisting of a written document and oral evidence giving under affirmation.

Submissions on sanction

Submissions on behalf of the NMC

Mr Edwards submitted that the NMC sanction bid was for a striking-off order and stated that it was the most appropriate and proportionate sanction to impose given the nature and seriousness of this case.

Mr Edwards reminded the panel of its findings at the facts and impairment stages, particularly its findings that both Person 1 and Person 2 were vulnerable given the circumstances in which the misconduct took place. He referenced Person 1 being under the influence of alcohol, in a confined space in a downstairs bathroom in your parents' property, He also submitted that Person 2 was particularly vulnerable due to his age, background in care, his living circumstances, and the power imbalance between you and Person 2.

Mr Edwards referred to SAN-2 and stated that the panel should consider aggravating factors that could be present, where the professional used a position of trust or the power they hold, either as a registered professional or otherwise. He submitted that this is a case where you abused your position of power, and where you took advantage of both Person 1 and Person 2 and your relationship with them. He stated that the panel may consider that the behaviour you exhibited was of a predatory nature, which it might consider makes this a more serious case.

Mr Edwards also stated that your misconduct related to two incidents involving two separate complainants, and as such could be considered an aggravating factor of long-term or repeated conduct. Further, he submitted that a particularly serious feature of this case was that your misconduct involving Person 1 occurred at time when you were already under police investigation for a serious sexual assault in relation to Person 2. Had this been a criminal setting, this would be a serious aggravating feature.

Mr Edwards listed potential aggravating factors such as your behaviour being repeated conduct; both complainants being vulnerable in different contexts, and an abuse of trust given that you were good friends at the material times of your misconduct. He also stated that aggravating factors included the panel having identified a deep-seated attitudinal issue.

In terms of mitigation, Mr Edwards acknowledged that you had no previous findings of a similar nature on your registration and noted that you provided a wealth of positive testimonials, no clinical concerns, and significant evidence of a strengthening of practice whilst suspended.

However, Mr Edwards submitted that, given the nature of this case and the serious implications that it has in relation to public protection, the wider public interest, and the NMC as a regulator, the panel was left with a limited choice on what sanctions to consider today, namely suspension or strike off.

He concluded by emphasising that temporarily removing you from the register would not be sufficient to protect the public or uphold public confidence in the profession.

Submissions on your behalf

Mr Donnelly submitted that you recognised that serious charges had been found against you and that it was likely that the panel would restrict your practice based upon the seriousness of those charges. He further acknowledged that the panel was likely to make a choice between imposing a suspension on your registration or a strike off. He asked that the panel consider a long period of suspension, as such an order would be sufficient to achieve the goal of protecting the public and protecting the public interest.

Mr Donnelly referred to the case of *General Medical Council v Mok* [2022] EWHC 1651 (Admin), the case involved findings of non-consensual penetration, albeit with a low risk of repetition, and the panel opted for a 12-month suspension rather than striking off. The GMC appealed but Mrs Justice Long dismissed the appeal and held that a panel was best positioned to determine the proportionate sanction following a detailed hearing. Mr Donnelly stated that all cases are fact specific and suspension may be sufficient in this case. Mr Donnelly asked that the panel remind itself that there is a public interest in not ending the career of a nurse who has demonstrated a high standard of clinical and professional conduct in his professional life to date.

Mr Donnelly turned to aggravating and mitigating factors in this case and reminded the panel that there were no previous findings against you, and stated that you had engaged in these proceedings in a positive and professional manner. Further he stated that, at stage 2, you had accepted misconduct in relation to the proven charges against you and had demonstrated insight into the serious charges.

Mr Donnelly also drew the panel's attention to the extensive training you have undertaken in relation to safeguarding, professional boundaries and ethics.

Mr Donnelly asked the panel to consider the written reflections and live oral evidence given at the sanction stage, stating that you had carefully considered the impact of your proven conduct on Person 1, Person 2, and the wider profession, He stated that

you were profoundly sorry for the way Person 1 and Person 2 felt as a result of the incidents and expressed genuine remorse.

Mr Donnelly stated that you have taken specific and practical steps to adjust your own behaviour regarding boundaries.

Mr Donnelly referred to *Motala v General Medical Council* [2017] EWHC 2923 (Admin) where a doctor denied sexually touching a patient, and built upon in subsequent landmark regulatory rulings regarding "rejected defences"—such as *Sawati v General Medical Council* [2022] EWHC 283 (Admin) *Towuagbantse v General Medical Council* [2021] EWHC 681 (Admin). He also referenced *GMC v Awan* [2020] EWHC 1553 (Admin) where it was held that it was too much to expect an accused member of a profession to suddenly undergo a damascene conversion at the impairment phases following proven findings. He said that these cases made it clear that contesting the charges does not prevent a registrant showing insight.

Mr Donnelly submitted that the panel should see the incidents to have been, at most, opportunistic rather than premeditated and there had been no other findings made against you in over 10 years of nursing. He stated that there had been no repetition of incidents since June 2023, and that you were a different person today, and reminded the panel that you had been subject to an interim order since around June 2023.

Mr Donnelly referred to *Kamberova v Nursing and Midwifery Council* [2016] EWHC 2955 (Admin) and stated that periods of lengthy interim suspensions or restrictions will be relevant to the proportionality of the sanction to be applied. He also referred the panel to SAN-2 where, he stated, there was a non-exhaustive list relating to serious cases that point to suspension being the most appropriate order.

Mr Donnelly stated that, in the circumstances of this case, those points referred to in SAN-2 do apply, particularly the last circumstance that there has been evidence of meaningful insight and a period of suspension would reasonably likely, improve and add to the development of insight by the registrant, such that ultimately, they could return to safe practice. He concluded by submitting that a suspension order, along

with the requirement for review of your fitness of practice before returning to practice, which would be required, was appropriate and sufficient in this case.

Decision and reasons on sanction

The panel accepted the advice of the legal assessor.

Further, in his advice the legal assessor noted that Mr Donnelly had referred to the following cases in his submissions:

- *Towuaghantse v General Medical Council* [2021] EWHC 681 (Admin),
- *Sawati v General Medical Council* [2022] EWHC 283 (Admin)
- *General Medical Council v Mok* [2022] EWHC 1651 (Admin),
- *Motala v General Medical Council* [2017] EWHC 2923 (Admin)
- *GMC v Awan* [2020] EWHC 1553 (Admin)
- *Kamberova v Nursing and Midwifery Council* [2016] EWHC 2955 (Admin)

The legal assessor advised the panel that he agreed with the legal submissions made by Mr Donnelly in relation to the case law. The panel noted that in the latter case of *Kamberova*, Dingemans J stated that the time spent under an interim suspension order should be taken into account when considering the appropriate and proportionate sanction.

Having found your fitness to practise to be currently impaired, the panel went on to consider what sanction, if any, it should impose. The panel bore 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 sexual misconduct was very serious;
- The panel noted that your misconduct was repeated and involved deliberate and opportunistic conduct towards Person 1 and Person 2;

- You were already under police investigation in relation to allegations made by Person 2, when you repeated your sexual misconduct in relation to Person 1;
- Both Person 1 and Person 2 were vulnerable at the time of your misconduct;
- Your misconduct involved an abuse of trust and was aimed at people who regarded you as a friend; and
- Your sexual misconduct was deliberate and at the serious end of the spectrum;
- The panel considered that your reflections and oral evidence at the sanction stage indicated that deep-seated attitudinal issues remained in relation to your insight.

The panel considered that whilst the testimonials were very positive, they focused on your clinical practice rather than the specific concerns in this case. Whilst the panel are aware of the right a registrant has to defend charges made against them, the panel found that your reflections did not address the real concerns in this case.

The panel then took account of mitigating factors:

- The panel noted that you had no criminal convictions, or previous fitness to practise findings against you;
- You have fully engaged in the regulatory process;
- The panel noted many positive testimonials and evidence of clinical training.

The panel considered the guidance at SAN-4 sanctions in the highest risk cases which specifically referred to sexual misconduct. The guidance details features which may make sexual misconduct more serious, including where the victims are vulnerable, there is evidence of repeated behaviour, and abuse of position. The panel found that all these features applied to this case and therefore found your misconduct to fall at the highest end.

In reaching its decision as to the appropriate sanction, if any, to impose in this case, the panel first considered whether to take no further action.

The panel considered that there were no exceptional circumstances in this case which would justify taking no action. The panel concluded that given the nature and seriousness of its findings, taking no further action would not be an appropriate nor a proportionate response and would fail to uphold public protection or the public interest.

The panel also concluded that, given the nature and seriousness of its findings, imposing a caution order on your registration would not be an appropriate nor a proportionate response and would fail to uphold public protection or the public interest.

The panel next considered whether to impose a conditions of practice order on your registration.

The panel reminded itself that you engaged in sexually motivated misconduct towards both Person 1 and Person 2, falling at the higher end of the spectrum of seriousness and presenting a high level of ongoing risk to the public.

The panel concluded that in the circumstances, the risk to the public could not be adequately managed by conditions and that conditions were neither workable nor appropriate and would fail to reflect the seriousness of its findings or protect the public. The panel further concluded that the public interest could not be maintained with a conditions of practice order.

The panel then considered whether to impose a sanction of suspension on your registration.

The panel noted the following guidance in SAN-2 in which the following factors might be pertinent to the whether a suspension order is appropriate:

- *‘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 further key considerations as set out in the NMC guidance SAN-2 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 reminded itself that your actions amounted to a serious departure from the Code and had breached fundamental tenets of the nursing profession. Your misconduct fell at the high end of the spectrum of seriousness with a number of facts that increased the seriousness of your repeated misconduct, and involved repeated sexual misconduct. The panel noted that suspension can have a deterrent effect and so can be used to send out a signal to the nurse, the profession and the public about what is regarded as behaviour unbefitting a registered nurse.

The panel reminded itself of the repeated and deliberate nature of your misconduct, with the events found proved, involving deliberate conduct towards both Person 1 and Person 2. The panel further reminded itself of the vulnerable position of both Person 1 and Person 2 at the time of your sexual misconduct.

The panel found no evidence of pertinent remediation for the above misconduct and deemed that you still present a current and ongoing risk to the public.

The panel concluded that you were unlikely to develop sufficient insight or to adequately remediate your misconduct within a period of 12 months suspension and that suspension would not be sufficient to protect the public. The panel also found that your behaviour was so fundamentally incompatible with the expected standards of a registered nurse that temporary removal from the register would not uphold public confidence in the profession or the regulator. The panel, therefore, determined that suspension was not an appropriate sanction.

Finally, the panel went on to consider whether to impose the sanction of a striking-off order on your registration.

The panel had regard to the following considerations as set out in SAN-2 entitled '*Striking-off order*', in particular:

- *Do the charges found proved raise fundamental questions about their professionalism?* – **the panel found that the proven charges did raise fundamental questions about your professionalism**
- *Can public confidence in the profession be maintained if the professional is not removed from the Register?* – **the panel found that public confidence could only be maintained by removing you from the Register**
- *Is there any amount of insight and reflection which could keep people receiving care and members of the public safe, maintain public confidence in the profession, and uphold professional standards?* – **the panel found, due to the seriousness of the sexual misconduct, which was repeated, that no amount of insight and reflection would, of itself, keep members of the public safe and maintain public confidence in the profession and uphold professional standards**
- *Is there a realistic prospect that, after suspension, the professional will have gained insight and strengthened their practice such that the risk they pose will have reduced?* – **the panel found, due to the seriousness of the sexual**

misconduct, which was repeated, that no amount of insight and reflection, coupled with suspension, would be sufficient to reduce the risk to an acceptable level

The panel reminded itself of your lack of insight and remediation. The panel also considered that you had still not accepted sole responsibility for your sexual misconduct. Further, the panel considered that the impact of your behaviour on the public confidence in the profession must be weighed in the balance. The panel concluded that your behaviour risked serious harm to the reputation of the nursing profession, as public trust is severely damaged by such sexually motivated misconduct.

The panel determined that the current and ongoing level of risk to the public is such that a striking-off order is the most proportionate sanction. The panel determined that a striking-off order was also necessary both to maintain standards in the profession, and to uphold public confidence in the profession.

Accordingly, the panel imposed a striking-off order on your registration.

Interim order

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

Submissions on interim order

The panel took account of the submissions made by Mr Edwards. He invited the panel to impose an interim suspension order for a period of 18 months on the grounds of public protection and public interest. He submitted that the interim order is necessary and proportionate for the same reasons that the panel had found your

fitness to practise impaired. He stated that the failure to impose an interim order *'would fly in the face of the panel's decision'*.

Mr Edwards submitted that although the striking-off order is going to come into effect in 28 days, that is only if no appeal is lodged. He set out that you have the right to appeal against the panel's decision, and if that were the case, then 18 months would cover any period of the matter being resolved.

Mr Donnelly stated that you do not resist the imposition of an interim order.

Decision and reasons on interim order

The panel accepted the advice of the legal assessor.

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 cover any potential appeal period.

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

That concludes this determination.

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