

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

**Substantive Hearing
Tuesday 14 March 2023 to 3 April 2023,
Tuesday 27 June 2023, Thursday 29 June 2023 - Friday 30 June 2023
Tuesday 18 July 2023 (in-camera)
Wednesday 19 July 2023 - Friday 21 July 2023
Tuesday 15 August and Thursday 17 August 2023**

Virtual Hearing

Name of registrant:	Mark Andrew Morgan
NMC PIN:	96Y0009W
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nurse – June 1999
Relevant Location:	Carmarthenshire
Type of case:	Misconduct
Panel members:	Ashwinder Gill (Chair, Lay member) Janet Fitzpatrick (Registrant member) Louise Guss (Lay member)
Legal Assessor:	James Holdsworth (14 March 2023 to 3 April 2023) Gillian Hawken (27, 29, 30 June 2023, 18 July - 21 July 2023)
Hearings Coordinator:	Chantel Akintunde (14 March 2023 to 23 March 2023) Tyrena Agyemang (24 March 2023 to 3 April 2023) Daisy Sims (27 June 2023 to 30 June 2023) Ruth Bass (18 July 2023 – 19 July 2023) Elena Nicolaou (20 – 21 July 2023)
Nursing and Midwifery Council:	Represented by Unyime Davies, Case Presenter (14 March 2023 to 3 April 2023) Represented by Robert Rye, Case Presenter (27 June 2023 to 30 June 2023 and 19 – 21 July 2023)

Mr Morgan: Not present and not represented at the hearing

Facts proved: Charges 1.2, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 2.11, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 5.1, 5.2, 5.3, 5.5, 5.6, 5.7, 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.10, 6.11, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 8.1, 8.2, 8.3, 8.4, 9.1, 9.2, 9.3, 10, 11 and 12

Facts not proved: Charges 1.1, 1.3, 1.4, 1.5, 1.6, 5.4, 6.9, 13 and 14

Fitness to practise: Impaired

Sanction: **Striking-Off Order**

Interim order: **Interim Suspension Order (18 months)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Morgan was not in attendance and that the Notice of Hearing letter had been sent to Mr Morgan's registered email address by secure email on 14 February 2023. The panel had regard to the email evidence and the signed witness statement from an NMC case officer confirming this.

Ms Davies, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegations, the time, dates and link to the hearing and, amongst other things, information about Mr Morgan's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In the light of all of the information available, the panel was satisfied that Mr Morgan had been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mr Morgan

The panel next considered whether it should proceed in the absence of Mr Morgan. It had regard to Rule 21 and heard the submissions of Ms Davies who invited the panel to continue in the absence of Mr Morgan.

Ms Davies referred the panel to the cases of *General Medical Council v Adeogba* [2016] EWCA Civ 162 and *R v Jones (Anthony William)* (No.2) [2002] UKHL 5.

Ms Davies submitted that the NMC have made several attempts to contact Mr Morgan via email and telephone with regard to this hearing, but that he has not responded to any communication. She referred the panel to the email evidence and telephone record available within the bundles before it.

Ms Davies submitted that there has been no engagement at all by Mr Morgan with the NMC in relation to these proceedings. In light of this, Ms Davies submitted that there was no reason to believe that an adjournment would secure his attendance on some future occasion, nor would it be in the interest of justice to adjourn these proceedings.

Ms Davies submitted that 12 witnesses have been secured to give live evidence during this hearing on events which occurred quite some time ago, therefore, delaying this hearing may impact on their availability in the future and ability to recall details of such events. She also submitted that there is a strong public interest in the expeditious disposal of the case.

Ms Davies therefore submitted that it would be fair to proceed with this hearing in Mr Morgan's absence.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*' as referred to in the case of *Jones* [2002].

The panel has decided to proceed in the absence of Mr Morgan. In reaching this decision, the panel has considered the submissions of Ms Davies and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *Jones* [2002] and *Adeogba* [2016] and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mr Morgan;

- Mr Morgan has not engaged with the NMC or these proceedings, and has not responded to any of the letters sent to him about this hearing;
- Mr Morgan has not instructed legal counsel to represent him in these proceedings in his absence;
- There is no reason to suppose that adjourning would secure his attendance at some future date;
- 12 witnesses have been scheduled to give live evidence during this hearing;
- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that date as far back as 2015;
- Further delay may have an adverse effect on the ability of witnesses to accurately recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mr Morgan in proceeding in his absence. Although the evidence upon which the NMC relies will have been sent to him at his registered email address, he has made no response to the allegations. He will not be able to challenge the evidence relied upon by the NMC and will not be able to give evidence on his own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Mr Morgan's decisions to absent himself from the hearing, waive his rights to attend, and/or be represented, and to not provide evidence or make submissions on his own behalf.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mr Morgan. The panel will draw no adverse inference from Mr Morgan's absence in its findings of fact.

Details of charge

That you a registered nurse whilst working on the Preseli ward, Glangwili General Hospital

1. In relation to Colleague 1 between 2016 and 2020:
 - 1.1. On an unknown date in 2016 commented that she was '[PRIVATE] and not disabled'.
 - 1.2. On one or more occasions commented on her personal appearance.
 - 1.3. On becoming aware that she had raised concerns with your behaviour with another colleague, told her that 'Band 2's are easily replaced' or words to that effect.
 - 1.4. On one or more occasion instigated an argument with her.
 - 1.5. On one or more occasion after instigating an argument, attempted to reconcile.
 - 1.6. On an unknown dated in 2016 screamed at her on the ward to take her bowl home.
 - 1.7. On one or more occasions shouted at her.
 - 1.8. Your comments at any or all of charges 1.1 to 1.7 intended to cause/and or caused Colleague 1 to feel bullied and/or intimidated/and or discriminated against and /or harassed.
 - 1.9. On one or more occasions sent topless pictures of yourself to her via snapchat.

- 1.10. on one or more occasion touched/or attempted to touch her bottom without her permission.
 - 1.11. On one occasion told her to close her eyes and attempted to kiss her.
 - 1.12. Your actions at any or all of charges 1.9 to 1.11 were sexually motivated in that you sought sexual gratification and/or intended to pursue a future sexual relationship.
2. In relation to Colleague 2 between 2016 and 2020:
- 2.1. On an unknown date in 2018 whilst confronting her in relation to an incident in your personal life snapped water solutions and threw them.
 - 2.2. On an unknown date in 2018 confronted her in an intimidating way.
 - 2.3. On an unknown date ripped up her payslip in her presence.
 - 2.4. On an unknown date made the following comment about their pay 'I wouldn't get out of bed for your pay' or words to that effect.
 - 2.5. On one or more occasion commented on her body.
 - 2.6. Your comments at any or all of charges 2.1 to 2.5 intended to cause/and or caused Colleague 2 to feel bullied and/or intimidated/and or discriminated against and /or harassed.
 - 2.7. Commented on the size of her bottom.
 - 2.8. Asked whether you could touch her bottom.
 - 2.9. Despite Colleague 2 saying no to your request described at charge 2.8 asked again by saying 'just a quick poke, just to feel it'.

- 2.10. On one or more occasion stroked her leg.
- 2.11. Your actions at any or all of charges 2.7 to 2.10 were sexually motivated in that you sought sexual gratification/and or intended to pursue a future sexual relationship.
3. In relation to Colleague 3 between 2018 and 2020 made one or more of the following comments:
 - 3.1. Stop enticing young men onto this ward or words to that effect.
 - 3.2. Why don't you fuck off and do my training or be someone else's PA or words to that effect.
 - 3.3. Do you not think your [PRIVATE] would be embarrassed of you in 10 years when you are still a ward clerk or words to that effect.
 - 3.4. On an unknown date in 2020 when asked by Colleague 3 whether there were enough masks on the ward, responded by saying well what do you fucking think, you're the one ordering them or words to that effect.
 - 3.5. Your comments at any or all of charges 3.1 to 3.4 intended to cause/ and or caused colleague 3 to feel bullied and/or intimidated/and or discriminated against and /or harassed.
 - 3.6. On one or more occasions between 2018 and 2020 stroked her hair.
 - 3.7. In or around December 2019 kissed her on the lips.
 - 3.8. Your actions at charges 3.6 and/or 3.7 were sexually motivated in that you sought sexual gratification and/or intended to pursue a future sexual relationship.

4. In relation to Colleague 4 between 2015 to 2017:

- 4.1. On being asked to provide a reference for her stated 'I will see you rot in hell in prison' or words to that effect.
- 4.2. On one or more occasions shouted at her.
- 4.3. Asked her to call you dad.
- 4.4. Your comments at any or all of charges 4.1 to 4.3 intended to cause and/or caused Colleague 4 to feel bullied and/or intimidated/and or discriminated against and /or harassed.
- 4.5. Brushed her hair.
- 4.6. Kissed her on the cheek.
- 4.7. Hugged her.
- 4.8. Asked her to sit on your lap.
- 4.9. Sent her snapchat pictures of your bare stomach.
- 4.10. Your actions at any or all of charges 4.5 to 4.9 were sexually motivated in that you sought sexual gratification and/or intended to pursue a future sexual relationship.

5. In relation to Colleague 5:

- 5.1. On one occasion made an inappropriate comment regarding Colleague 5's request to leave work early.

- 5.2. After making this comment, persisted in calling and/or texting her
 - 5.3. Your actions at any or all of charges 5.1 to 5.2 intended to cause and/or caused colleague 5 to feel bullied and/or intimidated/and or discriminated against and /or harassed.
 - 5.4. On an unknown date sent Colleague 5 a WhatsApp picture of yourself lying in bed.
 - 5.5. On one or more occasions touched her on her arms/and or legs.
 - 5.6. On one or more occasion hugged her.
 - 5.7. Your actions at any or all of charges 5.4 to 5.6 were sexually motivated in that you sought sexual gratification and or intended to pursue a sexual relationship.
6. In relation to Colleague 6 between 2015 to 2017;
- 6.1. On one or more occasions attempted to hug her.
 - 6.2. On one or more occasions asked her to sit on your lap.
 - 6.3. [PRIVATE].
 - 6.4. [PRIVATE].
 - 6.5. [PRIVATE].
 - 6.6. [PRIVATE].
 - 6.7. Asked her to have an affair with you.

6.8. Your actions at any or all of charges 6.1 to 6.7 were sexually motivated in that you sought sexual gratification and/or intended to pursue a sexual relationship with her.

6.9. On one or more occasion shouted at her.

6.10. Sent texts calling her a cold fish.

6.11. Your comments at any or all of charges 6.9 to 6.10 intended to cause and/or caused colleague 6 to feel bullied and/or intimidated/and or discriminated against and /or harassed.

7. In relation to Colleague 7 between August 2018 and August 2019:

7.1. Told her that she needed to be brought down a peg or two before [PRIVATE] and that she was a chopsy little shit.

7.2. Commented on the condition of her skin.

7.3. Told her that her attitude was awful and that she needed to sort her life out.

7.4. Attempted to put her in a wheely bin.

7.5. Commented on the size of her bottom.

7.6. Your comments at any or all of charges 7.1 to 7.5 intended to cause and/or caused colleague 7 to feel bullied and/or intimidated/and or discriminated against and /or harassed.

8. In relation to Colleague 8:

8.1. on 11 June 2018 repeatedly asked her to disclose the contents of a

confidential conversation with Colleague A.

- 8.2. On being told by her that she wanted to apply for a band 7 post told her that she 'didn't have a chance in hell'.
- 8.3. Commented to her 'I know you're going through [PRIVATE]'.
- 8.4. Your comments at any or all of charges 8.1 to 8.3 intended to cause and/or caused Colleague 8 to feel bullied and/or intimidated/and or discriminated against and /or harassed.
9. On 14 December 2019, made one or more of the following comments to Colleague B;
 - 9.1. That she walked around the ward with a face like she has a £1000 electric bill hanging over her or words to that effect.
 - 9.2. Told her to give up her contract of employment or words to that effect.
 - 9.3. Your comments at charge 9.1 and/or 9.2 were unprofessional.
10. On one or more occasions arrived late for your shift and/ left your shift early.
11. On 26 January 2020, on leaving your shift early, did not amend the roster in a timely manner to reflect your amended hours.
12. Your actions at Charge 11 were dishonest in that you sought to create the impression that you had worked your full shift when you knew you had not.
13. On one or more occasions delegated tasks to other colleagues which you should have done without good reason.
14. On one or more occasions cut IV lines connected to patients which was

incorrect.

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

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

Ms Davies made a request that the hearsay application for the evidence of Colleague 1 be held in private. This is on the basis that there will be reference to matters pertaining to Colleague 1's private personal life.

Ms Davies also made a request that parts of Colleague B's live evidence be held in private. This is on the basis that there will be reference to matters pertaining to Colleague B's [PRIVATE].

The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

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

Having heard that there will be reference to personal matters, the panel determined to hold the hearsay application for the evidence of Colleague 1 in private in order to maintain her privacy. The panel also determined to go into private whenever any references to Colleague B's [PRIVATE] is raised during her live evidence in order to maintain her privacy.

Decision and reasons on application to admit hearsay evidence of Colleague 1

The panel heard an application made by Ms Davies under Rule 31 to allow the written statement dated 10 February 2022 and associated exhibits of Colleague 1 into evidence.

Ms Davies submitted that Colleague 1 had previously engaged with the local investigation, which is evidenced by the local investigation interview notes, and the NMC process with regard to this case. However, she submitted that whilst the NMC had made sufficient efforts to ensure that this witness was present at this hearing to give live evidence, she was unable to attend due to personal circumstances.

Ms Davies referred the panel to the last communication received from Colleague 1 dated 5 July 2022 where she states:

[PRIVATE].

Ms Davies submitted that the NMC have tried to encourage Colleague 1's re-engagement by writing to her to invite her to give evidence and considered a court summons. However, she submitted that the NMC were unable to proceed with the court summons as it did not have a known address for Colleague 1 despite making efforts to locate her, in order to legally serve her with this. Ms Davies referred the panel to the email evidence supporting this.

Ms Davies submitted that Colleague 1's associated exhibits consist of a statement she provided during the local investigation, and her local investigation interview notes. Ms Davies further requested that this application be extended to exhibits belonging to Witness 2 in relation to her interviewing Colleague 1.

Ms Davies referred the panel to the case of *Ogbonna v Nursing and Midwifery Council* [2010] EWCA Civ 1216 and outlined the principles set out when it comes to admitting evidence where a witness is absent. She then referred the panel to the case of

Thorneycroft v Nursing and Midwifery Council [2014] All ER (D) 161 and outlined the guidance set out.

Ms Davies submitted that Colleague 1 is the complainant of the allegations that fall under Charge 1, and that her evidence primarily relates to the events set out in these charges. She submitted that Colleague 1's evidence is the sole and decisive evidence in support of the allegations that fall under Charge 1.

Ms Davies submitted that as Mr Morgan has not engaged with the NMC process, even if Colleague 1 were present at this hearing, he would not have the opportunity to cross examine Colleague 1 due to his voluntary absence. She referred the panel back to the evidence provided by the NMC which demonstrates Mr Morgan's non-engagement with the NMC process.

Ms Davies stated that there is no reason to believe that the allegations made by Colleague 1 as set out in the charges are fabricated. She submitted that Colleague 1 has been consistent throughout the local investigation and the NMC process in her allegations as demonstrated in her local statement and interview, and her NMC written statement.

Ms Davies submitted that the allegations made by Colleague 1, which her evidence directly relates to, are serious as they involve bullying, intimidation, harassment and sexual harassment, all of which will have serious implications on Mr Morgan's nursing career.

Ms Davies submitted that good reason has been provided for Colleague 1's non-attendance and referred the panel back to her previous submissions made at the onset of this application. She accepted that Colleague 1 has provided no [PRIVATE] but noted she stated in her email that she is [PRIVATE], hence why she has chosen to disengage with the NMC process. Given the seriousness of [PRIVATE], Ms Davies submitted that there is no reason to believe that Colleague 1's explanation for not attending this hearing is untrue.

Ms Davies submitted that whilst Mr Morgan was informed that the NMC would be seeking to rely on Colleague 1's live evidence, she is uncertain as to whether he was updated and informed that the NMC would be making a hearsay application for the admission of Colleague 1's evidence instead.

In the preparation of this hearing, the NMC had indicated to Mr Morgan in the Case Management Form (CMF), dated 14 February 2023, that it was the NMC's intention for Colleague 1 to provide live evidence to the panel. Despite knowledge of the nature of the evidence to be given by Colleague 1, Mr Morgan made the decision not to attend this hearing. On this basis, Ms Davies advanced the argument that there was no lack of fairness to Mr Morgan in allowing Colleague 1's written statement and associated exhibits into evidence.

Ms Davies therefore submitted that it would be fair and relevant to admit the hearsay evidence of Colleague 1 into evidence and invited the panel to take this view.

The panel accepted the advice of the legal assessor.

The panel gave the application in regard to Colleague 1 serious consideration. The panel noted that Colleague 1's statement had been prepared in anticipation of being used in these proceedings and contained the paragraph, '*This statement is true to the best of my knowledge and belief*' and was signed by her.

The panel accepted the reason for Colleague 1's non-attendance at this hearing and, despite not receiving any [PRIVATE], had no reason to believe that Colleague 1 would falsify that [PRIVATE]. Whilst there has been no further update/communication from Colleague 1 since 5 July 2022 in respect of her personal circumstances, the panel accepted that the NMC have taken reasonable steps to secure Colleague 1's attendance.

The panel noted that Colleague 1 is the complainant of the allegations that fall under Charge 1, and that her evidence directly relates to these charges. It had regard to the principles in *Thorneycroft* [2014] and noted that Mr Morgan in his local investigation

interviews claimed in part that the complainants in this case had colluded and fabricated the allegations against him. However, the panel agreed with the NMC that Colleague 1 has been consistent in her description of the events as set out in the charges, which is demonstrated in her local statement and local interview, and her NMC written statement. Furthermore, whilst the panel will be unable to test the evidence of Colleague 1 with her directly, it has the opportunity to test her evidence against the other complainants in this case who are due to give live evidence at this hearing.

The panel did not consider that Colleague 1's evidence was the sole and decisive evidence in proving all of the charges that fall under Charge 1. This is because the evidence of Witness 2 and Colleague 6 also relates to some of the events that fall under Charge 1.

The panel considered whether Mr Morgan would be disadvantaged by the change in the NMC's position of moving from reliance upon the live testimony of Colleague 1 to that of a written statement.

The panel considered that Mr Morgan had been provided with a copy of Colleague 1's statement and associated exhibits, and as the panel had already determined that Mr Morgan had chosen voluntarily to absent himself from these proceedings, he would not be in a position to cross-examine this witness in any case. The panel also noted that Mr Morgan had not raised any concerns about Colleague 1's evidence with the NMC. The panel considered that the unfairness in this regard worked both ways in that the NMC was deprived, as was the panel, from reliance upon the live evidence of Colleague 1 and the opportunity of questioning and probing that testimony. There was also public interest in the issues being explored fully which supported the admission of this evidence into the proceedings.

In these circumstances, the panel came to the view that it would be fair and relevant to accept into evidence the written statement and associated exhibits of Colleague 1 but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

Background

The charges arose whilst Mr Morgan was employed at Glangwili Hospital (the Hospital) [PRIVATE]. Mr Morgan was initially employed at the Hospital as a Band 5 Nurse in 1999, he was promoted to Band 6 in 2005 and then subsequently to Band 7 (Charge Nurse) in 2012/13. As the Charge Nurse, Mr Morgan was responsible for the management and leadership [PRIVATE].

A number of complaints were received from staff within the Hospital who worked alongside Mr Morgan concerning the period of 2015 – 2020. The nature of the complaints concerned Mr Morgan's conduct towards his colleagues and his clinical practice, which included the following allegations:

- Bullying/controlling/harassing/discriminatory behaviour by way of shouting, abuse of authority and use of offensive remarks.
- Sexual harassment/sexually motivated behaviour by way of making inappropriate remarks, inappropriate touching of colleagues and/or attempting to inappropriately touch colleagues without their consent, sending inappropriate photos of himself to colleagues, and requesting inappropriate photos from a colleague.
- Poor leadership and development of staff under his management, resulting in staff performing unsafe practices. This also involved Mr Morgan consistently leaving the ward without senior support by either arriving to shifts late or leaving shifts early without notifying staff.

After receiving these complaints, Mr Morgan was suspended from his role pending an internal investigation. Following a disciplinary hearing held by the Hospital, Mr Morgan was dismissed from his role in August 2021.

Decision and reasons on facts

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

The panel has drawn no adverse inference from the non-attendance of Mr Morgan.

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 11 witnesses called on behalf of the NMC in the following order:

- Witness 1: Senior Nurse Manager at Glangwili Hospital at the time of the incidents;
- Colleague 2: Health Care Support Worker (HCSW)
- Colleague 3: Ward Clerk
- Colleague 4: HCSW
- Colleague 6: Staff Nurse
- Colleague 8: Ward Sister
- Colleague 9: Ward Sister

- Colleague 7: HCSW
- Colleague B: HCSW
- Colleague 5: Registered Nurse
- Witness 2: Head of Safeguarding for the Hywel Dda University Health Board.

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 the NMC.

In reaching its decision the panel had regard to the following:

- The panel noted that in his local interviews, Mr Morgan suggested that there had been collusion between staff on the ward, alleging that complaints had been fabricated or otherwise embellished. The panel made efforts to probe the evidence before it and specifically asked the witnesses questions regarding possible collusion. The panel was satisfied that there was no evidence of collusion between the witnesses. The panel considered that colleagues discussing incidents at work was not the same as collusion. It noted that each witness was clear to distinguish the positive aspects of Mr Morgan when questioned.
- The panel considered the context in which the allegations arose, noting that Mr Morgan was in a position of responsibility, which included leadership, management and clinical standards on the ward. The panel also noted that many of the witnesses were in a junior position.
- When considering the charges alleging sexual motivation the panel accepted the advice of the legal assessor that sexual motivation means that the conduct was done either in pursuit of sexual gratification or in pursuit of a future sexual

relationship and is a matter of inference to be drawn by the panel from the primary findings of fact.

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

Charge 1

This charge relates to allegations made by Colleague 1 whose hearsay evidence the panel has admitted.

The panel noted that Colleague 1 was a Health Care Support Worker [PRIVATE]. In her witness statement she alleged that Mr Morgan's attitude and behaviour '*got out of control*' following his promotion in 2016/2017.

Charge 1.1

1. *In relation to Colleague 1 between 2016 and 2020:*

1.1. *On an unknown date in 2016 commented that she was '[PRIVATE] and not disabled'.*

This charge is found NOT proved.

In reaching this decision, the panel took into account Colleague 1's witness statement, her local statement and local interview.

The panel considered the evidence before it and noted that although there were allegations made by other colleagues of Mr Morgan speaking inappropriately, they were not of a similar nature to this allegation. The panel further noted that as there was no other corroborative witness evidence relating to this allegation, this was the sole and decisive evidence in relation to this charge.

The panel was mindful that it should exercise caution when the hearsay evidence is sole and decisive. The panel found that the NMC had not discharged its burden of proof in relation to this charge and therefore found this charge not proved.

Charge 1.2

1. *In relation to Colleague 1 between 2016 and 2020:*

1.2. *On one or more occasions commented on her personal appearance.*

This charge is found proved.

In reaching this decision, the panel took into account Colleague 1's NMC witness statement, her local statement, her local interview and Colleague 2, 3 and 7's evidence.

The panel noted that in Colleague 1's witness statement she stated:

'When I returned from [PRIVATE] in 2017 I had lost a lot of weight and the Nurse commented on this and that I needed to put weight back on. I did put weight back on subsequently and weighed the same as I had before [PRIVATE] and the Nurse commented that they had noticed I put on weight. The Nurse constantly commented on the way I looked and it made me feel self-conscious and uncomfortable. The Nurse also commented on how big my breasts were getting before I [PRIVATE].'

The panel further noted that in her local statement Colleague 1 stated that Mr Morgan '*commented on my weight endless times*' and she was consistent with this in her account in her local interview.

The panel further noted that in oral evidence Colleague 3 recalled that Mr Morgan commented on Colleague 1's breasts [PRIVATE].

As noted above, the panel has recognised that there were patterns of behaviour demonstrated by Mr Morgan, that were described by a number of colleagues. The panel determined that there was evidence that Mr Morgan had also commented on the appearance of Colleagues 2 and 7.

The panel was therefore satisfied that the NMC had discharged its burden of proof in relation to this charge and therefore found this charge proved.

Charge 1.3

1. In relation to Colleague 1 between 2016 and 2020:

1.3. On becoming aware that she had raised concerns with your behaviour with another colleague, told her that 'Band 2's are easily replaced' or words to that effect.

This charge is found NOT proved.

In reaching this decision, the panel took into account Colleague 1's local interview.

The panel noted that this incident is only mentioned in Colleague 1's local interview and is not mentioned in any other evidence.

As Colleague 1's local interview is the sole and decisive evidence in relation to this charge, the panel could neither test the account nor corroborate it with other witnesses. The panel found that the NMC had not discharged its burden of proof in relation to this charge and therefore found this charge not proved.

Charge 1.4

1. In relation to Colleague 1 between 2016 and 2020:

1.4. On one or more occasion instigated an argument with her.

This charge is found NOT proved.

In reaching this decision, the panel took into account Colleague 1's witness statement and local interview.

The panel noted that Colleague 1's evidence was the sole and decisive evidence in relation to this charge. It further noted the use of the word '*instigated*' in the charge. It was not clear to the panel which particular incidents this charge related to and therefore this charge lacks specificity. The panel further noted that Colleague 1 does not specifically allege that Mr Morgan '*instigated*' an argument with her.

The panel therefore determined that the NMC has not discharged its burden of proof in relation to this charge. It therefore found this charge not proved.

Charge 1.5

1. In relation to Colleague 1 between 2016 and 2020:

1.5. On one or more occasion after instigating an argument, attempted to reconcile

This charge is found NOT proved.

The panel determined, for the reasons set out under charge 1.4, that the NMC has not discharged its burden of proof in relation to this charge. It therefore found this charge not proved.

Charge 1.6

1. In relation to Colleague 1 between 2016 and 2020:

1.6. On an unknown dated in 2016 screamed at her on the ward to take her bowl

home.

This charge is found NOT proved.

In reaching this decision, the panel took into account Colleague 1's local interview.

The panel noted that Colleague 1's evidence was the sole and decisive evidence in relation to this charge. The panel noted that this incident is not referred to in Colleague 1's witness statement nor was the panel able to question her about this as she was not available to give oral evidence.

The panel therefore determined that the NMC has not discharged its burden of proof in relation to this charge. It therefore found this charge not proved.

Charge 1.7

1. In relation to Colleague 1 between 2016 and 2020:

1.7. On one or more occasions shouted at her

This charge is found proved.

In reaching this decision, the panel took into account Colleague 1's local statement and Colleagues 1 and 6's NMC witness statements and the oral evidence of Colleague 6.

The panel noted that Colleague 1 stated in her witness statement:

[...]

The Nurse did not take my response well and they flew off the handle. The Nurse shouted and swore at me in front of my colleagues in the team room

[...]

The Nurse went crazy, continued to shout and swear and told me they could get rid of me easily and that I was no use to the Ward.'

The panel determined this was consistent with Colleague 1's local statement.

The panel noted that Colleague 1's account was supported by Colleague 6's witness statement (in relation to the same incident) where she states:

'One occasion I do remember, I was sitting in the break room with Colleague 1, Healthcare Support Worker, when they told the Nurse who entered the room that they had deleted them off Snapchat. Colleague 1 was [PRIVATE] and the Nurse shouted in rage at Colleague 1. I cannot remember what the Nurse said but I was in the break room with another colleague (I cannot remember who) and the Nurse was shouting so much we did not know what to do. The Nurse was in a rage and stormed out of the break room; Colleague 1 was in tears.'

The panel also considered Colleague 6's oral evidence in which she could clearly recount the incident when Mr Morgan shouted at Colleague 1. She told the panel that she felt guilty for not stepping in to help Colleague 1.

The panel accepted the consistent accounts of Colleagues 1 and 6. The panel therefore found this charge proved.

Charge 1.8

1. In relation to Colleague 1 between 2016 and 2020:

1.8. Your comments at any or all of charges 1.1 to 1.7 intended to cause/and or caused colleague 1 to feel bullied and/or intimidated/and or discriminated against and /or harassed.

This charge is found proved.

In reaching this decision, the panel took into account its findings at charges 1.2 and 1.7, Colleague 1's witness statement and Mr Morgan's local interviews.

The panel noted that Colleague 1 stated that Mr Morgan's behaviour '*made me feel uncomfortable, extremely upset and worthless at times*' and that some of the incidents had caused her to become very upset.

The panel therefore found that Mr Morgan's behaviour did cause Colleague 1 to feel bullied, intimidated and harassed. There was insufficient evidence that Mr Morgan's actions caused Colleague 1 to feel discriminated against.

The panel considered whether it had sufficient evidence before it as to Mr Morgan's intention towards Colleague 1 in commenting on her personal appearance and shouting at her.

The panel noted there was no direct evidence in relation to Mr Morgan's intentions in his comments to Colleague 1. The panel determined that the NMC did not discharge its burden of proof in relation to Mr Morgan's intentions in his comments to Colleague 1.

This charge is therefore found proved to the extent that Mr Morgan caused Colleague 1 to feel bullied, intimidated and harassed.

Charge 1.9

1. In relation to Colleague 1 between 2016 and 2020:

1.9. On one or more occasions sent topless pictures of yourself to her via snapchat.

This charge is found proved.

In reaching this decision, the panel took into account Colleague 1's NMC witness statement and the oral evidence and witness statements of Colleagues 4, 5 and 6.

The panel noted Colleague 1's witness statement where she states:

'On one occasion, I was in the team room on break and the Nurse came into the room and said they had deleted me off snapchat. At the time, the Nurse had been sending me inappropriate snapchat messages of them topless. The Nurse's chest was visible and the snapchat messages were sent out of the blue. I deleted the Nurse from snapchat because I did not want to receive such pictures, nor be involved.'

The panel also noted the evidence of Colleagues 4, 5 and 6 who also reported that Mr Morgan had also sent them topless or inappropriate pictures on Snapchat which illustrated a pattern of inappropriate behaviour.

In light of all the evidence before it the panel was satisfied that Mr Morgan had sent topless pictures of himself to Colleague 1. The panel therefore found this charge proved on the balance of probabilities.

Charge 1.10

1. In relation to Colleague 1 between 2016 and 2020:

1.10. On one or more occasion touched/or attempted to touch her bottom without her permission

This charge is found proved.

In reaching this decision, the panel took into account the Colleague 1's witness statement, local statement and local interview and Colleagues 3, 4, 5 and 6's NMC witness statements and oral evidence.

The panel noted Colleague 1 stated in her witness statement:

'Further, the Nurse also acted inappropriately with me in person. A few times, the Nurse would be passing by me and would touch me on the bottom. I did not think

much of it at the start and thought it was a joke because they did it to [...] and Colleague 2 too. In response, I would laugh it off to the Nurse because I found it awkward. With age, I have realised how inappropriate this was.'

The panel noted that Colleague 1 provided a consistent account in her local interview and her local statement.

Based on the evidence before it, the panel could identify a clear pattern of behaviour of Mr Morgan touching other female colleagues, namely Colleagues 3, 4, 5, and 6. The panel noted similarities in each of the witnesses' evidence relating to being inappropriately touched by Mr Morgan and without their consent.

The panel therefore found that on the balance of probabilities, Mr Morgan had on one or more occasions, touched/or attempted to touch Colleague 1's bottom without her permission.

This charge is found proved.

Charge 1.11

1. In relation to Colleague 1 between 2016 and 2020:

1.11. On one occasion told her to close her eyes and attempted to kiss her

This charge is found proved.

In reaching this decision, the panel took into account the witness statement, local statement and local interview of Colleague 1 together with the witness statements and oral evidence of Colleagues 3 and 4.

The panel noted that Colleague 1 stated in her witness statement:

'On another occasion, I was in the office with the Nurse with other staff I cannot remember when the Nurse told me I had something in my eye and to close my eyes. I closed my eyes and the Nurse kissed me on the lips. It was just a peck as I backed away and asked what they were doing. I tried to laugh it off and did not get cross because I was really uncomfortable.'

The panel noted that Colleague 1 provided a consistent account in her local interview, her local statement and her NMC witness statement.

The panel considered the evidence of Colleagues 1, 3 and 4 in relation to Mr Morgan kissing/attempting to kiss them. The panel considered that Mr Morgan had attempted this inappropriate conduct on a number of occasions.

Based on the evidence before it, the panel could identify a clear pattern of behaviour, including asking colleagues to close their eyes before kissing/attempting to kiss them. This charge is therefore found proved on the balance of probabilities.

Charge 1.12

1. In relation to Colleague 1 between 2016 and 2020:

1.12. Your actions at any or all of charges 1.9 to 1.11 were sexually motivated in that you sought sexual gratification and/or intended to pursue a future sexual relationship.

This charge is found proved.

In reaching this decision, the panel took into account that it has found charges 1.9, 1.10 and 1.11 all proved.

The panel took into account the evidence of Colleague 3, Colleague 4, Colleague 5 and Colleague 6, all of whom had given similar evidence that Mr Morgan had either kissed

or attempted to kiss, received an inappropriate picture and/or been touched by Mr Morgan without their consent.

The panel considered that Mr Morgan's actions of touching Colleague 1's bottom, asking her to close her eyes and then attempting to kiss her without her consent and sending her a topless picture of himself, were all sexual in nature. The panel considered that the nature of this conduct, and indeed a pattern of conduct, was such that a reasonable member of the public would consider that the actions must have been done with a view to sexual gratification. The panel determined that there was no other plausible explanation for Mr Morgan's actions, other than that they were sexually motivated.

The panel noted that there was no evidence that Mr Morgan had intended to pursue a future sexual relationship with Colleague 1.

The panel determined that the nature of Mr Morgan actions was sexually motivated in that he sought sexual gratification. This charge is therefore found proved.

Charge 2

The panel noted that Colleague 2 was a HCSW [PRIVATE].

Charge 2.1

2. In relation to colleague 2 between 2016 and 2020:

2.1. On an unknown date in 2018 whilst confronting her in relation to an incident in your personal life snapped water solutions and threw them

This charge is found proved.

In reaching this decision, the panel took into account the witness statement and oral evidence of Colleague 2.

The panel considered Colleague 2's oral evidence to be clear and consistent with her account provided during her local statement, local interview and her NMC witness statement. The panel noted that Colleague 2 had a very clear recollection of this event and she was able to recall the detail of the incident, how she felt and the impact it had on her.

The panel noted Colleague 2's evidence in her NMC witness statement where she stated:

[...] the Nurse was knocking on the bay glass window asking me to go into the treatment room. I remember thinking 'Oh god, he looks angry. Here we go again'. I went into the treatment room and the Nurse asked me who told me that they had been seen leaving [Person 2]'s house. I refused to give the Nurse any names because I was worried what he might do to them if I said. The Nurse was getting really angry because I wouldn't give a name and was snapping water solutions and throwing them at the wall. The treatment room is very small so I was really intimidated by this.'

The panel noted that in his internal interview Mr Morgan accepted that he had a conversation with Colleague 2 in the treatment room about her '*spreading gossip*' about him. Mr Morgan also stated that when he is in the treatment room he normally opens and separates the ampoules and '*probably would throw them in the box*'. He denied that this was something he would do '*out of temper*'.

The panel noted that this incident occurred in the context of Mr Morgan being angry about the rumours that he believed were circulating about him. The panel also noted that Colleague 2 stated that patients on the ward had commented on Mr Morgan's demeanour and how angry he was.

The panel preferred the evidence of Colleague 2 which was detailed and consistent.

Taking all the evidence into account the panel determined on the balance of probabilities that this incident did take place as alleged. The panel therefore found this charge proved.

Charge 2.2

2. *In relation to colleague 2 between 2016 and 2020:*

2.2. *On an unknown date in 2018 confronted her in an intimidating way.*

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence and witness statement of Colleague 2. The panel noted that it did not have the benefit of hearing evidence from Person 4 in relation to this charge.

The panel took account of Colleague 2's witness statement which stated:

'Nurse was really close to my face and shouting that I go to their office. I had never experienced anything like it and as I refused the Nurse got even angrier and said 'eventually, one of you will be in my office'. I could not focus on my work and tend to patients properly and I said to [Person 4] 'if I don't leave the Ward now I will have to quit' because I could not continue to work with the Nurse.'

The panel considered Colleague 2's evidence was clear and consistent in the local interview, local statement and in her witness statement to the NMC.

The panel noted that in his local interview, Mr Morgan stated:

'I don't remember that. I mean I may have raised my voice, I do raise my voice you know. I think its probably a trait I have I can raise my voice but to me there's no malice or intent or anything with it. It's just what I do.'

Taking all the evidence into account, the panel determined that it was more likely than not that Mr Morgan had confronted Colleague 2 in an intimidating way, and it therefore found this charge proved.

Charge 2.3 and 2.4

2) *In relation to colleague 2 between 2016 and 2020:*

2.3. *On an unknown date ripped up her payslip in her presence.*

2.4. *On an unknown date made the following comment about their pay 'I wouldn't get out of bed for your pay' or words to that effect.*

These charges are found proved.

In reaching this decision, the panel took into account the local interview, local statement, witness statement and oral evidence of Colleague 2, and the local statement of Colleague C.

The panel noted that Colleague 2's account was consistent in all her evidence. Colleague 2 told the panel in her oral evidence that she found the incident "very *belittling*".

Colleague 2's account is also corroborated by Colleague C in her local statement:

'I heard Mark saying to a fellow healthcare, when opening her payslip, [...] 'I wouldn't get out of bed for that wage'.

The panel acknowledged Mr Morgan's response when questioned in his local interview held on 11 August 2020, that he could not recall saying it and that he had no recollection of the event.

The panel on the balance of probabilities determined that Mr Morgan had ripped up Colleague 2's payslip in her presence and stated 'I wouldn't get out of bed for your pay' or words to that effect. Accordingly, it finds these charges proved.

Charges 2.5

2) *In relation to colleague 2 between 2016 and 2020:*

2.5. *On one or more occasion commented on her body.*

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Colleagues 2 and 7.

The panel noted the following from Colleague 2's witness statement:

'The Nurse would always comment on my body and asked what training I did at the gym.'

In oral evidence, Colleague 2 was able to recall Mr Morgan rocking in his chair whilst commenting on her bottom as she bent over to reach for the off duty rota, and she confirmed that she felt very uncomfortable, shocked and vulnerable.

The panel also took the following corroborating evidence into consideration from Colleague 7's witness statement:

'The Nurse also used to comment on the size of Colleague 2's legs and bum in front of staff.'

In local interview, Mr Morgan stated that he did not recall any such comments.

The panel was satisfied that Mr Morgan on one or more occasions commented on Colleague 2's body.

The panel therefore finds this charge proved.

Charge 2.6

2) In relation to colleague 2 between 2016 and 2020:

2.6. Your comments at any or all of charges 2.1 to 2.5 intended to cause/and or caused Colleague 2 to feel bullied and/or intimidated/and or discriminated against and /or harassed.

This charge is found proved.

In reaching this decision, the panel took into account its findings in charges 2.1 to 2.5 and referred to the oral evidence and witness statement of Colleague 2 and the internal interviews with Mr Morgan.

The panel considered all the evidence before it in relation to this charge. During Colleague 2's oral evidence, she used the words like "*belittling*". In her witness statement Colleague 2 used words and phrasing such as: "*intimidating*", "*uncomfortable*" and she stated: "*I would be filled with dread and avoid eye contact with them*" when referring to Mr Morgan.

The panel noted that Colleague 2 described that when Mr Morgan was close to her face and shouting at her angrily, she felt bullied, intimidated and harassed as this was not a one-off incident. The panel noted that in Colleague 2's oral evidence, she described how Mr Morgan's behaviour would result in her crying and [PRIVATE] when speaking to senior colleagues to this day.

The panel therefore determined that Mr Morgan's behaviour did cause Colleague 2 to feel bullied, intimidated and harassed. There was insufficient evidence that Mr Morgan's actions caused Colleague 2 to feel discriminated against.

It also noted Mr Morgan's comments when questioned during his internal interview, where he stated that:

'Now in my mind set I wouldn't want to come across as want rude or belittling or do it in front of people and maybe that's a failure on me as a leader but I'd never openly or wantingly try to belittle somebody in front of other people or anything.

[...]

With regards to mood swings, you know I would never want people to go into work and make people feel anxious or knowingly do that.'

The panel noted that in Colleague 2's oral evidence she stated that Mr Morgan's behaviour was manipulative and that he used his role and the power that went with it to dominate and target her. The panel considered that any reasonable person looking at the evidence objectively, would infer that Mr Morgan's actions were intended to cause Colleague 2 to feel bullied, intimidated and harassed.

The panel found this charge proved.

Charge 2.7

2) In relation to colleague 2 between 2016 and 2020:

2.7. Commented on the size of her bottom

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Colleagues 2 and 7.

The panel noted the following from Colleague 2's witness statement:

'As I leant over to get the off duty the Nurse said 'gosh look at the size of your bum'. I was speechless. The Nurse said 'it's so big can I touch it' and I said no. the Nurse asked again and said 'I want to know what it feels like' and again, I said no.'

Colleague 2 described this incident in oral evidence to the panel.

This is corroborated by Colleague 7's evidence from her witness statement as quoted at charge 2.5 and confirmed in her oral evidence.

Further, the panel referred to the investigation report dated 15 February 2021, which stated:

"[Person 6] recalls that she had heard MM comment on bottom, "He'd comment "you've been to the gym, I can see your arse is looking good"...

And:

"Colleague 3 reported that MM would drop a pen / pencil to the floor for Colleague 2 to pick up. "... there was a couple of times where he would sort of like knock something on to the floor and he was like, not to me to Colleague 2 obviously and he's say "do you want to pick that up now then in front of me" I've heard that, a pen on the floor.

Colleague 2 herself did not reference this, but it appears to be well known that MM had a fascination with Colleague 2's bottom."

Mr Morgan denied the allegation in his local interview, stating that he did not recall.

The panel preferred the evidence of Colleague 2, corroborated by Colleague 7. It therefore determined that this charge is found proved.

Charges 2.8 and 2.9

2. *In relation to colleague 2 between 2016 and 2020:*

2.8 *Asked whether you could touch her bottom.*

2.9 *Despite colleague 2 saying no to your request described at charge 2.8, asked again by saying 'just a quick poke, just to feel it'.*

These charges are found proved.

In reaching this decision, the panel took into account Colleague 2's witness statement, oral evidence, local statement and local interview, Colleague 7's local interview and oral evidence.

The panel took account of Colleague 2's witness statement which states:

'As I leant over to get the off duty [rota] the Nurse [Mr Morgan] said 'gosh look at the size of your bum'. I was speechless. The Nurse said 'it's so big can I touch it' and I said no. the Nurse asked again and said 'I want to know what it feels like' and again, I said no. At the time I was [PRIVATE].'

In respect of charge 2.8, the panel noted that Colleague 2 had provided a consistent account in her NMC witness statement, local statement and local interview.

In respect of charge 2.9 the panel noted that the words *'just a quick poke'* were not included in her NMC witness statement. However, it noted that these words were consistently included in her local statement and local interview which would have occurred closer to the time of the events. Her NMC statement does make clear that Mr Morgan asked to feel her bottom. Therefore, the panel was satisfied that it could rely on her evidence taken closer to the time.

The panel then referred to Colleague 7's local interview, in which she confirms that Colleague 2 confided in her about this incident:

'Colleague 7: Well he's felt my friend's bottom in work, he's kissed people on the lips, that's probably the main things.

Witness 2: Who's bottom did he touch?

Colleague 7: Colleague 2, and the kiss was [Person 7]'

The panel noted there was a slight inconsistency to the exact words used by the witnesses, but it considered that it was consistent enough to support the charges.

The panel also noted that Witness 2 in her local investigation report states that Person 5 had also witnessed this incident, recalling that Mr Morgan had commented on Colleague 2's bottom and that he wanted to touch it. The panel noted that it did not hear evidence from Person 5.

The panel referred to the local interview with Mr Morgan and noted that he had no recollection of the incident.

Based on all the evidence before it, the panel determined that Mr Morgan did ask Colleague 2 whether he could touch her bottom (as alleged in charge 2.8) and despite her saying no, he asked again as alleged in charge 2.9. It therefore finds these charges proved.

Charge 2.10

2) In relation to colleague 2 between 2016 and 2020:

2.10. On one or more occasion stroked her leg.

This charge is found proved.

In reaching this decision, the panel took into account the witness statement, oral evidence and local interview of Colleague 2 and Colleague 7's witness statement.

The panel considered that Colleague 2's evidence in relation to this charge was clear and compelling. In her NMC witness statement Colleague 2 stated:

'On two occasions, the Nurse stroked/touched my leg. The first time, I was in the office with the Nurse on a date I cannot recall for a PDR meeting and the Nurse started stroking my leg. I asked what the Nurse was doing and they did not say anything. The Nurse would just act in such a way and I would become numb to it and accepted that was just the way they behaved. It happened again in the staff room when I was on a break. I believe this happened not long before I left the Ward in August 2019.'

The panel noted that Colleague 2's account in her local interview was consistent with her account in her NMC statement and oral evidence.

The panel then referred to Colleague 7's local interview, in which she confirms that Colleague 2 confided in her about this incident:

'I had a good working relationship with Colleague 2, HCSW, and they told me the Nurse had been very inappropriate with them. The Nurse would touch their leg and say disgusting things to them. For example, the Nurse had cornered Colleague 2 in the kitchen being verbally aggressive (unsure what these words are now), but I know it made Colleague 2 feel very intimidated and upset, resulting in her having to leave the Ward to have space from the Nurse.'

The panel noted that Mr Morgan denied the allegation in his local interview.

The panel was satisfied based on all the evidence before it that Mr Morgan had stroked Colleague 2's leg. It therefore found this charge proved.

Charge 2.11

2. *In relation to colleague 2 between 2016 and 2020:*

2.11 Your actions at any or all of charges 2.7 to 2.10 were sexually motivated in that you sought sexual gratification/and or intended to pursue a future sexual relationship

This charge is found proved in relation to each charge.

In reaching this decision, the panel took into account its findings in relation to charges 2.7 to 2.10, the evidence of Colleague 2 and Mr Morgan's local interviews.

The panel considered that Mr Morgan's actions of commenting on the size of Colleague 2's bottom, repeatedly asking whether he could touch her bottom and stroking her leg were sexual in nature.

The panel considered that the nature of this conduct, and indeed a pattern of conduct, was such that a reasonable member of the public would consider that the actions must have been done with a view to sexual gratification. The panel determined that there was no other plausible explanation for Mr Morgan's actions, other than that they were sexually motivated.

The panel noted that there was no evidence that Mr Morgan had intended to pursue a future sexual relationship with Colleague 2.

The panel determined that the nature of Mr Morgan actions was sexually motivated in that he sought sexual gratification.

This charge is therefore found proved.

Charge 3

The panel noted that Colleague 3 was a ward clerk [PRIVATE].

Charge 3.1

3. *In relation to colleague 3 between 2018 and 2020 made one or more of the following comments:*

3.1. *Stop enticing young men onto this ward or words to that effect.*

This charge is found proved.

In reaching this decision, the panel took into account Colleague 3's witness statement, oral evidence, her local statement and local interview.

In Colleague 3's witness statement, she stated that Mr Morgan had summoned her to the office by shouting "*office*" and said to her in relation to a conversation she was having with a colleague; '*stop enticing young men onto my ward*'. Colleague 3 initially thought it was a joke and laughed, but she immediately realised that it was not a joke and felt upset and humiliated. Colleague 3 provided a consistent account in oral evidence, local statement and local interview.

Mr Morgan in his local interview stated that he did not recall making the alleged comments.

The panel found Colleague 3's evidence to be clear and compelling. The panel was satisfied on the balance of probabilities that this incident did take place as alleged.

It therefore found this charge proved.

Charges 3.2 and 3.3

3. *In relation to colleague 3 between 2018 and 2020 made one or more of the following comments:*

3.2 *why don't you fuck off and do my training or be someone else's PA or words to that effect*

3.3 *do you not think your [PRIVATE] would be embarrassed of you in 10 years when you are still a ward clerk or words to that effect*

These charges are found proved.

In reaching this decision, the panel took into account the witness statement, oral evidence, local interview and the local statement of Colleague 3.

The panel found Colleague 3's evidence to be clear and compelling. In Colleague 3's witness statement she states:

'The Nurse said 'why don't you fuck off and do training or be someone's PA' and said 'do you not think your [PRIVATE] would be embarrassed of you in 10 years when you are still a ward clerk'. [PRIVATE].

The panel acknowledged that Colleague 3 was consistent in her oral evidence, local statement and local interview. Colleague 3 was clear in her oral evidence regarding the impact Mr Morgan's comments had on her, resulting [PRIVATE].

The panel acknowledged that this incident was reported by Colleague 3 to the Senior Nurse, Person 3, but nothing was addressed. It noted that both Colleagues 3 and 8 reported incidents to Person 3, without any action being taken. The panel noted that it did not hear evidence from Person 3.

Mr Morgan in his local interview accepted having a conversation with Colleague 3 about her career and asking her *'what are you going to do with yourself? In 10 years time you could be a staff nurse or whatever'*. However, Mr Morgan denied referring to [PRIVATE] being embarrassed and maintained throughout his interviews that he does not swear. Mr Morgan stated *'these people have had years and time to embellish these stories...'*

The panel concluded on the balance of probabilities that Mr Morgan had made the comments as alleged to Colleague 3 and therefore the charges are found proved.

Charge 3.4

3. *In relation to colleague 3 between 2018 and 2020 made one or more of the following comments:*

3.4 *On an unknown date in 2020 when asked by Colleague 3 whether there were enough masks on the ward, responded by saying well what do you fucking think, you're the one ordering them or words to that effect.*

This charge is found proved.

In reaching this decision, the panel took into account Colleague 3's oral evidence, witness statement and local interview.

The panel found Colleague 3's evidence to be clear and compelling. In Colleague 3's witness statement she states:

'I asked the Nurse if we had enough masks for the weekend and they shouted, 'well what do you fucking think, you're the one ordering them'. I had enough at this point, we were caring for covid patients, [PRIVATE] [...] I thought that if I had to leave then so be it because I was [PRIVATE]'.

The panel noted that Colleague 3 was consistent in her oral evidence that this was the [PRIVATE] for her, which led to her reporting the incidents and seeking support from another Senior Sister.

Although the panel had no evidence that this specific matter was raised with Mr Morgan in local interview, the panel noted that Mr Morgan generally maintained that he did not swear.

The panel determined that, on the balance of probabilities, this incident did take place. It therefore found this charge proved.

Charge 3.5

3. *In relation to colleague 3 between 2018 and 2020 made one or more of the following comments:*

3.5 *Your comments at any or all of charges 3.1 to 3.4 intended to cause/ and or caused colleague 3 to feel bullied and/or intimidated/and or discriminated against and /or harassed.*

This charge is found proved.

In reaching this decision, the panel took into account its findings at charge 3.1 to 3.4, Colleague 3's evidence and Mr Morgan's local interviews.

The panel considered all the evidence before it in relation to this charge. It noted that during Colleague 3's oral evidence she stated *'he would almost choose someone when he did start to bully someone you almost felt a relief. You could see his stern face. We knew it was going to be one of us'*. In her local interview she similarly stated, *'when he comes into the ward, you can usually tell in about 5 minutes what kind of day you are going to have and whose turn it is'*. When asked if she felt bullied by Mr Morgan she replied *'massively, yes'*. Colleague 3 told the panel that this still has an impact on her and stated [PRIVATE].

The panel therefore determined that Mr Morgan's behaviour did cause Colleague 3 to feel bullied, intimidated and harassed. There was insufficient evidence that Mr Morgan's actions caused Colleague 3 to feel discriminated against.

The panel considered that any reasonable person looking at the evidence objectively, would infer that Mr Morgan's actions were intended to cause Colleague 3 to feel bullied, intimidated and harassed.

Therefore this charge is found proved.

Charge 3.6

3. *In relation to colleague 3 between 2018 and 2020 made one or more of the following comments:*

3.6 *On one or more occasions between 2018 and 2020 stroked her hair.*

This charge is found proved.

In reaching this decision, the panel took into account Colleague 3's oral evidence, witness statement and local interview.

The panel noted Colleague 3's clarity in her oral evidence when recalling how Mr Morgan had stroked her hair. Colleague 3 provided a clear account for the panel that Mr Morgan regularly tried to stroke her hair and she would move her head away from him to the side, and sometimes Mr Morgan would not say anything and other times it would make him stop.

In his local interview, Mr Morgan did not appear to accept that he stroked Colleague 3's hair, although he accepted that he might well have commented on how glossy her hair was.

The panel accepted Colleague 3's evidence. The panel was satisfied that on the balance of probabilities that Mr Morgan had stroked Colleague 3's hair on one or more occasions between 2018 and 2020.

This charge is therefore proved.

Charge 3.7

3. *In relation to colleague 3 between 2018 and 2020 made one or more of the following comments:*

3.7 *In or around December 2019 kissed her on the lips.*

This charge is found proved.

In reaching this decision, the panel took into account the witness statement, oral evidence and local statement and interview of Colleague 3.

In her NMC witness statement, Colleague 3 stated:

'The Nurse came into the room and had something in their hand and said 'close your eyes I've got you a present'. I thought it was a spider [PRIVATE] and I said 'no don't put a spider on me' and the Nurse said 'no just close your eyes and hold your hands out'. I closed my eyes and the Nurse kissed me on the lips (it was a peck). I froze and looked at the other girls in the room and everyone else froze too. I did not know how to react.'

The panel noted that Colleague 3 provided a consistent account in her local statement, local interview and oral evidence.

Mr Morgan denied the allegation in his local interview, stating that it was *'nonsense'*.

The panel found Colleague 3's evidence to be clear and compelling. The panel was satisfied, based on all the evidence before it, that Mr Morgan had kissed Colleague 3 on the lips.

The panel therefore found this charge proved.

Charge 3.8

3. *In relation to colleague 3 between 2018 and 2020 made one or more of the following comments:*

3.8 *Your actions at charges 3.6 and/or 3.7 were sexually motivated in that you sought sexual gratification and/or intended to pursue a future sexual relationship.*

This charge is found proved.

In reaching this decision, the panel took into account its findings at charges 3.6 - 3.7, Colleague 3's evidence, Colleague 4's evidence and Mr Morgan's local interviews.

The panel considered that Mr Morgan's actions of stroking Colleague 3's hair in circumstances where she was pulling away and asking her to close her eyes and then attempting to kiss her without her consent were sexual in nature. The panel considered that the nature of this conduct, and indeed a pattern of conduct, was such that a reasonable member of the public would consider that the actions must have been done with a view to sexual gratification. The panel determined that there was no other plausible explanation for Mr Morgan's actions, other than that they were sexually motivated.

The panel noted Colleague 4's witness statement where she states:

'[...] [Mr Morgan]... was especially sexual with Colleague 3[...]

The panel considered this to be corroborative evidence.

The panel noted that there was no evidence that Mr Morgan had intended to pursue a future sexual relationship with Colleague 3.

The panel determined that the nature of Mr Morgan actions was sexually motivated in that he sought sexual gratification. This charge is therefore found proved.

Charge 4

The panel noted that Colleague 4 was an HCSW [PRIVATE]

Charge 4.1

4. *In relation to Colleague 4 between 2015 to 2017:*

4.1 *On being asked to provide a reference for her stated 'I will see you rot in hell in prison' or words to that effect*

This charge is found proved.

In reaching this decision, the panel took into account Colleague 4's oral evidence, witness statement and local interview.

During her oral evidence, Colleague 4 expanded upon her witness statement which states:

'One day, I needed a character reference from the Nurse as my manager [...]. I told the Nurse about my personal situation and they said 'I will see you rot in hell in prison' [...].'

Colleague 4 told the panel that the comment made her feel "rubbish" and not what she would expect from her manager. Colleague 4 stated that Mr Morgan had made her upset and cry, but he did not offer her any comfort, attempt to change his tone or apologise when he saw her upset.

In his local interview, Mr Morgan denied the allegation, stating that it was '*ridiculous*'.

The panel determined that Colleague 4's evidence was consistent and compelling. The panel was satisfied on the balance of probabilities that Mr Morgan had said the words as alleged and found this charge proved.

Charge 4.2

4. *In relation to colleague 4 between 2015 to 2017:*

4.2 *On one or more occasions shouted at her.*

This charge is found proved.

In reaching this decision, the panel took into account the Colleague 4's oral evidence, witness statement and local interview.

The panel noted Colleague 4's witness statement which stated:

'Generally speaking , the Nurse would shout all the time, but I cannot remember specific dates/occasions as it was so often. For example, if I spent too long washing a patient, the Nurse would shout at me. Or when I would blow dry the patients' hair on a Sunday, the Nurse would shout that I should clean the Ward instead very aggressively'.

This charge was not specifically put to Mr Morgan in his local interview, however the panel noted that Mr Morgan more generally did accept that he has a *'trait'* whereby he raises his voice.

The panel found Colleague 4's evidence to be consistent and compelling. Therefore, the panel concluded that this charge is found proved.

Charge 4.3

4. *In relation to colleague 4 between 2015 to 2017:*

4.3 *Asked her to call you dad.*

This charge is found proved.

In reaching this decision, the panel took into account the Colleague 4's oral evidence, witness statement and local interview.

The panel referred to the witness statement of Colleague 4 which stated:

“The Nurse acted in a jealous manner and would try and control me outside of work. For example, if the Nurse knew I had been on a night out they would ask me why I had not asked for their permission ... I said ‘you’re not my dad, I don’t need your permission’. The Nurse would then ask me to call them Dad and said they were my Dad. I think the Nurse was trying to be funny, but I did not find it funny at all.”

This charge was not specifically put to Mr Morgan in his local interview.

The panel accepted the clear and consistent evidence of Colleague 4. It was satisfied on the balance of probabilities that this incident occurred as alleged. It therefore found this charge proved.

Charge 4.4

4. *In relation to colleague 4 between 2015 to 2017:*

4.4 *Your comments at any or all of charges 4.1 to 4.3 intended to cause and/or caused Colleague 4 to feel bullied and/or intimidated/and or discriminated against and /or harassed.*

This charge is found proved.

In reaching this decision, the panel took into account the evidence in relation charges 4.1 to 4.3, Colleague 4's evidence and Mr Morgan's local interviews.

The panel considered all the evidence before it in relation to this charge. During Colleague 4's oral evidence, she told the panel that Mr Morgan had upset her to the point of making her cry on a number of occasions, but he did not attempt to comfort her or change his tone.

The panel therefore determined that Mr Morgan's behaviour did cause Colleague 4 to feel bullied, intimidated and harassed. There was insufficient evidence that Mr Morgan's actions caused Colleague 4 to feel discriminated against.

The panel considered that any reasonable person looking at the evidence objectively in relation to charges 4.1 and 4.2, would infer that Mr Morgan's actions were intended to cause Colleague 4 to feel bullied, intimidated and harassed. However, in relation to charge 4.3, there was insufficient evidence that Mr Morgan had intended to cause Colleague 4 to feel bullied, intimidated and harassed.

In light of all the evidence the panel determined that this charge is found proved.

Charges 4.5, 4.6, 4.7, 4.8 and 4.9

4. In relation to colleague 4 between 2015 to 2017:

4.5 Brushed her hair.

4.6 Kissed her on the cheek.

4.7 Hugged her.

4.8 Asked her to sit on your lap.

4.9 Sent her snapchat pictures of your bare stomach.

These charges are found proved.

In reaching this decision, the panel took into account Colleague 4's oral evidence, witness statement, and local interviews.

Colleague 4 stated in her witness statement:

'9. Often the Nurse would ask to brush my hair because they said it was scruffy. The Nurse would brush my hair and I did not like it. Also, on one occasion outside the office on the Ward in working hours, the Nurse kissed me on the cheek. I just laughed and walked away but I was in shock. The Nurse used to hug me almost every shift if they were in a good mood. The Nurse did not touch me in any inappropriate places when doing so but I felt uncomfortable and that they should not hug young staff regardless. In addition, on one occasion the Nurse asked me to sit on their lap in the office and I said no thank you. There was no one else in the office. All these incidents made me feel uncomfortable, [PRIVATE].

10. I remember the Nurse asked me for my Snapchat username on the Ward once and they used to send me pictures at home. The Nurse would show their face and pull the duvet down to show their bare stomach. [...].'

The panel heard evidence from Colleague 4 that the pictures were always sent out of the blue and not in context of an ongoing conversation.

The panel considered that Colleague 4's oral evidence was consistent in relation to each of these alleged incidents. For example, she told the panel that she felt she had no choice but to get the hairbrush, as Mr Morgan had said that her hair was scruffy. In relation to the kiss on the cheek, she told the panel that she was uncomfortable and in shock and walked away from Mr Morgan.

The panel referred to the local interview in which Colleague 4 describes the incident:

"Witness 2: Has he ever kissed you on the ward?

Colleague 4: On the cheek but nothing else.

Witness 2: Why would he kiss you on the cheek?

Colleague 4: Because he said that he'd got sweets for us and then he gave us a kiss on the cheek.

Witness 2: So did he give you sweets?

Colleague 4: No."

The panel noted that Mr Morgan denies the allegations in his local interview, but he does confirm he was friends with Colleague 4 on Snapchat:

'I was friends with her on snapchat I believe but I would never, you know send anything inappropriate like that?'

The panel also noted that Mr Morgan does not deny hugging staff at work and being tactile during his interview on 23 September 2020:

'Mr Morgan: Like I said I can be quite tactile but I'm tactile with men as well.

Witness 2: What way would you be tactile?

Mr Morgan: You know hug and...

Witness 2: Your work colleagues?

Mr Morgan: Yes I would'

The panel noted that this is inconsistent with Mr Morgan's earlier account where he denied hugging colleagues.

The panel found Colleague 4's evidence to be consistent and compelling. Having considered all of the evidence, the panel concluded that on the balance of probabilities, the above charges are proved.

Charge 4.10

4. In relation to colleague 4 between 2015 to 2017:

4.10. Your actions at any or all of charges 4.5 to 4.9 were sexually motivated in that you sought sexual gratification and/or intended to pursue a future sexual relationship.

This charge is found proved.

In reaching this decision, the panel took into account its findings in relation to charges 4.5, 4.6, 4.7, 4.8 and 4.9, Colleague 4's evidence and Mr Morgan's local interviews.

The panel considered the charges separately and taken together, the evidence before it supports sexually motivated conduct in relation to Colleague 4.

The panel considered that Mr Morgan's actions of brushing Colleague 4's hair, kissing her on the cheek without her consent, hugging her, asking her to sit on his lap and sending a snapchat picture of his bare stomach, were all sexual in nature. The panel considered that the nature of this conduct, and indeed a pattern of conduct, was such that a reasonable member of the public would consider that the actions must have been done with a view to sexual gratification. The panel determined that there was no other plausible explanation for Mr Morgan's actions, other than that they were sexually motivated.

The panel noted that there was no evidence that Mr Morgan had intended to pursue a future sexual relationship with Colleague 4.

The panel determined that the nature of Mr Morgan's actions was sexually motivated in that he sought sexual gratification. This charge is therefore found proved.

Charge 5

The panel noted that Colleague 5 worked as a newly qualified nurse [PRIVATE].

Charge 5.1

5. *In relation to colleague 5:*

5.1. *On one occasion made an inappropriate comment regarding Colleague 5's request to leave work early.*

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence and witness statement of Colleague 5.

The panel noted that Colleague 5 was clearly very upset at the thought of staff talking about her:

'The Nurse said 'well why would I let you go home early when all of your work colleagues are already talking about your new working hours'. I asked the Nurse who had been talking about me and they said I should go and ask. I was really upset by the comment.'

The panel considered the important context of this charge, in that it occurred during the pandemic, [PRIVATE].

Colleague 5 told the panel that she was shocked by Mr Morgan's comments and that it was not his 'volume', but his 'tone of voice' that affected her most. She told the panel that she then asked other staff on duty if they were concerned about her having to leave early to which all responded that they were not.

Mr Morgan in his local interview stated that he was '*a bit amazed*' that Colleague 5 had made this allegation as he stated he had supported her with flexible hours. He further stated that he did not recall this specific conversation and that he had not had any arguments with Colleague 5.

The panel considered the evidence of Colleague 5 to be clear and consistent throughout. The panel found this charge proved.

Charge 5.2

5. *In relation to colleague 5:*

5.2. *After making this comment, persisted in calling and/or texting her*

This charge is found proved.

In reaching this decision, the panel took into account Colleague 5's oral evidence, witness statement, her local statement and local interview.

It noted Colleague 5's witness statement where she stated:

'The same evening, the Nurse attempted to call me and text me throughout the evening. I assume they knew they had done something wrong. I did not want to talk to the Nurse and I was busy anyway. I wanted to gather my thoughts with regards to how I explained to the Nurse the comment made me feel and how unprofessional it was.'

The panel noted that Colleague 5 was busy and did not want to speak to him after the incident. She was unable to determine how long the calls and texts went on for, but she stated the following in her local interview:

"He rang me repeatedly like there was so many missed calls on my phone and text messages, you know he obviously felt bad about what he'd said or done and was trying to make it better but I didn't want to speak to him that evening, I wanted to sleep on it."

In his local interview, Mr Morgan stated that he did not recall this incident, but stated that he was friends with Colleague 5, *'so if there was an issue and I thought she was upset then I would ring her'*.

The panel found the evidence of Colleague 5 to be consistent and compelling. The panel was satisfied based on all the evidence before it that Mr Morgan had, after making the comments specified in charge 5.1 persisted in calling and/or texting Colleague 5.

Therefore, this charge is found proved.

Charge 5.3

1) *In relation to Colleague 5:*

5.3. *Your actions at any or all of charges 5.1 to 5.2 intended to cause and/or caused colleague 5 to feel bullied and/or intimidated/and or discriminated against and /or harassed.*

This charge is found proved.

In reaching this decision, the panel took into account its findings in relation to charge 5.1 and 5.2, Colleague 5's evidence and Mr Morgan's local interviews.

The panel considered all the evidence before it in relation to this charge. During Colleague 5's oral evidence, she stated that she was '*full on crying*', described Mr Morgan's actions as '*spiteful*' and described feeling '*awkward and uncomfortable*'. In her witness statement Colleague 5 stated '*the Nurse unnecessarily made me feel less of a nurse and a person*'.

The panel therefore determined that Mr Morgan's behaviour did cause Colleague 5 to feel bullied, intimidated and harassed. There was insufficient evidence that Mr Morgan's actions caused Colleague 5 to feel discriminated against.

The panel was satisfied that in relation to both charges, Colleague 5 felt bullied and/or intimidated/and or harassed. The panel considered that any reasonable person looking at the evidence objectively, would infer that Mr Morgan's actions in relation to charge 5.1 were intended to cause Colleague 5 to feel bullied, intimidated and harassed. Whilst the panel was able to infer that Mr Morgan intended his actions to make her feel that way in relation to charge 5.1, the panel could not be satisfied that the texts and the missed phone calls he followed up with (charge 5.2) were intended to do so.

The panel therefore find this charge proved in relation to both charges 5.1 and 5.2.

Charge 5.4

1) *In relation to colleague 5:*

5.4. *On an unknown date sent colleague 5 a whatsapp picture of yourself lying in bed.*

This charge is found NOT proved.

In reaching this decision, the panel took into account Colleague 5's oral evidence, witness statement and Colleague 5's local interview.

The panel found Colleague 5's evidence in relation to this charge less consistent. Although Colleague 5 did her best to assist the panel, her recollection was limited. Crucially, Colleague 5 could not remember whether Mr Morgan was '*lying in bed*' or not.

The panel was therefore not satisfied on the balance of probabilities that Mr Morgan had sent Colleague 5 a picture of himself in bed and the panel find this charge not proved.

Charge 5.5 and 5.6

1) *In relation to colleague 5:*

5.5. *On one or more occasions touched her on her arms/and or legs.*

5.6. *On one or more occasion hugged her.*

These charges are found proved.

In reaching this decision, the panel took into account Colleague 5's oral evidence, witness statement and local interview.

In Colleague 5's NMC witness statement she stated:

'I would describe the Nurse as very touchy feely and not every shift, but often, the Nurse would touch me. For example, if I was walking down the Ward the Nurse would just put their arm around me or if I was in the office with them they would hug me, despite my arms staying down. The Nurse also touched my arms and legs on occasion.'

In relation to these allegations, Colleague 5 told the panel in her oral evidence that Mr Morgan made *'little sly touches'* on her leg, above her knee. She stated that it made her feel uncomfortable. She recalled that Mr Morgan had hugged her despite her arms remaining at her side and that was her way of saying she didn't want to be hugged by him. She also told the panel that she kept her arms down to indicate that she was not responding to his touching. When Colleague 5 was answering questions from the panel, she made it clear that she did not invite or encourage Mr Morgan to hug her.

In his local interview, Mr Morgan stated in response to this allegation, *'like I said I can be quite tactile but I am tactile with men as well'*.

The panel was of the view that Colleague 5's evidence was clear and consistent. The panel therefore determined that Mr Morgan had touched Colleague 5's legs and arms and that Mr Morgan on one or more occasion had hugged Colleague 5. These charges are therefore found proved.

Charge 5.7

1) *In relation to colleague 5:*

5.7. *Your actions at any or all of charges 5.4 to 5.6 were sexually motivated in that you sought sexual gratification and or intended to pursue a sexual relationship.*

This charge is found proved.

In reaching this decision, the panel took into account its findings in relation to charges 5.5 to 5.6, as it had found charge 5.4 not proved, Colleague 5's evidence and Mr Morgan's local interviews.

The panel considered that Mr Morgan's actions of touching Colleague 5's arms and legs in a manner which she described as 'sly' touches and hugging her without her consent, were all sexual in nature. The panel considered that the nature of this conduct, and indeed a pattern of conduct, was such that a reasonable member of the public would consider that the actions must have been done with a view to sexual gratification. The panel determined that there was no other plausible explanation for Mr Morgan's actions, other than that they were sexually motivated.

The panel noted that there was no evidence that Mr Morgan had intended to pursue a future sexual relationship with Colleague 5.

The panel determined that the nature of Mr Morgan actions was sexually motivated in that he sought sexual gratification. This charge is therefore found proved.

Charge 6

The panel noted that Colleague 6 was a staff nurse [PRIVATE].

Charge 6.1

6. In relation to Colleague 6 between 2015 to 2017;

6.1. On one or more occasions attempted to hug her

This charge is found proved.

In reaching this decision, the panel took into account Colleague 6's oral evidence, witness statement, screenshots of the Snapchat messages from Mr Morgan to Colleague 6 and her undated handwritten local statement.

[PRIVATE]

The panel noted that Colleague 6 was [PRIVATE] and not interested in a non-professional relationship with Mr Morgan and she had made this clear to Mr Morgan on a number of occasions.

[PRIVATE].

The panel considered Colleague 6's evidence to be clear and consistent. The panel determined that there was sufficient evidence before it, in order to find this charge proved. It therefore found this charge proved.

Charge 6.2

6. In relation to Colleague 6 between 2015 to 2017;

6.2. On one or more occasions asked her to sit on your lap.

This charge is found proved.

In reaching this decision, the panel took into account Colleague 6's oral evidence, witness statement, local statement, and local interview.

[PRIVATE]

The panel noted a pattern of behaviour whereby Mr Morgan would ask female colleagues to sit on his lap, for example in relation to Colleagues 4 and 8.

Based on all the evidence before it, the panel was satisfied on the balance of probabilities that Mr Morgan had asked Colleague 6 to sit on his lap. This charge is found proved.

Charge 6.3

2) In relation to Colleague 6 between 2015 to 2017;

6.3. [PRIVATE]

This charge is found proved.

In reaching this decision, the panel took into account Colleague 6's oral evidence, witness statement, and local interview.

[PRIVATE]

The panel found Colleague 6's evidence to be clear and consistent.

Based on all the evidence before it, the panel concluded on the balance of probabilities that Mr Morgan had on one or more occasion asked Colleague 6 [PRIVATE]. This charge is found proved.

Charge 6.4

2) In relation to Colleague 6 between 2015 to 2017;

6.4. [PRIVATE].

This charge is found proved.

In reaching this decision, the panel took into account Colleague 6's oral evidence, witness statement, and local interview.

The panel considered Colleague 6's oral evidence in relation to this charge and that she was able to recollect in detail, the content of the pictures and that the pictures would be sent to her randomly.

[PRIVATE]

The panel noted a pattern of behaviour whereby Mr Morgan would also send pictures [PRIVATE] to Colleague 1 and Colleague 4. It was therefore satisfied on the balance of probabilities that Mr Morgan had sent [PRIVATE] Colleague 6, and found this charge proved.

Charge 6.5

2) In relation to Colleague 6 between 2015 to 2017;

6.5. [PRIVATE].

This charge is found proved.

In reaching this decision, the panel took into account Colleague 6's oral evidence, witness statement, and local interview.

[PRIVATE]

In his local interview, Mr Morgan states '*... with regards to sending pictures I haven't sent any pictures directly to anybody on that ward... I don't go around sending pictures to my staff*'.

The panel considered that Colleague 6 had been clear and consistent in her evidence. In light of all the evidence, the panel was satisfied on the balance of probabilities that Mr Morgan had sent a picture [PRIVATE]. This charge is found proved.

Charge 6.6

1) *In relation to Colleague 6 between 2015 to 2017;*

6.6. [PRIVATE].

This charge is found proved.

In reaching this decision, the panel took into account Colleague 6's oral evidence and her local interview.

The panel referred to the local interview, which states:

[PRIVATE]

Mr Morgan, in his local interview, denied the allegation.

The panel was of the view that Mr Morgan had demonstrated a pattern of behaviour of kissing/attempting to kiss Colleague 1, Colleague 3, and Colleague 4.

[PRIVATE]. Based on all the evidence, the panel was satisfied on the balance of probabilities that Mr Morgan [PRIVATE]. It therefore found this charge proved.

Charge 6.7

1) *In relation to Colleague 6 between 2015 to 2017;*

6.7. *Asked her to have an affair with you.*

This charge is found proved.

In reaching this decision, the panel took into account Colleague 6's oral evidence, witness statement, and local interview.

[PRIVATE].

The panel accepted the evidence of Colleague 6, having found her evidence to be clear and consistent. It therefore found this charge proved on the balance of probabilities.

Charge 6.8

1) In relation to Colleague 6 between 2015 to 2017;

6.8. Your actions at any or all of charges 6.1 to 6.7 were sexually motivated in that you sought sexual gratification and/or intended to pursue a sexual relationship with her.

This charge is found proved.

In reaching this decision, the panel took into account that it has found charges 6.1, 6.2, 6.3, 6.4, 6.5, 6.6 and 6.7 proved, and Colleague 6's oral evidence, witness statement and local interview, and Mr Morgan's local interviews.

The panel considered that Mr Morgan's actions towards Colleague 6 [PRIVATE], were all sexual in nature. The panel considered that the nature of this conduct, and indeed a pattern of conduct, was such that a reasonable member of the public would consider that the actions must have been done with a view to sexual gratification. The panel determined that there was no other plausible explanation for Mr Morgan's actions, other than that they were sexually motivated.

[PRIVATE].

The panel determined that the nature of Mr Morgan actions was sexually motivated in that he sought sexual gratification. This charge is therefore found proved.

Charge 6.9

6) In relation to Colleague 6 between 2015 to 2017;

6.9. On one or more occasion shouted at her.

This charge is found NOT proved.

In reaching this decision, the panel took into account Colleague 6's oral evidence, witness statement, and local interview.

The panel noted that Colleague 6 does not mention that Mr Morgan shouted at her in her NMC witness statement or in her oral evidence, both of which the panel considered her primary evidence. The panel noted that Colleague 6 stated in her local interview that Mr Morgan shouted at her, but did not give any specific examples.

The panel therefore found that the NMC had not discharged the burden of proof in relation to this charge and found it not proved.

Charge 6.10

6) In relation to Colleague 6 between 2015 to 2017;

6.10. Sent texts calling her a cold fish

This charge is found proved.

In reaching this decision, the panel took into account the screenshots of Mr Morgan's messages to Colleague 6 in which he called her a "cold fish" and Colleague 6's local interview.

[PRIVATE]

The panel noted, whilst it has only seen one message it was clear in Colleague 6's evidence that Mr Morgan had called her a "cold fish" on more than one occasion.

[PRIVATE].

The panel noted that Colleague 6's evidence on this charge was clear and consistent. The panel was satisfied, on the evidence presented to it, that Mr Morgan had sent messages to Colleague 6, calling her a cold fish. This charge is found proved.

Charge 6.11

6) In relation to Colleague 6 between 2015 to 2017;

6.11. Your comments at any or all of charges 6.9 to 6.10 intended to cause and/or caused colleague 6 to feel bullied and/or intimidated/and or discriminated against and /or harassed.

This charge is found proved.

In reaching this decision, the panel took into account its finding in relation to charge 6.10, Colleague 6's evidence and Mr Morgan's local interviews.

During Colleague 6's oral evidence, the panel noted that she used words like [PRIVATE] regarding the content of the messages sent to her by Mr Morgan. The panel further noted that in Colleague 6's local statement she stated:

[PRIVATE].

Having found Colleague 6's evidence to be clear and consistent, the panel accepted her evidence in this regard. It therefore determined that Mr Morgan's behaviour did cause Colleague 6 to feel bullied, intimidated and harassed. There was insufficient evidence that Mr Morgan's actions caused Colleague 6 to feel discriminated against.

The panel considered that any reasonable person looking at the evidence objectively, would infer that Mr Morgan's actions were intended to cause Colleague 6 to feel bullied, intimidated and harassed. It therefore found this charge proved.

Charge 7

The panel noted that Colleague 7 was a bank HCSW [PRIVATE].

Charge 7.1

7. In relation to Colleague 7 between August 2018 and August 2019:

7.1. Told her that she needed to be brought down a peg or two before [PRIVATE] and that she was a chopsy little shit.

This charge is found proved.

In reaching this decision, the panel took into account Colleague 7's oral evidence and witness statement, local statement and local interview.

The panel was of the view that Colleague 7's evidence, in relation to this charge, was clear and consistent. In her witness statement, Colleague 7 stated:

'...[Mr Morgan] said I was a 'chopsy little shit' and 'need to be brought down a peg or two' and said that would happen when I started [PRIVATE]. I went to the

toilet and later that day the Nurse called me back into the office and said they nearly made me cry and that they like to get a reaction out of people...'

The panel considered Mr Morgan's account in his local interview where he stated that he would not use such phrases. However, the panel preferred the consistent evidence of Colleague 7.

The panel was satisfied based on all the evidence, that Mr Morgan had told Colleague 7 that she needed to be "*brought down a peg or two*" before [PRIVATE] and that she was a "*chopsy little shit*". It therefore found this charge proved.

Charge 7.2

7. In relation to colleague 7 between August 2018 and August 2019:

7.2. Commented on the condition of her skin.

This charge is found proved.

In reaching this decision, the panel took into account Colleague 7's oral evidence and witness statement, local statement and local interview.

The panel heard evidence from Colleague 7 that Mr Morgan had commented on her skin and asked to squeeze her spots, which it accepted.

The panel considered the evidence of Colleague 7 to be clear and consistent. Based on all the evidence before it the panel determined that this charge is found proved on the balance of probabilities.

Charge 7.3

7) In relation to colleague 7 between August 2018 and August 2019:

7.3. *Told her that her attitude was awful and that she needed to sort her life out.*

This charge is found proved.

In reaching this decision, the panel took into account Colleague 7's oral evidence, witness statement, and local statement.

The panel had regard to Colleague 7's witness statement, which states:

'There were lots of times [Mr Morgan] called me into the office or would make comments on the Ward that I felt were patronising. Once [Mr Morgan] told me that my attitude was awful and that I needed to sort my life out.'

The panel noted that this was supported by Colleague 7's oral evidence where she stated "[PRIVATE]".

The panel considered the evidence of Colleague 7 to be clear and consistent. Based on all the evidence before it, the panel was satisfied that Mr Morgan had told Colleague 7 that her "attitude was awful" and that she "needed to sort her life out". It therefore found this charge proved on the balance of probabilities.

Charge 7.4

3) *In relation to colleague 7 between August 2018 and August 2019:*

7.4. *Attempted to put her in a wheely bin.*

This charge is found proved.

In reaching this decision, the panel took into account Colleague 7's oral evidence and witness statement, local statement and local interview.

The panel had regard to Colleague 7's witness statement which states:

'On one shift, on a date I cannot recall, the Nurse was in a good mood and called me to the end of the Ward where the bins were. The Nurse said there was something in the bin, so picked me up like a baby and tried to put me in the bin. I told the Nurse to put me down and I said it was not ok. I did not like the Nurse touching me or being in my personal space. The Nurse though it was funny and I walked off.'

The panel also had regard to Colleague 7's account of this incident and noted that she appeared very upset that Mr Morgan had "manhandled" her and put her in the bin.

The panel considered the account provided by Mr Morgan in his second local interview where he appears to deny the incident.

The panel considered the evidence of Colleague 7 to be clear and consistent. The panel preferred the detailed evidence of Colleague 7. It therefore found this charge proved on the balance of probabilities.

Charge 7.5

1) *In relation to colleague 7 between August 2018 and August 2019:*

7.5. *Commented on the size of her bottom.*

This charge is found proved.

In reaching this decision, the panel took into account Colleague 7's oral evidence and witness statement, local statement and local interview.

The panel had regard to Colleague 7's witness statement where she stated:

'[Mr Morgan] told me I had put weight on and that my bum had grown'.

Mr Morgan, in his local interview, stated that Colleague 7 would also comment on his weight and that if he made the alleged comments, it was only said as *'banter'*.

The panel was of the view that there was a pattern of behaviour whereby Mr Morgan had commented on the appearance of other colleagues, namely Colleague 1 and Colleague 2, which further supported the consistent evidence provided by Colleague 7.

The panel considered the evidence of Colleague 7 to be clear and consistent. It therefore found this charge proved on the balance of probabilities.

Charge 7.6

7) In relation to colleague 7 between August 2018 and August 2019:

7.6. Your comments at any or all of charges 7.1 to 7.5 intended to cause and/or caused colleague 7 to feel bullied and/or intimidated/and or discriminated against and /or harassed.

This charge is found proved.

In reaching this decision, the panel took into account its finding in relation to charges 7.1 to 7.5, Colleague 7's evidence and Mr Morgan's local interviews.

During Colleague 7's oral evidence, the panel noted that she used words like *"he made me feel like [PRIVATE]"* and stated that Mr Morgan made her feel [PRIVATE].

The panel further noted that in Colleague 7's local interview she stated:

'He liked a reaction, he liked you to cry, he said this one time to me...I'd been called in the office and he was on and on and on at me and I just stood there and I just held back the tears...he knew he'd upset me,... he said something like,

what was it “I nearly made you cry in the office the other day” and smirked at me and you can just tell he gets a kick out of it.’

Having found Colleague 7’s evidence to be clear and consistent, the panel accepted her evidence in this regard. It therefore determined that Mr Morgan’s behaviour did cause Colleague 7 to feel bullied, intimidated and harassed. There was insufficient evidence that Mr Morgan’s actions caused Colleague 7 to feel discriminated against.

The panel considered that any reasonable person looking at the evidence objectively, would infer that Mr Morgan’s actions were intended to cause Colleague 7 to feel bullied, intimidated and harassed. It therefore found this charge proved.

Charge 8

The panel noted that Colleague 8 was a ward sister [PRIVATE].

Charge 8.1

8. In relation to colleague 8:

8.1. on 11 June 2018 repeatedly asked her to disclose the contents of a confidential conversation with colleague A.

This charge is found proved.

In reaching this decision, the panel took into account Colleague 8’s oral evidence, witness statement, local statements and local interviews.

The panel noted that this charge related to Mr Morgan placing pressure on Colleague 8 to reveal the content of her confidential conversation with a senior nurse, which related to allegations about Mr Morgan.

The panel had regard to Colleague 8's witness statement which states:

'The Nurse approached me and asked why I had gone to see Colleague A and put me under pressure to tell them what the conversation was about. I said that it was personal and in hindsight wish I had just said it was about rotas or something similar. The Nurse kept following me around the Ward so I bleeped for help because I did not know what to say but they did not answer. I ended up telling the Nurse that there had been a complaint about them. The Nurse asked if it was about their relationship with [Person 9]...and I said it was not. The Nurse seemed relieved and then left the Ward and went home.'

The panel also had regard to Colleague 8's oral evidence when she told the panel:

"He literally kept following me and asked over and over again a good 15 -20 mins I felt cornered and I couldn't get on with it. It affected me doing my job I was distracted and I felt threatened and intimidated."

The panel noted that Colleague 8 stated that she felt pressured by Mr Morgan.

The panel considered the evidence of Colleague 8 to be clear and consistent. The panel accepted Colleague 8's evidence and was satisfied based on all the information before it, that Mr Morgan had repeatedly asked her to disclose the contents of the confidential conversation. It therefore found this charge proved on the balance of probabilities.

Charge 8.2

8. In relation to colleague 8:

8.2. On being told by her that she wanted to apply for a band 7 post told her that she 'didn't have a chance in hell'.

This charge is found proved.

In reaching this decision, the panel took into account Colleague 8's oral evidence, witness statement, local statements and local interviews.

The panel took into account Colleague 8's witness statement which states:

'The way [Mr Morgan] acted with me was as though they did not like me making decisions. It seemed [Mr Morgan] always wanted the power and to make every decision. [Mr Morgan] made me feel devalued. For example, one day, on a date I cannot recall I spoke professionally with [Mr Morgan] about applying for Band 7 Nurse roles to develop my career. [Mr Morgan] said I 'didn't have a hope in hell' which I did not find to be a very supportive response and I felt belittled.'

The panel also had regard to Colleague 8's local statement, which states:

'I have recently applied for band 7 roles elsewhere in the hospital. [Mr Morgan] has said that I won't have a hope of getting that role as the band 6 has been there for a long time. I did not find this very supporting or encouraging.'

The panel also considered Colleague 8's oral evidence where she stated:

"He told me that I didn't have a hope in hell of getting a band 7 role...in a giggling a sarcastic manner."

The panel noted that although this specific concern was not put to Mr Morgan in interview, he stated that *'I think the general consensus on [Colleague 8] is that she is not really cut out to be a band 7. I have never had that conversation with her'*.

The panel considered the evidence of Colleague 8 to be clear and consistent. The panel accepted the evidence of Colleague 8, having found it to be clear and consistent. It therefore found this charge proved on the balance of probabilities.

Charge 8.3

8) *In relation to colleague 8:*

8.3. *Commented to her 'I know you're going through [PRIVATE]'.*

This charge is found proved.

In reaching this decision, the panel took into account Colleague 8's oral evidence, witness statement, local interviews and local statements.

Colleague 8's witness statement describes a conversation in which Mr Morgan had told her that a member of staff wanted to leave the ward because of Colleague 8's view on recording an incident on the Datix system. Colleague 8 states:

'I responded that the staff do not always like working with [Mr Morgan] either and although they didn't seem surprised they said 'I know [PRIVATE]' as if that is why I was behaving the way they were making out I was. I was really shocked and did not know what [Mr Morgan] meant by the comment. I could not understand why they said it.'

The panel considered Mr Morgan's account in his local interview where he stated:

'...She would openly speak about that fact [PRIVATE] or feeling that way. We would talk about it but I would never say anything to upset her derogatory about the fact that, or imply that she did it because [PRIVATE].'

The panel noted that Mr Morgan did not dispute discussing [PRIVATE] with Colleague 8, but did dispute the context.

The panel considered the evidence of Colleague 8 to be clear and consistent. In light of all the evidence before the panel, it was satisfied that Mr Morgan had commented to Colleague 8 that [PRIVATE]. It therefore found this charge proved on the balance of probabilities.

Charge 8.4

8) *In relation to colleague 8:*

8.4. *Your comments at any or all of charges 8.1 to 8.3 intended to cause and/or caused Colleague 8 to feel bullied and/or intimidated/and or discriminated against and /or harassed.*

This charge is found proved.

In reaching this decision, the panel took into account its finding in relation to charges 8.1 to 8.3, Colleague 8's evidence and Mr Morgan's local interviews.

During Colleague 8's oral evidence, the panel noted that she used words like "*he literally kept following me and asked over and over again a good 15/20 minutes I felt cornered and couldn't get on with it. It affected me doing my job I was distracted and felt threatened and intimidated*" and [PRIVATE]".

Having found Colleague 8's evidence to be clear and consistent, the panel accepted her evidence in this regard. It therefore determined that Mr Morgan's behaviour did cause Colleague 8 to feel bullied, intimidated and harassed. There was insufficient evidence that Mr Morgan's actions caused Colleague 8 to feel discriminated against.

The panel considered that any reasonable person looking at the evidence objectively, would infer that Mr Morgan's actions were intended to cause Colleague 8 to feel bullied, intimidated and harassed. It therefore found this charge proved.

Charge 9

The panel noted that Colleague B was a HCSW [PRIVATE].

Charge 9.1 and 9.2

9. On 14 December 2019, made one or more of the following comments to colleague B;

9.1. *That she walked around the ward with a face like she has a £1000 electric bill hanging over her or words to that effect.*

9.2. *Told her to give up her contract of employment or words to that effect.*

These charges are found proved.

In reaching this decision, the panel took into account Colleague B's oral evidence, witness statement, local statement and local interview.

The panel referred to Colleague B's witness statement, which stated:

'Mark said there was always a drama with me and that I'm always trying to change my shifts. I had always been told that with [PRIVATE], that's the best thing to do. I told him I'm also approached by other staff to swap shifts and it's not just me swapping. Then he asked me why I don't give my contract up and go on the bank which I thought was unprofessional. He said that I walk around the Ward with a face like I have a £1000 electric bill hanging over me. [PRIVATE]'

The panel also had regard to Colleague B's oral evidence when describing this incident, where she stated that Mr Morgan *"had a spring in his step after he upset me. He was really happy and took his coat and walked off the ward."*

The panel considered Colleague B's oral evidence to be clear and consistent with her witness statement, local statement and local interview and accepted her evidence. It therefore found these charges proved on the balance of probabilities.

Charge 9.3

9. On 14 December 2019, made one or more of the following comments to

colleague B;

9.3. *Your comments at charge 9.1 and/or 9.2 were unprofessional.*

This charge is found proved.

In reaching this decision, the panel took into account its findings in relation to charges 9.1 and 9.2, Colleague B's evidence and Mr Morgan's local interviews.

The panel had regard to the fact that Colleague B was a junior member of staff who was seeking support from Mr Morgan, who was her line manager. It noted that Mr Morgan's responses to Colleague B "[PRIVATE]".

The panel considered that, as the leader on the Ward, Mr Morgan was unsympathetic and unsupportive towards Colleague B, and therefore his comments at charges 9.1 and 9.2 were unprofessional. It therefore found these charges proved on the balance of probabilities.

Charge 10

10. On one or more occasions arrived late for your shift and/ left your shift early.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Colleagues 1, 2, 3, 4, 5, 8, 9, Witness 1, the rosters relating to Mr Morgan's shifts dated 5 October 2019, 11 June 2018, and email exchanges relating to Mr Morgan's shift on 26 January 2020.

The panel considered the numerous pieces of evidence from each Colleague detailing incidents when Mr Morgan had either arrived late for or left early from his shifts.

The panel had regard to Colleague 8's witness statement where she stated:

'...I recall throughout this time [Mr Morgan] would come into work late and leave early. [Mr Morgan] would work at different times every day and not tell anyone they were leaving or even hand over patients they were caring for. I would ask the Ward staff where [Mr Morgan] was and staff would say they had left.'

The panel also had regard to Colleague 2's witness statement which states:

'I felt as though [Mr Morgan] was never on the Ward. [Mr Morgan] would start late and finish early almost every shift. I did comment on it once nearer the end of my time as I did not care anymore. [Mr Morgan] came out of the office at 13:00 with their coat on and I asked where they were going as their shift did not finish until 17:00 and [Mr Morgan] said, 'perks of the job' and winked.'

The panel took into account Colleague 5's witness statement:

'Also, [Mr Morgan] would leave shifts early very often. For example, [Mr Morgan] may be working a 07:00 to 19:00 shift and would leave around midday/14:00. [Mr Morgan] put their coat on and just walked out without telling anyone. This was a huge concern for patient safety as it left the Ward understaffed and caused pressure for those on shift. [Mr Morgan] was the Charge Nurse and did not communicate to staff when leaving to afford cover. I did not report this as I was too afraid of the repercussions if [Mr Morgan] found out. Whoever the next nurse in charge was would have to deal with it. We would all just put our heads down and get on with what we knew we had to do to keep the patients safe and be professional.'

The panel considered Mr Morgan's working pattern on 5 October 2019 and 11 June 2018 as evidenced in the rosters. It noted that the rosters evidenced the hours that Mr Morgan was required to work. Colleague 8 stated in her oral evidence that on 5 October 2019, Mr Morgan was rostered for a 12.5 hour shift and did not work it. She further

stated that on 11 June 2018, following the incident described in charge 8.1, Mr Morgan left this shift early at about 15:00.

The evidence provided by Witness 1 in relation to 26 January 2020 is detailed in charge 11.

In his local interview, Mr Morgan stated that he had work and personal commitments that meant he might not always be on the ward early and late in the shift. Mr Morgan further stated that he always tried to make sure that his *'time balances add up'*.

The panel preferred the evidence of Colleagues 2, 5 and 8 which was clear and compelling.

In light of all of the evidence before it, the panel found this charge proved on the balance of probabilities.

Charge 11

11. On 26 January 2020, on leaving your shift early, did not amend the roster in a timely manner to reflect your amended hours.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 1 and Witness 2.

Witness 1 set out her concerns in her witness statements about Mr Morgan's allocated hours and confirmed them in her oral evidence.

Colleague A reported to Witness 1 that on 26 January 2020 Mr Morgan had left his shift early and was no longer on shift by 12:55, therefore Witness 1 emailed Mr Morgan on 5 February 2020 and asked *'are all your shifts correct for verifying'*, to which he replied

'yes'. Witness 1 confirmed that she had a conversation with Mr Morgan on 6 February 2020 where she raised the concerns about the inaccuracy in Mr Morgan's electronic roster. Witness 1 showed Mr Morgan "*email evidence*" regarding that shift and stated that he was "*a bit shocked*" and said that he "*forgot*". She said that Mr Morgan agreed to amend the roster to reflect that he had left the Ward at 13:00. The panel noted that this amendment was made 11 days after the shift in question, and only once it had been raised by his line manager. The panel accepted the evidence of Witness 1 having found her evidence to be consistent and supported with the email exchange provided to the panel.

The panel was satisfied, based on all the evidence before it, that Mr Morgan did not amend the roster in a timely manner to reflect his worked hours. The panel therefore found this charge is proved.

Charge 12

12. Your actions at charge 11 were dishonest in that you sought to create the impression that you had worked your full shift when you knew you had not.

This charge is found proved.

In reaching this decision, the panel took into account its findings in regard to charge 11.

The panel noted that Mr Morgan was an experienced band 7 nurse who was familiar with the electronic roster system, and who was responsible for the management and leadership of the ward including managing staff time keeping. The panel further noted that the discrepancy relating to 26 January 2020 only came to light following Colleague A reporting concerns that Mr Morgan had left his shift early. The discrepancy was only corrected 11 days after the shift. The panel was cognisant of the evidence received in relation to charge 10, that Mr Morgan would attend late and leave early.

Taking all these factors into account the panel was satisfied that Mr Morgan knew that he had not completed his shift but asked for verification of the electronic roster and in so doing his actions were dishonest. The panel was mindful that when Witness 1 had asked '*are all your shifts correct for verifying*' 10 days after the shift, Mr Morgan had responded 'yes'. The panel was further satisfied that this would be considered dishonest, applying the standards of ordinary decent people. The panel was mindful of witness 1's evidence that Mr Morgan had said that he had simply forgotten to amend the roster but the panel did not consider this to be a plausible explanation for his conduct.

The panel therefore determined that Mr Morgan's actions were dishonest in that he sought to create the impression that he had worked his full shift, when he knew he had not. It therefore found this charge proved on the balance of probabilities.

Charge 13

13. On one or more occasions delegated tasks to other colleagues which you should have done without good reason.

This charge is found NOT proved.

In reaching this decision, the panel took into account the evidence of Colleague 8, Colleague 9, and Witness 2.

The panel heard from Colleague 9, a band 6 nurse, who gave evidence that although tasks were delegated, she was given time to complete them and that it was good for her career development.

Colleague 8, a band 6 nurse, told the panel that too many tasks were delegated by Mr Morgan and that even though staff were allocated clinical lead days, they were not given enough protected time to complete the work.

Witness 2 was asked about specific management tasks and whether it was reasonable for Mr Morgan to delegate these tasks to band 6 staff. Witness 2 stated that it was “*not unreasonable to delegate tasks and the question was about volumes and the time to complete them*”.

The panel was of the view that the NMC has not discharged its burden of proof in relation to this charge as there is conflicting evidence as to whether Mr Morgan delegated tasks to colleagues without good reason.

The panel therefore found this charge not proved.

Charge 14

14. On one or more occasions cut IV lines connected to patients which was incorrect.

This charge is found NOT proved.

In reaching this decision, the panel took into account the evidence of Colleagues 3 and 8 and Mr Morgan’s local interview.

The panel considered witness statement of Colleague 3, a ward clerk, which states:

‘[Mr Morgan] would cut IV lines connected to patients. If a patient has an IV line, the nurse should label the line with the patient’s name and hospital number as that was protocol. Sometimes, a nurse may forget to label the IV line for whatever reason. [Mr Morgan] would start at the top of the Ward and walk down the beds and if any patient’s IV line did not have a label on they would cut the line. I witnessed this happen several times and I would tell the nurses to quickly go and label their lines. IV lines administer medication or fluids so because [Mr Morgan] cut the lines there would be fluids all over the floor. I am not sure if this would cause patient harm or not as I am not a registered nurse but the fluids would be stopped midway and there was no way of measuring the amount that

had poured on to the floor to see how much the patient had. As far as I understand, [Mr Morgan] should have removed the line completely or asked the nurses to label them not just cut them.'

In answer to the panel's questions, Colleague 3 stated that she was sitting at her desk and would watch Mr Morgan walk up and down the ward cutting the IV lines. When asked if the relevant patients reacted to that, Colleague 3 said that she was not sure.

The panel noted that Mr Morgan did not deny that he cut the IV lines but explained that they were not attached to patients. This position was supported by Colleague 8, a band 6 nurse, who confirmed that the IV lines were not connected to the patients when Mr Morgan had cut them and that no harm was caused to patients.

The panel heard evidence from a number of witnesses, that Mr Morgan was a knowledgeable and experienced nurse and although there were numerous issues with his management skills and behaviour, they had no concerns regarding his clinical practice.

The panel took into account all of the evidence before it and noted that there was conflicting evidence from Colleague 3, who was not a registered nurse, and Colleague 8 regarding whether the lines were connected to patients at the point that they were cut. The panel was mindful that this was an alleged clinical concern but that there was no evidence before it from any registered healthcare professionals that the IV lines were attached to patients. The panel therefore preferred the evidence of Colleague 8 in this regard.

The panel therefore found that the NMC had not discharged its burden of proof and found this charge not proved.

Decision and reasons on service of Notice of Hearing (2)

The panel was informed upon recommencement of the hearing that Mr Morgan was not in attendance and that the Notice of Hearing letter had been sent to his registered email address by secure email on 20 June 2023.

Mr Rye on behalf of the NMC submitted that it had complied with the requirements of the Rules, namely 32(3), which states that the NMC, following an adjournment, should notify parties of the resuming dates as soon as practicable.

Mr Rye submitted that this hearing went part heard on 3 April 2023, and Mr Morgan was notified by way of a letter on 6 April 2023 that this was the case and new dates were in the process of being organised, and should he wish to attend, to make contact with the case officer.

Mr Rye submitted that there was some rescheduling of dates due to the panel's availability, and new dates were organised on 1 June 2023 to recommence the hearing from 27 to 30 June, and 19 to 20 July 2023. He submitted that additional dates were added, namely 18 July, which was for the panel's in camera deliberations only, and 21 July 2023. Mr Morgan was notified by way of an email of the original dates on 2 June 2023, and was sent the formal notice letter on 20 June 2023. Mr Morgan was then sent a further reminder email on 14 July 2023, which contained the 18 July and 21 July dates.

Mr Rye submitted that, in light of the above, the NMC has notified Mr Morgan of the resuming dates as soon as practicable, as per Rule 32(3).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, original dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mr Morgan's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence. The panel also had sight of the email that was sent to Mr

Morgan on 14 July 2023, that included the two additional dates of 18 July and 21 July 2023.

In the light of all of the information available, the panel was satisfied that Mr Morgan has been served with the Notice of Hearing in accordance with the requirements of Rule 32(3).

Decision and reasons on proceeding in the absence of Mr Morgan (2)

The panel next considered whether it should proceed in the absence of Mr Morgan. It had regard to Rule 21 and heard the submissions of Mr Rye who invited the panel to continue in the absence of Mr Morgan. He submitted that Mr Morgan had voluntarily absented himself.

Mr Rye submitted that the position remains the same, in that there has been no engagement at all by Mr Morgan with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure his attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*' as referred to in the case of *R v Jones*.

The panel has decided to proceed in the absence of Mr Morgan. In reaching this decision, the panel has considered the submissions of Mr Rye and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and *GMC v Adeogba* and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mr Morgan;

- Mr Morgan has not engaged with the NMC throughout these proceedings, including following correspondence sent to him about this hearing;
- There is no reason to suppose that adjourning would secure his attendance at some future date;
- The charges relate to events that date as far back as 2015; and
- There is a strong public interest in the expeditious disposal of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mr Morgan.

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 Mr Morgan's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

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

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

Submissions on misconduct

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

Mr Rye invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' (the Code) in making its decision.

Mr Rye identified the specific, relevant standards where Mr Morgan's actions amounted to misconduct. He submitted that the panel have found charges proved which relate to bullying, intimidation and harassment towards colleagues, some of which it determined was intentional behaviour on Mr Morgan's part.

Mr Rye submitted that not every breach of the Code will amount to misconduct, and that it must be sufficiently serious that it can be described as misconduct. He submitted that section 20 of the Code has been breached in this case.

Mr Rye submitted that, in relation to section 20 of the Code, the guidance should also extend to colleagues. He submitted that the Code provides guidance that a registrant must follow at all times. He submitted that Mr Morgan was in a leadership, managerial role, and his conduct involved a number of junior female colleagues. Mr Morgan had the responsibility of ensuring that colleagues were not placed in an environment where the sort of conduct found proved occurred. He added that work colleagues should be able to look to the ward manager for support and guidance.

Mr Rye submitted that Mr Morgan betrayed his responsibilities which created a hostile environment for staff to work in. He submitted that Mr Morgan broke his fundamental duty and breached the level of trust between himself and colleagues. He submitted that the conduct displayed should be taken seriously because in not doing so would undermine public confidence in the profession. He submitted that Mr Morgan's conduct was not only inappropriate, but involved significant departures from the standards expected of a registered nurse.

Mr Rye submitted that the conduct in this case breaches clear boundaries, which enable colleagues to work in an environment that is free from hostility, bullying, intimidation and harassment. He referred to the Equality Act [2010] and the Hospital's own policy. He submitted that Mr Morgan should have been a role model for his team.

Mr Rye submitted that Mr Morgan created an environment that placed his colleagues in a state of fear, which could have equally had a detrimental impact on patient safety. He submitted that Mr Morgan has breached fundamental tenets in relation to being honest and showing integrity. He further reminded the panel that, failing to amend the roster demonstrated a lack of honesty and integrity. He submitted that by not amending the roster, this action had the potential for financial loss for the employer, and financial gain for Mr Morgan.

Mr Rye submitted that Mr Morgan's conduct fell far short of the standards expected and does amount to serious professional misconduct.

Submissions on impairment

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

Mr Rye referred to the NMC's guidance on impairment and the case of *Grant*. He submitted that all four limbs of *Grant* are engaged in this case.

Mr Rye submitted that, although there has been no evidence before the panel of patient harm caused, there was a potential risk of harm due to Mr Morgan's conduct towards female colleagues. He submitted that the conduct was directed towards female

colleagues and had the potential to cause harm directly to patients, as it may have impacted upon his colleagues' ability to care for patients.

Mr Rye submitted that Mr Morgan has breached fundamental tenets of the nursing profession and has brought the profession into disrepute. He submitted that the conduct fell far below what was expected of a registered nurse and had the potential to damage the reputation of the nursing profession. He submitted that Mr Morgan not only had a duty of care to patients, but colleagues as well, and by being in such a position of responsibility indicates that he would have had a duty to ensure that the environment was safe and free from misconduct.

Mr Rye submitted that Mr Morgan has demonstrated a lack of professionalism and trust. He submitted that such breaches must be seen to be extremely serious, and this is aggravated by the fact that Mr Morgan occupied a position of significant trust and privilege. He submitted that the conduct occurred over a prolonged period of time involving a number of junior female colleagues. He submitted that this undermines the profession and the public's trust in it. He further submitted that Mr Morgan's failure to amend the roster demonstrated a lack of candour and transparency.

Mr Rye submitted that Mr Morgan has not engaged with this regulatory process or provided any response regarding insight into his actions, nor demonstrated that he has remedied the concerns to such a degree to satisfy the panel that it would not be repeated again in the future. He reminded the panel that Mr Morgan denied that he acted in a manner involving sexual misconduct.

Mr Rye submitted that Mr Morgan has not demonstrated any insight into his actions, and the impact that they had on colleagues, patient safety, and the profession as a whole. He submitted that there is no evidence before the panel that Mr Morgan has made attempts to strengthen his practice by any means, and that such information and insight is important in the context of this case. He submitted that the concerns are attitudinal and, as such, are more difficult to put right.

Mr Rye invited the panel to find that Mr Morgan's fitness to practise is currently impaired on the grounds of public protection and in the public interest.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *GMC v Meadow* [2007] QB 462, *Roylance v GMC*, *Nandi v GMC* [2004] EWHC 2317 (Admin), *CHRE v NMC and Grant* and *Cohen v GMC* [2008] EWHC 581 (Admin).

Decision and reasons on misconduct

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

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

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

To achieve this, you must:

1.1 *treat people with kindness, respect and compassion*

8 ***Work co-operatively***

To achieve this, you must:

8.2 *maintain effective communication with colleagues*

9 ***Share your skills, knowledge and experience for the benefit of people receiving care and your colleagues***

To achieve this, you must:

9.1 *provide honest, accurate and constructive feedback to colleagues*

9.4 *support students' and colleagues' learning to help them develop their professional competence and confidence*

20 Uphold the reputation of your profession at all times

To achieve this, you must:

- 20.2** *act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment*
- 20.3** *be aware at all times of how your behaviour can affect and influence the behaviour of other people*
- 20.5** *treat people in a way that does not take advantage of their vulnerability or cause them upset or distress*
- 20.8** *act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to*
- 20.10** *use all forms of spoken, written and digital communication (including social media and networking sites) responsibly, respecting the right to privacy of others at all times*

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

The panel considered the charges found proved in this case by grouping them into sections, which are as follows:

Sexual motivation

The charges found proved regarding sexual motivation relate to:

- Colleague 1 at charge 1.12 (in respect of charges 1.9 to 1.11)
- Colleague 2 at charge 2.11 (in respect of charges 2.7 to 2.10)
- Colleague 3 at charge 3.8 (in respect of charges 3.6 and 3.7)
- Colleague 4 at charge 4.10 (in respect of charges 4.5 to 4.9)
- Colleague 5 at charge 5.7 (in respect of charges 5.5 and 5.6)
- Colleague 6 at charge 6.8 (in respect of charges 6.1 to 6.7)

Mr Morgan was in a role of power and leadership, and the panel considered that to behave in the way that has been found proved, particularly towards predominately junior

female colleagues, is very serious. The panel was of the view that Mr Morgan knew the impact his behaviour had on his colleagues, and tried to provoke a reaction from them. The panel noted the impact that Mr Morgan's behaviour had on his colleagues, for example it considered the evidence of Colleague 6, [PRIVATE].

In light of its findings of facts, the panel found that Mr Morgan's actions in the charges highlighted above were sexually motivated in respect of colleagues 1 to 6, and amounted to misconduct. In addition, Mr Morgan attempted to pursue a future sexual relationship with Colleague 6.

Bullying, intimidation and harassment

The panel reminded itself that it did not find the below charges proved in respect of 'discrimination' as charged.

The charges found proved regarding bullying, intimidation and harassment relate to:

- Colleague 1 at charge 1.8 (in respect of charges 1.2 and 1.7)
- Colleague 2 at charge 2.6 (in respect of charges 2.1 to 2.5)
- Colleague 3 at charge 3.5 (in respect of charges 3.1 to 3.4)
- Colleague 4 at charge 4.4 (in respect of charges 4.1 to 4.3)
- Colleague 5 at charge 5.3 (in respect of charges 5.1 and 5.2)
- Colleague 6 at charge 6.11 (in respect of charge 6.10)
- Colleague 7 at charge 7.6 (in respect of charges 7.1 to 7.5)
- Colleague 8 at charge 8.4 (in respect of charges 8.1 to 8.3)

The panel considered that the behaviour as highlighted above, in relation to colleagues 1 to 8, is serious. The panel considered that the behaviour was extensive in that many witnesses referred to it as being a regular occurrence. It heard evidence that witnesses felt relieved on days that they were not being targeted by Mr Morgan on a particular shift. The panel considered that the witnesses often stated that they felt fearful and uncomfortable around him. It was clear that Mr Morgan did not demonstrate a positive

working relationship with his colleagues, and this behaviour affected those colleagues outside of work in the form of social media contact, in addition to being on shift with him.

The panel considered that, in light of the above, it is clear that Mr Morgan's behaviour in relation to bullying, intimidation and harassment amounted to misconduct.

Unprofessional behaviour

The charges found proved regarding unprofessional behaviour relate to:

- Colleague B at charge 9.3 (in respect of charges 9.1 and 9.2)

The panel considered that, when taking into account all of the other charges found proved in context, it could not regard this behaviour as anything but serious and amounting to misconduct. The panel considered that the comments made towards Colleague B, a junior member of staff, were unkind and unprofessional in nature, and amounted to misconduct.

Charge 10

The evidence that the panel has accepted in this case was that Mr Morgan's actions occurred on an ongoing basis, and it was Colleague 5's evidence that it impacted upon patient safety. Mr Morgan had not communicated to colleagues his reasons for leaving early or arriving late for his shifts, or made adequate cover arrangements. This would have left the ward understaffed, and without senior presence on the ward, which could have impacted on patient care. The panel considered this to be a pattern of behaviour.

The panel considered that, taking into account its previous findings, Mr Morgan's actions in charge 10 amounted to misconduct.

Dishonesty

The dishonesty found proved in charge 12 relates to charge 11.

The panel have found the charge relating to dishonesty proved in this case, in respect of Mr Morgan not amending the roster in a timely manner to reflect hours he actually worked, when he should have done so. The panel was in no doubt that this dishonesty amounts to misconduct.

In conclusion, and in taking into account all of the charges found proved cumulatively, the panel found that Mr Morgan's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

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

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

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

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

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

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

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

The panel considered that all four limbs of *Grant* are engaged in this case.

In respect of limb a), while there has been no evidence of actual patient harm caused, the panel considered that there would have been a risk posed to patients as Mr Morgan's behaviour would have put staff under additional pressure. Mr Morgan also repeatedly left his shifts early or started late, so that the ward was understaffed and left without a senior presence. The panel has heard from witnesses that this did increase patient risk. Colleague 5 stated that this was a 'huge concern for patient safety'. In addition, Mr Morgan's behaviour towards his colleagues created an atmosphere of fear and intimidation on the ward which could have affected colleagues' ability to care for patients.

In respect of limb b), the panel considered that Mr Morgan's behaviour was wholly unprofessional and has brought the profession into disrepute. The panel considered that, although colleagues were directly affected by Mr Morgan's actions, there is evidence that suggests that patients also observed his actions, for example when he was seen and heard shouting at colleagues, and commented on his behaviour.

In respect of limb c), the panel considered that Mr Morgan has breached fundamental tenets of the profession. It referred back to the sections of the Code that have been breached and it aligned those with the fundamental tenets.

In respect of limb d), the panel found that Mr Morgan had acted dishonestly. The panel was also of the view that Mr Morgan was likely to repeat his actions again in the future, in reaching its decision it noted it has no evidence before it that Mr Morgan has taken steps to address his actions. The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel considered that there has been no engagement at all by Mr Morgan in respect of these proceedings and, as such, there is no evidence before the panel to indicate that Mr Morgan has demonstrated any level of insight, reflection or remorse for his actions and the impact they had on colleagues, and the impact they could have had on patients and the public. There is no evidence before the panel that Mr Morgan has made attempts to address the concerns or strengthen his practice.

The panel considered that the concerns in this case indicate entrenched attitudinal concerns. The panel considered that these wide-ranging concerns are more difficult to address and put right, but again the panel noted that it has no evidence from Mr Morgan that he has attempted to do so.

Therefore in light of its findings above, the panel decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that a finding of impairment on public interest grounds is required because a well-informed member of the public would be shocked to learn of Mr Morgan's actions. In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Mr Morgan's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mr Morgan's fitness to practise is currently impaired.

The hearing resumed on 15 August 2023.

Decision and reasons on service of Notice of Hearing

The panel was informed upon recommencement of the hearing that Mr Morgan was not in attendance and that the Notice of Hearing letter had been sent to his registered email address by secure email on 1 August 2023.

Mr Rye on behalf of the NMC submitted that it had complied with the requirements of the Rules, namely 32(3), which states that the NMC, following an adjournment, should notify parties of the resuming dates as soon as practicable.

Mr Rye submitted that this hearing went part heard on 21 July 2023, and Mr Morgan was notified by way of an email on 24 July 2023 of the new resuming dates. Mr Morgan was subsequently sent a formal notice letter on 1 August 2023 by secure email.

Mr Rye submitted that, in light of the above, the NMC has notified Mr Morgan of the resuming dates as soon as practicable, as per Rule 32(3).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, original dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mr Morgan's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence. The panel also had sight of the email that was sent to Mr Morgan on 21 July 2023, that included the two resuming dates.

In the light of all of the information available, the panel was satisfied that Mr Morgan has been served with the Notice of Hearing in accordance with the requirements of Rule 32(3).

Decision and reasons on proceeding in the absence of Mr Morgan

The panel next considered whether it should proceed in the absence of Mr Morgan. It had regard to Rule 21 and heard the submissions of Mr Rye who invited the panel to continue in the absence of Mr Morgan. He submitted that Mr Morgan had voluntarily absented himself.

Mr Rye submitted that the position remains the same, in that there has been no engagement at all by Mr Morgan with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure his attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*' as referred to in the case of *R v Jones*.

The panel has decided to proceed in the absence of Mr Morgan. In reaching this decision, the panel has considered the submissions of Mr Rye and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and *GMC v Adeogba* and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mr Morgan;
- Mr Morgan has not engaged with the NMC throughout these proceedings, including following correspondence sent to him about this hearing;
- There is no reason to suppose that adjourning would secure his attendance at some future date;
- The charges relate to events that date as far back as 2015; and
- There is a strong public interest in the expeditious disposal of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mr Morgan.

Sanction

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

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

Submissions on sanction

Mr Rye informed the panel that in the Notice of Hearing dated 14 March 2023 the NMC had advised Mr Morgan that it would seek the imposition of a striking-off order if the panel found his fitness to practise currently impaired.

Mr Rye referred to the aggravating features of this case, namely:

- Mr Morgan was employed in a senior role and breached and abused his position of trust.
- A lack of professionalism demonstrated by Mr Morgan.
- Mr Morgan breached professional boundaries by targeting often young female colleagues.
- Mr Morgan demonstrated a lack of honesty and integrity in relation to not amending the roster when he should have.
- Leaving his shift early could have placed patients at an unwarranted risk of harm.
- Mr Morgan has not demonstrated any insight into his actions, nor has he remediated the concerns in this case.
- The concerns in this case were not a single isolated event and occurred over a significant period of time.

Mr Rye submitted that there were no mitigating features in this case.

In relation to taking no action and a caution order, Mr Morgan submitted that these sanctions would not be appropriate in this case, nor would it address the seriousness of the case, protect the public or mark the public interest.

In relation to a conditions of practice order, Mr Rye submitted that this sanction would not be appropriate. He reminded the panel that there has been no engagement at all by Mr Morgan in relation to these proceedings, and there is no evidence that Mr Morgan would even comply with conditions of practice. He submitted that these concerns are serious, and involve dishonesty and deep seated attitudinal issues. He submitted that there would be no workable, measurable or proportionate conditions that could be formulated, that would address the seriousness of the case, protect the public or mark the public interest.

In relation to a suspension order, Mr Rye submitted that, for the same reasons as above and those highlighted within the panel's decision on misconduct and impairment, this is not a case whereby a temporary removal from the NMC register would mark the seriousness of the case. He reminded the panel that there have been various breaches of fundamental tenets and that this is not a single incident of misconduct. He submitted that Mr Morgan has not demonstrated any insight, reflection or remorse into his actions. He submitted that imposing a suspension order in these circumstances would send out the wrong message to the public and the profession, in relation to the standards expected of a registered nurse. He submitted that the concerns are so serious in this case that a suspension order would be insufficient to protect the public and mark the public interest.

Mr Rye submitted that the conduct in this case is fundamentally incompatible with remaining on the NMC register. He submitted that Mr Morgan's actions raise questions about his professionalism, and public confidence in the nursing profession would be greatly undermined should he not be removed from the register. Mr Rye submitted that, for the same reasons as above, the only appropriate sanction in this case is that of a striking off order in order to protect the public and mark the public interest.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Repeated abuse of Mr Morgan's position of power and trust.
- The pattern of conduct occurred over a period of five years.
- Mr Morgan has demonstrated a lack of insight, remorse and reflection into his actions.
- Although there has been no evidence before the panel of actual harm caused to patients, patients were put at an unwarranted risk of harm due to his behaviour creating a culture of fear on the ward, and leaving the ward without a senior presence.
- The matters found proved have concerned sexually motivated conduct, deep seated attitudinal concerns and dishonesty.

The panel also took into account the following mitigating features:

- In his local interviews, Mr Morgan made some mention of personal difficulties, but the panel have had no further information regarding this.

The panel was in no doubt that the aggravating features in this case that it identified far outweighed any evidence of mitigating factors.

The panel took account of the NMC's guidance on '*How we determine seriousness*', in particular:

'The Code says that nurses, midwives and nursing associates must treat people fairly without discrimination, bullying or harassment. It also states that individuals should be aware of how their behaviour can affect and influence the behaviour of others...'

The panel then went on to consider the sanctions available.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

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

The panel next considered whether placing conditions of practice on Mr Morgan's registration would be a sufficient and appropriate response. The panel is of the view that there are no practicable or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining as there are no clinical concerns, and there are elements of dishonesty, sexually motivated conduct and deep-seated attitudinal issues involved. Furthermore, the panel concluded that the placing of conditions on Mr Morgan's registration would not adequately address the seriousness of this case and would not protect the public, nor would it mark the public interest.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*
- *In cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions; and*
- *In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

The panel considered that there has been no engagement with these proceedings by Mr Morgan, and as such there has been no evidence of any insight, reflection or remorse demonstrated, nor about the impact his actions could have had on colleagues, patients and the public. This was not a single isolated incident of misconduct, the actions were repeated and occurred over a period of five years. It considered that there are clearly deep-seated attitudinal concerns in this case and the charges found proved largely relate to Mr Morgan's behaviour towards others, primarily junior female colleagues. The panel considered that there has been no evidence of repetition since the incidents occurred, but Mr Morgan has not engaged with the NMC in any event. It noted that dishonesty is difficult to address, but there has been no evidence that Mr Morgan has made any attempts to do so. The panel acknowledged that, although a suspension order would protect the public for a period of time, it would not be sufficient enough to mark the seriousness of the case, nor would it be in the public interest.

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

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

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

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

The panel considered that Mr Morgan's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with him remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mr Morgan's actions were serious and to allow him to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Mr Morgan's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct himself, the panel has concluded that nothing short of this would be sufficient in this case.

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

This will be confirmed to Mr Morgan in writing.

Interim order

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

Submissions on interim order

The panel took account of the submissions made by Mr Rye. He invited the panel to impose an interim suspension order for a period of 18 months in order to cover the 28-day appeal period and any longer period if Mr Morgan were to appeal the striking-off order.

Decision and reasons on interim order

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

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to cover the 28-day appeal period and any longer period if Mr Morgan were to appeal the striking-off order.

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

That concludes this determination.