

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

**Substantive Hearing
Tuesday 1 November – Wednesday 2 November 2022 and
Monday 7 November – Friday 11 November 2022 and
Monday 14 – Tuesday 15 November 2022 and
Monday 21 – Tuesday 22 November 2022 and
Monday 19 – Friday 23 June
Monday 26 June 2023
Monday 21 August – Wednesday 23 August 2023**

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

Name of registrant: Samuel Emilian Predii

NMC PIN: 15F0345C

Part(s) of the register: Nursing – Sub Part 1
Adult Nursing (Level 1) – June 2015

Relevant Location: Peterborough

Type of case: Misconduct

Panel members: Konrad Chrzanowski (Chair, Lay member)
Claire Rashid (Registrant member)
Louise Guss (Lay member)

Legal Assessor: Paul Housego

Hearings Coordinator: Parys Lanlehin-Dobson (1 – 2 November 2022)
Elena Nicolaou (7 November 2022 onwards)

Nursing and Midwifery Council: Represented by Shekyena Marcelle-Brown, Case
Presenter
Ben Edwards (21 – 24 August 2023)

Mr Predii: Present on 20 June 2023 and virtually the other
days of the hearing and represented by Simon
Walters

Facts proved by admission: Charges 1a, 1b, 2a, 2b, 2h(i), 2i, 3a, 3b, 4b,

4c(ii), 4c(iii), 4e(i), 5a, 5c and 6 (only in respect of charges 1a, 1b and 2i)

No case to answer:

Charges 2f and 4f

Dismissed:

Charge 5b (after accepting an NMC application to offer no evidence)

Facts proved:

Charges 2c, 2d, 2e, 2h(ii), 4a, 4c(i), 4d(i), 4d(ii), 4d(iii), 4e(ii) and 5d, 6 (in part), 7 (in part), 9 (in part).

Facts not proved:

Charge 2g and 8

Fitness to practise:

Impaired

Sanction:

Striking-Off Order

Interim order:

Interim Suspension Order (18 months)

Details of charge (as amended)

That you, a registered nurse, whilst working for North West Anglia NHS Foundation Trust:

1. On 26 August 2018:
 - a. messaged Patient A on Facebook; **[Proved by admission]**
 - b. sent Patient A a Facebook friend request; **[Proved by admission]**
2. In relation to Person C, a student at the Trust:
 - a. on an unknown date, added Person C on Facebook; **[Proved by admission]**
 - b. on an unknown date, followed Person C on Instagram; **[Proved by admission]**
 - c. sent one or more messages to Person C when they did not respond; **[Proved]**
 - d. on an unknown date messaged Person C to ask if you could meet them, after they indicated they did not want to meet you; **[Proved]**
 - e. on a date between 11 November 2019 and 15 December 2019, messaged Person C to say words to the effect of 'I miss your blonde hair and blue eyes'; **[Proved]**
 - f. during Person C's second placement, followed Person C into the resuscitation department; **[No case to answer]**
 - g. during Person C's second placement, told Colleague A that Person C 'was trouble' or words to that effect; **[NOT proved]**
 - h. on 12 August 2020, when Person C posted a photo on Instagram, messaged:

- i. to ask where they were; **[Proved by admission]**
 - ii. that you want to meet them and/or that you were coming to meet them;
[Proved]

- i. on 5 September 2020, when Person C posted a photo on Instagram, messaged them to say “what when did they grow up so much” in reference to their breasts;
[Proved by admission]

- 3. In relation to Person B, an apprentice at the Trust;
 - a. On 20 February 2021 added Person B on Facebook; **[Proved by admission]**

 - b. Sent Person B one or more messages suggesting it was good that they were young; **[Proved by admission]**

- 4. In relation to Person A, an apprentice at the Trust:
 - a. On 25 April 2020, read Person A’s name badge in order to find them on social media; **[Proved]**

 - b. on 25 April 2020, messaged Person A on Facebook to say she looked nice;
[Proved by admission]

 - c. during or around May 2020:
 - i. messaged Person A after they asked you to stop messaging; **[Proved]**
 - ii. waited for Person A outside the hospital; **[Proved by admission]**
 - iii. told Person A they were beautiful; **[Proved by admission]**

 - d. On an unknown date:
 - i. went to Person A’s local area uninvited to try to meet them; **[Proved]**
 - ii. pressured Person A to meet you; **[Proved]**

- iii. asked Person A for a hug; **[Proved]**

- e. On 20 June 2020:
 - i. left flowers on Person A's car bonnet; **[Proved by admission]**
 - ii. tried to record a video of Person A without their permission; **[Proved]**

- f. On one or more occasions, attended Person A's home uninvited; **[No case to answer]**

- 5. Following a relationship breakdown with Person A:
 - a. On an unknown date, left a note on their car stating, "I miss you xxx"; **[Proved by admission]**

 - b. On 9 October 2020, attended the staff car park to wait for Person A when you were not on duty; **[Dismissed by the panel after accepting an NMC application to offer no evidence]**

 - c. On 10 October 2020, waited by Person A's car in the staff car park; **[Proved by admission]**

 - d. On 25 October 2020 parked your car next to Person A's car in the staff car park; **[Proved]**

- 6. Your conduct in any or all of charges 1-5 was a breach of professional boundaries; **[Proved by admission – in respect of charges 1a, 1b and 2i] [Proved – in respect of charges 2c, 2d, 2e, 2hi, 2hii, 3b, 4ci, 4di, 4dii, 5a, 5c and 5d]**

- 7. Your conduct in charge 2 was sexually motivated in that you intended to pursue a future sexual relationship with Person C; **[Proved – in respect of charge 2i]**

8. Your conduct in charge 4 and/or 5 was sexually motivated in that you intended to pursue a future sexual relationship with Person A; **[NOT Proved]**
9. Your conduct in any or all of charges 2-5 was harassing in nature; **[Proved – in respect of charges 2d, 2hi, 2hii, 2i, 5a, 5c and 5d]**

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

Decision and reasons on application to amend the charge (1)

The panel heard an application made by Ms Marcelle-Brown, on behalf of the Nursing and Midwifery Council (NMC), to amend the wording of charge 3a.

The proposed amendment was to amend the wording of charge 3a to instead state 2021:

3. *In relation to Person B, an apprentice at the Trust;*
 - a. *On 20 February ~~2020~~ 2021 added Person B on Facebook;*

It was submitted by Ms Marcelle-Brown that the proposed amendment would provide clarity and would more accurately reflect the evidence. She submitted that you accept this charge contained a typographical error and “2020” should read “2021”. Ms Marcelle-Brown submitted that your representative had said this was the case when giving your response to the charges, so the amendment would not cause any injustice to parties.

Mr Walters, on your behalf, submitted that he had already alerted the NMC to this matter, agreed that there is no prejudice to you and did not oppose the application.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended (the Rules).

The panel decided that this amendment was in the interests of justice. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment which was no more than to correct a typographical error which had misled no one.

Decision and reasons on application for hearing to be held in private (1)

Ms Marcelle-Brown made an application that this case be held partly in private on the basis that there would be reference made to private matters in relation to Witness 8 and her child. The application was made pursuant to Rule 19 of the Rules.

Mr Walters indicated that he did not oppose the application.

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

Having heard that there will be reference to private matters in relation to Witness 8 and her child, the panel determined to hold such parts of the hearing in private in order to protect her right to privacy and confidentiality.

Decision and reasons on application to admit hearsay evidence

The panel heard an application made by Ms Marcelle-Brown under Rule 31 to allow the written statement and exhibits of Witness 8 into evidence. Witness 8 was not present at this hearing and, whilst the NMC had made sufficient efforts to ensure that this witness was present, she was unable to attend today due to personal matters [PRIVATE].

Ms Marcelle-Brown submitted that Witness 8's evidence is relevant as it relates to charge 5b and it is fair to admit the evidence. She referred to the case of *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin) and the principles set out in that case.

Ms Marcelle-Brown accepted that the evidence of Witness 8 was the sole and decisive evidence in support of charge 5b. Charge 5b was made only by reason of that evidence. However, she submitted that whilst Witness 8's evidence was the sole and decisive supporting that charge did not automatically render it inadmissible. She reminded the panel that it will need to carefully consider other factors in relation to whether to admit Witness 8's evidence as hearsay. In particular this was not a reluctant witness, but a witness with unsolvable issues [PRIVATE] which prevented her attendance, and the issues arose only in the last few days.

Ms Marcelle-Brown submitted that, although you deny the allegation in charge 5b, you say that you do not recall the day or the event that is alleged to have occurred. She submitted that the absence of the witness, and the inability to test the evidence, should be reflected by the weight the panel attached to Witness 8's evidence.

Ms Marcelle-Brown submitted that there is no suggestion that Witness 8 has fabricated the allegations. She reminded the panel that you say that you do not recall the alleged event that occurred. Ms Marcelle-Brown submitted that charge 5, as a whole, is very serious and the behaviour in charge 5b is one of several incidents of alleged unwanted contact with Person A. Ms Marcelle-Brown submitted that there is a strong public interest in a charge of this seriousness being explored which outweighed any prejudice to you from the fact that she would not give oral evidence.

Ms Marcelle-Brown went on to the reasons for Witness 8's non-attendance at the hearing. She submitted that, at the start of the case, Witness 8 was always due to give her evidence and that she was fully engaged and willing. However, on day's one and two of the hearing, delays occurred and the NMC contacted her on 1 November 2022 to let her

know of this. Initially, Witness 8 responded saying that she was happy to participate but [PRIVATE], but she was willing to give evidence virtually, and this had been arranged.

On 4 November 2022, the NMC contacted Witness 8 again to ask for her availability. [PRIVATE]. Witness 8 responded to the NMC on 8 November 2022 and consented to the disclosure of this information to the panel, to Mr Walters and to you.

The NMC contacted Witness 8 again to ask for further information about her situation and to be able to explore other options. Witness 8 responded on 9 November 2022, giving further information orally about [PRIVATE], and that in the circumstances she asked for no further communication from the NMC about this matter.

Ms Marcelle-Brown submitted that Witness 8 had been willing to give evidence, but was now unavailable for reasons that could not have been foreseen. She submitted that the NMC had explored all available options to try to secure her attendance at the hearing. She submitted that Mr Walters was made aware during the first week that this witness was not available, and that it was also mentioned on record at the beginning of the second week.

Mr Walters submitted that it is important for the panel to analyse the evidence to enable the panel to undertake as to the evidence that the NMC proposes to admit as hearsay. He submitted that the evidence of Witness 8 should not be admitted as hearsay. He submitted that this was not a matter of what weight to give the evidence of Witness 8, because it should not, as a matter of fairness, be admitted at all.

Mr Walters reminded the panel that the NMC gets a choice as to which events it charges, and how it charges those events. He reminded the panel that the NMC has a wide discretion in that regard. He took the panel through Witness 8's evidence, in particular her witness statement, in which she says:

'On 9 October 2020, I was working a day shift...'

‘Sometime before 13:30, I took my break. I went to sit in my car which was parked in the staff multi-story car park. I witnessed Mr Predii driving around the level on which my car was parked in the staff car park’.

Mr Walters submitted that the level on which Witness 8 parked her car was not mentioned, and this is relevant, as Person A gave evidence that she parked her car on level – 1. He submitted that Witness 8 goes on to say:

‘I noticed Mr Predii loop around the level in which my car was situated twice. His car passed my car twice. I noticed Mr Predii was not wearing his work uniform. This implied that he was not on duty. I did not speak to Mr Predii, as he did not leave his car’.

Mr Walters submitted that Witness 8 did not say what level she was on. He submitted that you do not remember this particular day, but the panel has been given copies of the staff rota, which suggests that you were not on duty that day. Mr Walters submitted that the panel knew that around that time, you were required to be at work, or on the premises as meetings were taking place around that time with Witness 5 and Witness 7. Mr Walters pointed out that Person A’s evidence was that it was easy to park in that car park very early in the morning, but that it was full or nearly full by 9:00 am. If you had been in the car park after 9:00 am it was likely that you would have had to drive around to find a place to park.

Mr Walters submitted that the NMC alleges that you attended the car park to wait for Person A, but there is a distance between the charge and what Witness 8 says. He submitted that Witness 8 does not say that she saw you get out of the car and wait around the car park, and that the only thing she mentions is that she saw you driving your car, passing her car twice in the middle of the day. He submitted that as Witness 8 is not available, that important question cannot be explored. He submitted that Witness 8’s evidence is not just sole and decisive, but that it does not meet the charge in any case.

Mr Walters submitted that this is not a fair approach for the NMC to take. He submitted that if the NMC state that charge 5 is serious, it cannot be explored fully in the absence of Witness 8. He submitted that there may be a public interest in it being explored, but a balance must be struck between that, and you getting a fair hearing, and that it was the overarching responsibility of the panel to deliver a fair hearing. He submitted that there is no suggestion in the documents relied upon by the NMC that there was any contact between you and Person A on that day.

Mr Walters submitted that notice of this application was provided, although he was not sure of the details of Witness 8's circumstances until 10 November 2022 and he did not know the NMC were relying on the evidence as hearsay until 11 November 2022.

Mr Walters invited the panel to remove Witness 8's statement and exhibits from evidence.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 provides that, so far as it is 'fair and relevant', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings. The legal assessor referred to the case of *El Karout v Nursing And Midwifery Council* [2019] EWHC 28 (Admin). The legal assessor took the panel through the factors set out in *Thorneycroft*. One of those factors was the extent of any likely challenge to the evidence of the witness, and he reminded the panel that the evidence of Person A was that she was not allowed to attend for work dressed in uniform at this time. This meant that there would be challenge to the conclusion drawn by Witness 8 that there was something suspicious about you not being in uniform.

The panel considered the submissions of both the NMC and Mr Walters. It considered that the evidence of Witness 8 was conceded to be the sole and decisive evidence in respect of charge 5b. It was clear that there are serious challenges to the extent of this evidence and, because it is said to be a serious charge, the panel was concerned about the unfairness admitting this evidence would cause to you, particularly when you had always

said that you had no recollection of it. It considered that the panel would not be delivering a fair hearing for you in any event to allow the application. The panel considered that there were questions it would have wanted to ask Witness 8 during her evidence to gain further clarity on the matter. The panel agreed with Mr Walters that it would be so unfair to you to admit this evidence that it should be ruled inadmissible.

For these reasons the panel decided not to use its power to accept the application made by the NMC under Rule 31. The panel decided not to admit Witness 8's evidence as hearsay and refused the application of the NMC.

Decision and reasons on application to amend the charge (2)

The panel also heard an application made by Ms Marcelle-Brown, on behalf of the NMC, to amend the wording of charge 2h. This application was made at the end of the evidence given orally by the NMC's witnesses.

The proposed amendment was to change the wording of charge 2h as follows:

- h. on 12 August 2020, when Person C posted a photo on Instagram, messaged:*
 - i. **to ask** where they were;*
 - ii. **that you want to meet them and/or that you were coming to meet them;***

Ms Marcelle-Brown submitted that Person C's evidence has always been that you said you wanted to meet Person C or were coming to meet her. She submitted that it is fair that the charge reflects the evidence as it was originally given, which was confirmed during Person C's live evidence. This amendment would provide more clarity, as the wording is currently incorrect, and not reflective of the evidence. She submitted that there would be no injustice caused by such an amendment, as Mr Walters properly explored this matter during cross examination.

Mr Walters asked whether the NMC looked at the evidence prior to the charges being drafted. He submitted that it would have been clear that there was a difference between what was stated in Person C's witness statement and the charge itself. He submitted that the NMC could have applied for this amendment at the outset of this hearing, or before it started. He submitted that it is too late for the NMC to do so now, after all the evidence had been given. He reminded the panel that what Person C said about this issue in her oral evidence is much vaguer now than it was at the outset. The text messages in question are not available. Person C said that she believed the messages were the exact words as alleged in the charge, but she had accepted that she had not seen the charges against you. Person C also said in her evidence that the wording of the message was '*I am coming to meet you, that is how I felt*' but also said '*I cannot remember what he said*'. He submitted That how Person C felt, while not being able to remember specifics was not strong evidence.

Mr Walters submitted that it was the NMC which framed the charges, and if they were not well drafted then it is their issue. He submitted that the charges should not be amended at this late stage. He submitted that there is no firm evidential basis to make this application. He submitted that the proposed amendment to the wording of 2h ii) did not reflect the lack of clarity in the witness' evidence.

Mr Walters invited the panel to reject this application.

The panel accepted the advice of the legal assessor and had regard to Rule 28. The legal assessor pointed out that it was unusual, to say the least, for charges to be amended after all the evidence had been given, and where it was accepted that the matter should have been addressed earlier. However, he advised the panel that it should also bear in mind its public protection role, and that the primary factor was whether the amendment would be unfair or prejudicial to you.

The panel considered the submissions of the NMC and Mr Walters. The panel was of the view that the evidence of this case has always been provided to the defence and there

has been extensive cross examination about this matter by Mr Walters during Person C's evidence. It considered that, whilst the application is unsatisfactory, being made at this late stage, that was not of itself a matter affecting the fairness of this hearing. The panel decided that the amendment (which for 2 h.i. was merely syntactical) was in the interest of justice. The panel was satisfied that there would be no prejudice to you in allowing the amendment to 2 h.ii. as you had always known what Person C's evidence was. It was therefore appropriate to allow the amendment, as applied for, to reflect the evidence that had been heard, and about which you had known well in advance. The panel also considered the overarching objective to protect the public and satisfy the public interest relevant.

Decision and reasons on application to offer no evidence in relation to charge 5b

Ms Marcelle-Brown on behalf of the NMC submitted that, in light of the panel's decision to not allow the evidence of Witness 8 as hearsay evidence, there was no longer a realistic prospect of charge 5b being found proved. She submitted that there is no longer a public interest in pursuing this charge, because without the evidence of Witness 8 there was no evidence to support it. For this reason, it could not be found proved.

Ms Marcelle-Brown invited the panel to consider the steps taken to secure the attendance of Witness 8 in order to obtain her evidence in relation to the facts. She invited the panel to consider the evidence that is now available to it and referred to the NMC's guidance. She submitted that the NMC's guidance makes it clear that offering no evidence is a last resort and should be used in limited circumstances and when appropriate to do so.

Ms Marcelle-Brown invited the panel to amend the charges to remove charge 5b under Rule 28.

Mr Walters made no submissions on this matter.

The panel accepted the advice of the legal assessor, who advised that the application was necessary, and should be accepted, because as the sole and decisive evidence of Witness 8 had been ruled inadmissible there was now no evidence in support of this charge.

The panel considered the submissions made by Ms Marcelle-Brown and decided to accept the NMC's submissions in relation to charge 5b. It therefore determined that this charge will be dismissed.

Decision and reasons on applications of no case to answer

The panel considered applications made by Mr Walters that there is no case to answer in relation to numerous aspects of the charges in this case. This application was made under Rule 24(7).

Mr Walters' submissions

Charges 2a and 2b

Mr Walters submitted that although the facts of charges 2a and 2b are admitted on the basis of Person C's evidence, these facts are incapable of amounting to harassment. He submitted that anyone who creates a profile on Facebook in their own name gives implied permission to be found by searches and then to be contacted by others. He submitted that Person C had accepted in her oral evidence that she could accept or decline friend requests, and that she had exercised that discretion on occasions in the past. She accepted that this was a routine event. He submitted that if Person C felt harassed by receiving such a request, she would have rejected the friend request from you.

Mr Walters submitted that there is no evidential basis on which to conclude that seeking to make social media connections is a breach of professional boundaries. It was accepted by three witnesses in this case that colleagues in a variety of work environments frequently

first connect using social media. He submitted that this action alone cannot be enough to meet the high bar of a establishing a breach of professional boundaries by you.

Mr Walters submitted that there is no evidence that the actions of sending Facebook or Instagram requests were sexually motivated. This was no more than speculation, so that there was no case to answer that it was so motivated.

Charge 2c

Mr Walters referred to Person C's evidence in that she said if she did not respond to you, you would send a burst of two to three messages in a row to ask why "*and then that would be it*". He submitted that this behaviour is far from harassment and Person C described "*long periods of silence*". He submitted that there is no case to answer on the charge of harassment.

Mr Walters submitted that the NMC had called no evidence to establish a link between messages asking why Person C did not respond and alleged sexual motivation.

Mr Walters submitted that social media communication between these two individuals is not a breach of professional boundaries. He submitted that it was part of the private life of the two of them. Further, the evidence was of sporadic contact which was a contraindicator to harassment.

Charge 2e

Mr Walters submitted that Person C said that she responded to your message by saying “*I don’t think I have blue eyes*”, and that she did not get a further response from you. Person C also said she did not block you on social media. Mr Walters submitted that there is no case to answer that this message was harassing in nature. He submitted that Person C said in her oral evidence that it made her feel “*uncomfortable*” but she had not used the word “*harassed*” at any time. Mr Walters reminded the panel that Person C also accepted that engaging with the message perhaps contradicted her evidence that she felt uncomfortable. He submitted that, in the absence of any evidence of you sending multiple messages to Person C on a daily basis, or making regular comments on her appearance, undermines the NMC’s case to the extent that there was no case to answer.

Charge 2f

Mr Walters submitted that staff in the hospitals follow each other around all day, without fear of censure. He submitted that it is a busy working environment and accidental following cannot be enough to amount to a case to answer. Person C confirmed that you worked in the resuscitation section of the Emergency Department (ED) occasionally, and that you were entitled to be there. Person C conceded that there could have been any number of reasons why you were in the resuscitation section, which was part of the department of which you were at the time in charge and conceded that she had assumed you were following her simply on the basis that “*we were both in the same place at the same time*”.

Mr Walters reminded the panel that Person C had accepted that you had assisted in moving the patient from ambulance trolley to hospital bed. There was a therapeutic aspect to your presence in the same place and at the same time as Person C.

He submitted that there was no evidential basis that you were deliberately following Person C, so that there is no case to answer.

Mr Walters submitted that Person C also accepted that the event was not serious and said *“if the impact on me was great I would have said something there and then”*. He submitted that, in addition to there being no case to answer on the fact alleged in 2f, it was further submitted that such an act could not amount to a breach of professional boundaries, harassment, or being conduct motivated by the intention to pursue a future sexual relationship. There was no evidence that your presence was other than in pursuance of your role in that department. To attribute motivation was speculation not factually based.

Charge 2h

Mr Walters reminded the panel that charge 2h (i) is admitted by you and (ii) is not. He submitted that neither you nor Person C now have the messages which would be the definitive record of any communication. He referred to Person C’s oral evidence and, in response to what was said in the messages, she said *“I believe the messages were the exact words as alleged”*, although she also confirmed she had not seen the allegations against you. He submitted that Person C said, *“it was, ‘I am coming to meet you’, that is how I felt”*, in response to the message you had sent to her. However, he submitted that the NMC did not, and could not, fill the lacuna created by that evidence, as to whether you wrote that message as alleged, or whether Person C interpreted a message which did not say that in the way she recounted in her oral evidence.

Mr Walters submitted that this is far from a sound evidential foundation for the NMC to make out the case on limb (ii) of this charge. Person C also admitted that she could not remember what was said by you. Person C also said that she was not in [PRIVATE] and that there was no means of identifying where she was from her Instagram post. It was impossible for you to have gone to see her as no way had been suggested in which you could have found out where she was at the time. Nor could you have got there before she would have left.

Mr Walters submitted that senior members of NHS staff have conceded in their oral evidence to the panel that social media contact between staff is a personal matter, and

that messages on social media, about social contact, cannot amount to a breach of professional boundaries.

Mr Walters submitted that the message you sent to her was not of a sexual nature, and Person C said that you messaged "*I want to play tennis with you*", and your language cannot be construed as a sexual euphemism when Person C was playing tennis at the time.

Mr Walters submitted that you did not know where Person C was and you could not have known, and that Person C also ignored the message and that was the end of the matter. In addition, Person C had not blocked you on social media as a result of the message. He submitted that the alleged messages sent by you were therefore not harassing in nature, because there was no, or no sufficient, evidence that any message sent by you to Person C had the effect of harassing Person C.

Mr Walters submitted that there is insufficient evidence to find a case to answer on charge 2h (ii) because of the vagueness in the evidence. He further submitted that the NMC had not shown that charge 2h was conduct that breached professional boundaries or was sexually motivated or harassing in nature.

Charge 3

Mr Walters submitted that charge 3 is admitted and that 3b was admitted on the basis of one message sent to Person B and not more. He submitted that there is no case to answer on the part of the charge that reads "*or more messages*". He submitted that you clearly sent one message stating "*I guess it's a good thing*".

Mr Walters submitted that, in relation to a charge of breach of professional boundaries, contact on social media between people who meet at work is a personal matter, not a matter of professional boundaries. He submitted that there is no evidence called by the NMC that you knew Person B through work and Person B confirmed that you had never

met. Person B said in her evidence that *“It didn’t bother me that he added me because I didn’t know him... you typically have random people adding you...”*.

Mr Walters submitted that, when asked about her perception of the messages from you, Person B said that she was *“intrigued”*, and described the messages as *“simple and harmless”*. These were not words describing breach of professional boundaries or sexual motivation. Getting to know people was an everyday event. Person B said that when she told you to stop messaging her, you did, and you did not attempt to continue contacting her. Person B also said that *“this event doesn’t bother me. It isn’t a massive thing”*. She said that subsequently she viewed the messages negatively because of the rumours she had heard about you, but that the messages themselves were not harmful.

In relation to charge 3b Mr Walters submitted that Person B accepted in her evidence that it is *“possible to say youth is good without it being creepy”*. He submitted that, in the light of the evidence, there was no case to answer in relation to a charge that you had breached professional boundaries as alleged in charge 3b.

Charge 4

Mr Walters accepted that many of the components in charge 4 are admitted either in whole or part. The NMC alleged that the facts found in charge 4 were a breach of professional boundaries, that they were sexually motivated in that you intended to pursue a future sexual relationship with Person A, and that they were harassing in nature.

Mr Walters submitted that there is no case to answer on the allegation of harassment nor on the allegation of a breach of professional boundaries.

Mr Walters submitted that in her oral evidence Person A had agreed that if two people who work at a location explore having a relationship, then that is a personal matter. She had also agreed that her relationship with you was not a work-related matter.

For charge 4a, Person A said *“Anyone can look at anyone. I am not saying he can’t look at me”*. In relation to charge 4b, Person A agreed that the attention was flattering, and she said, *“I think it is nice for anyone to be complimented”*.

For charge 4c (i), Mr Walters submitted that Person A agreed that you asked her if your messages bothered her, and she agreed that this was respectful of you to ask. The tone of Person A’s evidence was that she encouraged you to message her, which at the time suited her. In relation to charge 4c (ii), Person A said there was *“part of me that was curious”* to see you. She said she viewed your presence as a *“positive gesture”* and *“I understood that he was flirting with me”*. Person A said she was not feeling harassed and she didn’t have any need to complain about it to anyone.

For charge 4d (I and ii) Mr Walters submitted that Person A described *“free flowing and easy conversation”* and that she thought you were flirting with her. In relation to 4d (iii), Person A agreed that a hug is a friendly gesture and not a sign of animosity or ill will. She said that there is nothing wrong with someone asking for a hug and that she chose not to, and you respected that. Mr Walters submitted that Person A said if she had not wanted to see you, she would have made that choice. She also said that if she hadn’t wanted to message you, she would not have done so.

For charge 4e (i) Mr Walters submitted that Person A said that *“we were spending a lot of time together”* and that she received the flowers as a positive gesture, placing them in her bedroom, and she agreed to meet with you that evening.

For charge 4e (ii) Mr Walters submitted that Person A described seeing your phone in selfie mode. She told you that she did not want any photos or videos taken of her. Mr Walters submitted that Person A’s answers in cross examination contradicts the gravity the NMC seeks to place on this incident. Person A said the tone was in a joking way and that this behaviour did not harass her. She accepted that you had not taken any videos or photographs. Her evidence had been that she did not want photographs as they were not ‘boyfriend/girlfriend’ yet, and never were. She had said that they *“were friends and more*

than friends and nothing was made official' which was why at the time she wanted no photograph or video together.

For charge 4f, Mr Walters submitted that Person A maintained that you did attend her home uninvited, and she referred to this happening about five times. Person A said it was surprising, but that you usually attended with flowers, and she viewed the interactions as positive.

Mr Walters submitted that clearly the relationship between you and Person A developed over the time of these events. He submitted that this was a purely personal relationship and there is no evidence that there was a professional component to this relationship. He submitted that there was no evidence your relationship with Person A constituted a breach of your professional responsibilities.

Mr Walters submitted that there is no evidence that Person A felt harassed by you and in fact, Person A's evidence was to the contrary. The evidence clearly suggests that Person A did encourage contact with you. That her view of you subsequently changed did not alter the character of what had occurred at the time of the events, which are now charged as misconduct.

Mr Walters submitted that the panel has heard evidence from multiple sources that staff at hospitals rely on each other and it is natural that strong bonds are formed in those circumstances. There has been evidence heard that staff becoming personally involved with each other is not uncommon, and that there are reporting measures in place to ensure any conflict of interest is addressed. Mr Walters referred to the age gap between you and Person A, but you were both adults, and that Person A welcomed your attention. Mr Walters submitted that your actions were not shown to be sexually motivated, but were mundane events commonplace at the start of a personal relationship of affection.

Charge 5

Mr Walters referred to charge 5 as a whole, apart from 5b which had now been removed. He submitted that in the case of charge 5 there was no case to answer to the charge of sexual motivation. He submitted that, at charge 8, it is alleged that the conduct was sexually motivated in that you intended to pursue a future sexual relationship with Person A, after Person A had ended that relationship.

Mr Walters submitted that there was no indirect interaction between you and Person A at the time of the charges, and that the only direct interaction between you and Person A was on 10 October 2020. Person A's evidence was that "*the conversation wasn't long at all*" and that you had not got out of your car. Mr Walters stated that there is no evidence that you mentioned anything of a sexual nature or raised the prospect of you getting back together with Person A. He submitted that there was no case to answer that this was sexually motivated as alleged in charge 8.

NMC's submissions

Ms Marcelle-Brown submitted that there is a case to answer on each of the charges. She submitted that in order to grant the applications in respect of charges six to nine the panel need to be satisfied that none of the factual charges amount to the alleged behaviour of breach of professional boundaries, sexual motivation and/or harassing in nature.

Ms Marcelle-Brown submitted that the panel cannot find no case to answer on charge 6, 7, 8 and 9, as it only required one factual charge/limb to fall into the category of behaviour for the charge to be found proved. She submitted that charge 6 has admissions in relation to 1a, 1b and 2i.

Charge 6-- Breach of professional boundary in any or all of charges 1-5

Ms Marcelle-Brown accepted that for the charge of breach of professional boundaries there must be a professional element to the relationship. She agreed that there is a difference between a registrant's personal and professional life. In relation to charges 2a, 2b and 2c, Ms Marcelle-Brown accepted that there is nothing wrong with adding someone on social media, however the issue was that Person C's social media accounts relate to her private life, but that her involvement with you was professional. She submitted that you imposed upon Person C's private life by adding her on Facebook and following her on Instagram. Person C described that your behaviour "*escalated*" and that you would send messages such as "*I want to get to know you outside the hospital*", which demonstrated that your behaviour clearly crossed professional boundaries. She submitted that there is no evidence that you had a personal relationship with Person C before you contacted her, and therefore this was a solely professional relationship and contacting her for personal life reasons out of the blue crossed professional boundaries.

Ms Marcelle-Brown submitted that the NMC have no representations to make in relation to charge 2f.

Ms Marcelle-Brown submitted that, in relation to charge 2h, the manner in which you contacted Person C in order to meet her was intrusive and imposing. She submitted that, although you and Person C had some communication, this does not mean that you are entitled to impose on her private life in the way that you did, despite Person C stating she did not wish to meet or disclose her location. Ms Marcelle-Brown submitted that the extent of your limited 'personal relationship' was a few messages, and you did not meet outside of work. Therefore, in persisting in asking to meet Person C after she indicated that she did not wish to do so you breached professional boundaries.

Ms Marcelle-Brown submitted that in relation to charge 3a and 3b, if someone from your work life tries to connect with you on your personal social media, this potentially breaches professional boundaries depending on a number of aspects, such as consent. She

submitted that if someone either consents in advance or retrospectively, then there is no breach of the boundary. She submitted that Person B was clear that she did not give consent in advance and although she responded to you and continued the conversation, she explained that she was curious but felt like continuing the conversation was “*wrong*”. Your actions invaded Person B’s personal life by contacting her on her personal social media account and this made her feel uncomfortable. Ms Marcelle-Brown submitted that this amounted to a breach of professional boundaries and that Person B pointed out that “*the fact it was on social media platform and not in a work environment*”. This was not a welcomed contact or conversation; it was repeatedly described by the witness as “*wrong*” and “*inappropriate*”.

In relation to charge 4, Ms Marcelle-Brown submitted that looking at somebody’s name badge in order to find them on social media without their permission and then to make contact on social media with the intention of meeting them to seek to form a relationship is a breach of professional boundaries. She submitted that the method of doing so is very intrusive, that it imposes on a person’s private life and is a clear breach of the professional boundary. There is no evidence that you had an existing personal relationship such as friendship with Person A before you contacted her on social media. Ms Marcelle-Brown submitted that you then messaged Person A to compliment her and she responded that you should stop messaging her, which again indicates that this crossed the line. Ms Marcelle-Brown submitted that, despite this, you continued to make contact with Person A after she asked you to stop.

Charge 7-- Sexual motivation in that you intended to pursue a future sexual relationship with Person C in charge 2

Ms Marcelle-Brown referred to the NMC’s guidance. She submitted that, in relation to charges 2a, 2b, 2c, it is clear from Person C’s evidence that the nature of your interactions is that you were interested in Person C on a romantic level, as a lot of your interactions involved looking at or commenting on her physical appearance, her relationship status, meeting outside of work, and getting to know each other as more than friends. Therefore,

when you added Person C on social media and repeatedly messaged her, this context indicates sexual motivation.

Ms Marcelle-Brown submitted that in relation to charge 2f, the NMC have no representations to make.

Ms Marcelle-Brown submitted that in relation to charge 2h, and in the context of your persistence to meet up and spend time outside of work with Person C, it was clear that this behaviour was part of a pattern of sexually motivated actions as you were attracted to Person C and wanted to get to know her on a romantic level and spend time with her.

Charge 8-- Sexual motivation in that you intended to pursue a future sexual relationship with Person A in charge 4 and/or 5

In relation to charge 4, Ms Marcelle-Brown submitted that it is clear that your actions were in pursuit of a sexual relationship, and therefore were sexually motivated. You clearly took an interest in Person A, and you said that you were too shy to say hello to her, because you were romantically interested in her. She submitted that when you made contact via Facebook, this was clearly with romantic/sexual interest in mind, which it ultimately became, for a short period.

In relation to charge 5, Ms Marcelle-Brown submitted that you continued to contact Person A, and this was in order to pursue a sexual relationship, despite the relationship being over and Person A stating that she did not want to be contacted by you. She submitted that, after the end of the relationship, you continued to contact Person A, and clearly this was because you did not want the relationship to end. She submitted that, although you did not specifically say you wanted to get back together with Person A, the acts of leaving the "I miss you xxx" note, and waiting for her or parking near her car is more than just caring for someone. She submitted that it is more likely than not that you were trying to rekindle a relationship with Person A, and that was sexually motivated.

Charge 9-- Harassing in nature in any or all of charges 2-5

Ms Marcelle-Brown referred to the meaning of harassment. She submitted that in relation to charges 2a, 2b, and 2c, this was unwanted contact in that Person C did not give permission for you to add her on social media, and the unwanted contact continued when you persistently messaged Person C when she had not responded.

In relation to charge 2e, Ms Marcelle-Brown submitted that this was clearly harassing in nature because they were unwanted compliments.

In relation to charge 2f, while not opposing Mr Walters' application that there was no case to answer as this was not a breach of professional boundaries or sexually motivated, Ms Marcelle-Brown submitted that this was harassing in nature. The reason she gave is that you were not required to assist, and you were following Person C under the guise of assisting the patient, when in fact you were not required or asked to help. The paramedics usually take the lead on this, and nobody had asked for your help. Person C explained that it can take two to three people depending on the size of the patient so four people to assist was not necessary. She submitted that it is more likely than not that you were assisting because you saw Person C there at the time.

In relation to charge 2h, Ms Marcelle-Brown submitted that this is clearly harassing in nature. Person C had already said she did not want to meet and did not want to disclose her location, yet you persisted to the point that she thought that if the location was apparent from the photo, then you would show up, and it was only because she ignored you that the interaction ended. Ms Marcelle-Brown submitted that ultimately it was clear that your actions in charge 2 as a whole were harassing in nature. Person C stated *"it got to the point where I became really uncomfortable at going to the hospital at thought of seeing the registrant, I thought I shouldn't feel like that at work I'm there to do a job, I thought I'd raise it to get some advice"*. Person C clearly felt harassed by your actions as she said that she dreaded the thought of seeing you at work and resorted to reporting you

in order to make it stop. In her words, *“it was a collection of things that made me want to raise it several years later”*.

In relation to charge 4, Ms Marcelle-Brown submitted that these actions were harassing in nature as you took Person A’s details without her permission for an ulterior motive of forging a personal relationship with her. She was not someone you knew from before, so you had no reason to contact her on social media as you were not friends. This was not the same as having someone at work that you are friends with and moving over to social media to continue a pre-existing friendship. It was clearly harassing in nature as Person A told you to stop messaging her.

The panel accepted the advice of the legal assessor.

The panel first considered the context to the allegations. These arise from your use of social media to seek to form relationships with young female colleagues.

In approaching the applications of no case to answer the panel was deeply cognisant that it was not making findings of fact but considering whether the NMC had provided evidence that could lead the panel to find those charges proved. In considering those applications the panel noted that many of the facts surrounding the charges are not in dispute. Where in this determination on the applications of no case to answer the panel refers to factors it considers relevant to those applications it is not making findings of fact but taking note of matters that are not contentious.

The panel first considered the approach it should take to the role social media plays in this case.

The panel noted that there is an interface between professional life and private life in the use made by people of social media. The panel considered that it is not realistic to consider these as wholly discrete areas of people’s lives.

The panel also noted that the witnesses were consistent about their use of social media, which is an integral part of their daily lives.

The panel decided that it was an important fact that privacy settings are available, and that people can open social media accounts in any name, and that they do not have to be in the person's actual name.

Where someone opens a social media account in their real name and with limited or no privacy settings employed, the person would know and accept that the account was open to all to view. That includes the ability to be found by a simple search on that platform and to be messaged or to be send a 'friend request'. Indeed, Facebook actively suggests people users may wish to approach. The panel decided that to search for someone and to contact such a person via a friend request was not inappropriate. That is the case whether the person approached is a friend of a friend, a stranger, or a colleague. The person receiving the request has the options of accepting the request, ignoring it or rejecting it. If the request is unwelcome, the person sending it can be blocked. The panel decided that there is nothing inherently objectionable in approaching a colleague with a friend request. There is no obligation to pre-arrange the sending of such a request.

The panel considered your use of name badges as a means of identifying people to whom you sent friend requests. Name badges are there precisely to let people know the person's name. That is only necessary for people who do not already know the person's name. There is no issue with the use of the person's name for professional purposes, for that is why people wear name badges at work.

The panel did not consider making use of a stranger's name badge for private life reasons was inherently objectionable. It depended on the reason the name was used: what the person learning the name of a stranger did having found out that person's name.

The panel considered that using the name to find an open social media account and sending such a person a friend request was not inherently objectionable. Indeed, one of

the witnesses had about 100 work 'friends' on Facebook, many being as a result of unsolicited approaches from people he did not know well, or perhaps at all.

The panel next considered the characteristics of the individuals you approached. [PRIVATE] all were in junior positions [PRIVATE]. You were an acting band 6 nurse. Some were employees of the Trust where you worked. Others were trainee paramedics from the ambulance trust. As you worked in the emergency department the trainee paramedics came into contact with you in your workplace, at which times it would have been their workplace too. [PRIVATE]

There is a substantial difference in status. The panel considered that you were, by reason of the position you held, a person in a position of trust. This is a defined term, reduced to the acronym "PIPOT". Your seniority was apparent from the dark blue colour of your uniform. This is part of the context of the charges.

You would see the individuals at work, read their name badges, find them on social media and send a friend request to their Facebook accounts. The individuals often accepted. The panel considered that young people often accept friend requests indiscriminately, especially if there is a point of connection, such as working at the same place.

When you had made contact in this way, the evidence is of you taking the initiative to commence a relationship in person with those individuals. While the term is 'friend' on Facebook, many young people have numerous people as 'friends' who are not friends in the usual sense of that word. Often they are acquaintances, distant acquaintances at that. There is no common perception that accepting someone as a 'friend' means that there will then be social contact in person soon afterwards.

Nevertheless, the panel decided that there is nothing inherently amiss with seeing someone at work, noticing that person's name, finding them on Facebook, sending them a request, and on its acceptance asking to meet up socially.

The panel then considered matters in the round. The panel noted that you had done this on multiple occasions. The panel noted several common factors: the people approached were all young women, [PRIVATE]. The way you went about this was a consistent method of seeking to become acquainted with young women you found attractive. The purpose of doing so was the hope of romantic, or intimate, relationships with each of them. The panel also considered the difference in work related status, and the difference in the ages of the people approached and your own age, at the time 32.

Bearing in mind all these factors, the panel considered that while in the abstract to notice someone's name from a badge, find them and send a friend request and then ask to meet up was unexceptional, taking every circumstance into account there was a proper regulatory concern arising from the factual basis leading to the specific allegations.

Regarding Person A, the panel noted that Person A had accepted your friend request, responded to your messages, met you at your request, stayed over at your home on at least two occasions, had an intimate relationship with you and went on holiday with you. The situation is therefore different to those of others with whom relationships did not progress.

The panel considered whether the fact that a consensual intimate relationship came about made matters fundamentally different in relation to the charges relating to her. The relationship, and its ending, is a private life matter. [PRIVATE]. However, the panel considered it important that the way the relationship came about was because of an approach similar to the others. The panel decided that the overall circumstances raised legitimate regulatory concerns, and that remained the case concerning Person A. This is because the fact that the method of seeking young female companionship briefly succeeded in the case of Person A does not negate the overall regulatory concern about a number of similar such approaches.

The panel considered that while conduct after the ending of a relationship was at root a private life matter, all the matters complained of were in a work setting. The car park was a

staff car park. In effect, after the relationship ended, Person A was in a similar position to any other colleague. The position regarding Person A after the relationship is not precisely the same as that of others with whom there was no relationship, but her wish not to have contact with you required to be respected.

For these reasons the panel considered that there were valid regulatory concerns about the forming of your relationship with Person A and subsequent conduct to its end.

In forming these overarching conclusions, the panel is aware that these define the approach it will take first to the applications of no case to answer, and then to the findings on charges remaining, as they involve value judgments about where professional boundaries lie, about sexual motivation and about harassment.

In considering the applications of no case to answer, the panel considered the approach it would take to these three topics.

The issue of professional boundaries is a clear issue, and the panel did not consider that it needed to define what it means.

Colleagues often form intimate relationships. There is often a sexual motivation as part of the reason such relationships form. The panel considers that there is nothing inherently wrong in a sexual motivation in seeking to form a relationship with a colleague. The panel agrees with Mr Walters that there are no issues of morality relevant to such relationships.

The panel considers, however, that sexual relationships that are entirely within the law may nevertheless give rise to regulatory concerns depending on the circumstances. Where harassment is alleged, the panel decided to adopt the definition set out in Section 26 of the Equality Act (2010) (with the parts concerning protected characteristics removed). That definition states that a person (A) harasses another (B) if:

a) A engages in unwanted conduct, and

- b) *the conduct has the purpose or effect of—*
- i. *violating 's dignity, or*
 - ii. *creating an intimidating, hostile, degrading, humiliating or offensive environment for B.*

The panel considered that this is a legislative definition which applies to the workplace in other contexts, and that it was consistent to use that definition in regulatory concerns.

Having considered the approach it would take to the overall context of the charges, the panel then turned to consider the individual applications of no case to answer.

Before doing so, the panel considered its approach to private life matters and professional matters in relation to nurses. Such allegations must be judged against relevant specific professional rules, regulations and guidance. In the case of nurses primarily this is the Code, and guidance at NMC Guidance PRE-2e. These are phrased in general terms. The panel decided that its approach would be that personal relationships are a private life matter, including between colleagues. The greater the differences between two people in a private life matter (whether colleagues or not), or the more egregious the behaviour alleged to have occurred, the more likely it is that a private life matter will properly be the subject of a professional regulation charge.

The panel then turned to the individual applications.

The panel noted that while allegations of crossing professional boundaries and of harassment, if proved, would be likely to be found to be misconduct, allegations of sexual motivation required a further element, that the sexual motivation must in some way be improper to be misconduct. It would be naïve to think that actions leading to many entirely genuine relationships were not to some extent sexually motivated.

Charge 2a

The panel noted that you have accepted charge 2a.

In relation to professional boundaries, the panel considered that there is a case to answer to the allegation that there was a breach of professional boundaries as alleged. Although the action of adding somebody on Facebook is not wrong, the context is that you were in a position of authority at the Trust and that there was a power imbalance in this case, as Person C was a student at the time and there was a significant age gap between you.

In relation to sexual misconduct, the panel considered that there was a case to answer in respect of the charge that your actions in charge 2a were sexually motivated, as your earlier contact with Person C suggested that you were looking for a relationship beyond just friendship.

The panel considered that your actions in charge 2a were not harassing in nature, as this was just a case of asking to add Person C on Facebook.

Therefore, the panel decided that there is a case to answer in respect of charge 2a, in relation to alleged breach of professional boundaries and of sexual motivation, but not in respect of harassment.

Charge 2b

The panel noted that you have accepted charge 2b.

The panel considered that there was a case to answer that there had been a breach of professional boundaries and sexual motivation in relation to your actions in charge 2b, for the same reasons as set out in charge 2a.

The panel considered that your actions in charge 2b were not harassing in nature, as you had not sent Person C any messages on Instagram at this stage, and it was just a case of following her.

Therefore, the panel decided that there is a case to answer in respect of charge 2b, in relation to the allegations of crossing professional boundaries and of sexual motivation.

Charge 2c

The panel considered that there was a case to answer in respect of the allegation of breach of professional boundaries and sexual motivation in relation to your action in charge 2c, for the same reasons as set out in charge 2a.

The panel considered that your actions in charge 2c were not harassing in nature, as Person C said that she did not feel harassed by you at that time, and that she ignored your message.

Therefore, the panel decided that there is a case to answer in respect of charge 2c, (only) in relation to professional boundaries and sexual motivation.

Charge 2e

The panel considered that your actions in charge 2e were not harassing in nature, as you had sent a one-off message to Person C, in which she replied, *“I don’t think I do have blue eyes”*. There did not appear to be any further communication afterwards in relation to this matter. The panel noted that Person C said she only felt uncomfortable, however she did not perceive herself to be harassed.

Overall, the panel decided that there is no case to answer in relation to charge 2e, in respect of harassment.

Charge 2f

The panel considered that, in relation to this charge, any member of staff could have come to assist with the patient, and that it was not odd for you to have done that at the time, as it was your job. There is no evidence before the panel to indicate that you followed Person C into the resuscitation room deliberately. The panel considered that hospitals are a busy working environment, and it would be difficult to prove that you were following Person C deliberately. This was your workplace and you had supervisory responsibility for it. This charge was no more than speculation.

Therefore, the panel decided that there is no case to answer in relation to charge 2f, in respect of breach of professional boundaries, sexual motivation or harassment.

Charge 2h (i)

The panel considered that there was a case to answer of breach of professional boundaries and sexual motivation in relation to your actions in charge 2h (i), for the same reasons as set out in charge 2a. The panel considered that there was a case to answer that your actions in charge 2h (i) were also harassing in nature.

Therefore, the panel decided that there is a case to answer in relation to charge 2h (i), in relation to breach of professional boundaries, sexual motivation and harassment.

Charge 2h (ii)

The panel noted that Person C's evidence was that although, objectively her location would not have been known to you based on her Instagram post alone, Person C was frightened at the time as she was concerned that you would be able to find her location.

The panel considered that this evidence meant that there is a case to answer in relation to charge 2h (ii), in relation to breaching professional boundaries, sexual motivation and harassment.

Charge 3a

The panel considered that your actions in charge 3a did not indicate a breach in professional boundaries. There is no evidence to suggest that you knew Person B from the Trust initially and your communication involved social media contact only. There is also evidence that you had mutual friends through your social media. The panel took account of the fact that Facebook suggests people to whom users might like to send friend requests, specifically on the basis that there are mutual friends.

Therefore, the panel decided that there is no case to answer in relation to charge 3a, in respect of breaching professional boundaries.

Charge 3b

The panel considered that there was a case to answer in respect of the actions alleged in charge 3b constituting a breach in professional boundaries. This was because of the evidence that you were aware that Person B was [PRIVATE] and worked at the Trust, and because of the significant age difference and grade disparity between you.

In relation to charge 3b, Mr Walters pointed out that the charge was "one or more messages", and that your admission was to only one message. After discussion between

Mr Walters and Ms Marcelle-Brown, it was agreed that the extent of the admission was that there was a short exchange of messages on 21 February 2021, and the NMC accepted that this was the extent of the allegation.

Therefore, the panel decided that there is a case to answer in relation to charge 3b, in respect of alleged breach of professional boundaries.

Charge 4a

The panel noted that you admitted to reading Person A's name badge but not for the purposes of finding her on social media. It considered that, for the same reasons as stated previously, there was a case to answer in respect of this allegation by reason of an imbalance of power between you and Person A by reason of her young age, the age gap and the grade disparity. It considered that there was a case to answer that your intention when searching Person A on social media was not professional and that the purpose may have been to seek a future relationship beyond merely friendship. The panel decided that there was a case to answer in respect of breach of professional boundaries and sexual motivation.

However, in relation to harassment, the panel considered that there was no case to answer. Person A had found the attention flattering and complimentary. This is the reverse of harassment.

Therefore, the panel decided that there is a case to answer in relation to charge 4a, (only) in respect of alleged breach of professional boundaries and of sexual motivation.

Charge 4b

The panel considered that, for the same reasons as stated in charge 4a, there was a case to answer in respect of breach of professional boundaries and sexual motivation in relation to your actions in charge 4b.

In relation to harassment, the panel considered that there was no case to answer, as Person A said that she took the comment which forms the basis of the charge in a positive way.

Therefore, the panel decided that there is a case to answer in relation to charge 4b, in respect (only) of professional boundaries and sexual motivation.

Charge 4c (i)

The panel considered that, in Person A's evidence, she said that you messaged her a week later, after she told you to stop messaging her. The communication you were having with Person A at the time was still via social media at this stage and you had not met yet. For the same reasons as set out above, there is a case to answer that your actions alleged in charge 4c (i) indicated a breach of professional boundaries and sexual motivation.

The panel considered that your actions were not harassing in nature. This was because Person A's evidence of her opinions and feelings at the time was not consistent with such an allegation being proved.

Therefore, the panel decided that there is a case to answer in relation to charge 4c (i) only in respect of alleged breach of professional boundaries and of sexual motivation.

Charge 4c (ii)

The panel noted that you admitted the factual basis of the charge (waiting for Person A outside the workplace) but not that it was a breach of professional boundaries, sexually motivated or harassing. The panel noted that Person A said in her evidence that she felt she had to say hello to you, feeling that it would have been rude not to do so. The panel considered that it was arguable that this was a part of a continuum of behaviours indicating a breach of professional boundaries and sexual motivation, for the same

reasons as previously set out, so that there was a case to answer in respect of these parts of the allegation.

The panel considered that your actions were not harassing in nature.

Therefore, the panel decided that there is a case to answer in relation to charge 4c (ii), (only) in respect of alleged breach of professional boundaries and of sexual motivation.

Charge 4c (iii)

The panel considered that, for the same reasons as set out previously, there was a case to answer in respect of the allegations of breach of professional boundaries and sexual motivation in relation to your actions in charge 4c (iii).

The panel considered that there was no case to answer in relation to harassment, as Person A said that at the time she found your interactions with her to be positive.

Therefore, the panel decided that there is a case to answer in relation to charge 4c (iii), in respect (only) of alleged breach of professional boundaries and of sexual motivation.

Charge 4d (i)

The panel noted that Person A's evidence was that you said you had come to her home area in order to meet her, without prior arrangement, and that she had told you she was busy. There was also evidence that you tried to contact her via Facebook messenger about visiting her. The NMC's evidence was that you had told Person A that you came especially to meet her and that it was unfair if she did not come to meet you. Person A said in her evidence that she felt pressured and that she could not say no. Whilst you were persistent, Person A did agree to go with you, and having agreed then had a reasonably pleasant afternoon. This does not meet the panels criteria for harassment.

The panel considered that there was no case to answer in relation to harassment in respect of this charge, because Person A did agree to meet you during this visit, and did not subsequently object to doing so.

Therefore, the panel decided that there was a case to answer in relation to charge 4d (i), (only) in respect of alleged breach of professional boundaries and of sexual motivation.

Charge 4d (ii)

The panel considered that, for the same reasons as set out above in charge 4d (i), there is a case to answer in respect of alleged breach of professional boundaries and of sexual motivation.

The panel decided that there was no case to answer in respect of this being harassment. While Person A's evidence was that she felt pressured to meet you, she made no complaint at the time, or subsequently (until much later) and so at the time she did not feel intimidated, demeaned or subjected to a hostile environment.

Charge 4d (iii)

The panel considered that, for the same reasons as set out previously, there is a case to answer in respect of alleged breach of professional boundaries and of sexual motivation.

The panel considered that there is no case to answer in respect of harassment, as you asked Person A for a hug and when she said no, you respected her choice and did not force her to hug you. After that request was made and refused, Person A's evidence was that the two of you continued your walk, amicably on her part.

Therefore, the panel decided that there was a case to answer in relation to charge 4d (iii), (only) in respect of alleged breach of professional boundaries and sexual motivation.

Charge 4e (i)

The panel considered that, for the same reasons as set out previously, there is a case to answer in respect of alleged breach of professional boundaries and sexual motivation. It considered that leaving flowers for somebody is not wrong, but there was a case to answer in respect of the motive for doing so, as set out earlier.

The panel considered that your actions in charge 4e (i) could not be found to be harassing in nature, as Person A said that she had accepted the flowers from you and displayed them in her room, and regarded the gift as a positive experience.

Therefore, the panel decided that there was a case to answer (only) in relation to charge 4e (i), in respect of alleged breach of professional boundaries and of sexual motivation.

Charge 4e (ii)

The panel considered that, for the same reasons as set out previously, there is a case to answer in respect of alleged breach of professional boundaries and of sexual motivation.

In relation to harassment, the panel considered that Person A said no to the video that you tried to take of her, and she said in her evidence that this conversation was in a 'joking' way. You did not take the video of Person A. Whilst taking an unwanted video could be seen as harassment, the context in that Person A accepted flowers from you and also further engaged in conversation and meetings with you, was not hostile. Person A said that she considered these actions as positive at the time.

Therefore, the panel decided that there was a case to answer in relation to charge 4e (ii), (only) in respect of alleged breach of professional boundaries and of sexual motivation.

Charge 4f

The panel considered that, the only time you picked Person A up from her house was before the holiday, and this was pre-arranged. It considered that there is so little evidence to support this charge that there is no case to answer in respect of allegations of breach of professional boundaries, of sexual motivation and of harassment.

Charge 5a

The panel considered that there was a case to answer in respect of this allegation. This note was placed on Person A's car in the staff car park. It considered that, if this action took place outside of Person A's home, it could have been seen as a personal matter. However, you arrived at work when Person A was on duty, and it was clear that you knew where she was, as it was not disputed that she always parked in the same spot.

In relation to alleged breach of professional boundaries the same factors, set out above, about disparity are relevant. You were no longer in a relationship with Person A. The panel considered that there was a case to answer that this was a breach of professional boundaries after the relationship between you had ended.

In relation to sexual motivation, from the evidence there is a case to answer that you wanted to resume an intimate relationship with Person A at this time when she said she did not want it.

In relation to the allegation of harassment, your relationship with Person A had ended at this time, and her evidence is that she had made it clear to you that she did not want any further contact with you. There was no reason apparent as to why you might contact her. Person A also said that she was frightened and intimidated, which is evidence sufficient to refuse the application of no case to answer in respect of this charge.

Therefore, the panel decided that there is a case to answer in relation to charge 5a, in respect of alleged breach of professional boundaries, of sexual motivation and of harassment.

Charge 5c

The panel considered that, for the same reasons as set out in charge 5a, there is a case to answer in relation to alleged breach of professional boundaries, of sexual motivation and of harassment.

Charge 5d

The panel considered that, for the same reasons as set out in charge 5a, there is a case to answer in relation to alleged breach of professional boundaries, of sexual motivation and of harassment.

Charge 6, 7, 8 and 9

The panel considered that, in light of the above findings, there is a case to answer in respect of charges 6, 7, 8 and 9, limited as set out above.

Decision and reasons on application for hearing to be held in private (2)

During the course of your evidence, Mr Walters made an application that this case be held partly in private on the basis that proper exploration of your case involves reference to personal matters. The application was made pursuant to Rule 19 the Rules.

Ms Marcelle-Brown indicated that she supported the application.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold

hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

Having heard that there will be reference to personal matters, the panel determined to hold such parts of the hearing in private in order to protect your right to privacy and confidentiality.

The hearing resumed on Monday 19 June 2023.

Decision and reasons on facts

At the outset of the hearing, the panel heard from Mr Walters on your behalf, who informed the panel that you made admissions to charges 1a, 1b, 2a, 2b, 2h(i), 2i, 3a, 3b, 4b, 4c(ii), 4c(iii), 4e(i), 5a, 5c and 6 (only in respect of charges 1a, 1b and 2i).

The panel therefore finds these particular charges proved in their entirety, by way of your admissions.

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 Marcelle-Brown and by Mr Walters.

The panel heard at the outset of the hearing in November 2022 that all of the witnesses had been rescheduled to give their evidence virtually, due to the train strikes and reduced services running. The panel had no objection to this.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

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

- Witness 1: Patient A
- Witness 2: Person A
- Witness 3: Person B
- Witness 4: Person C
- Witness 5: Divisional Nurse Director; North West Anglia NHS Foundation Trust (the Trust)
- Witness 6: Matron for Urgent Care; the Trust
- Witness 7: Lead Nurse in the Emergency Department; the Trust
- Witness 9: Divisional Operations Manager; the Trust

The following NMC witness was unable to attend the hearing, and their evidence was not admitted as hearsay evidence:

- Witness 8: Prior Healthcare Assistant (HCA); the Trust

The panel also heard evidence from you under affirmation.

Background

The charges arose whilst you were employed as a registered nurse by North West Anglia NHS Foundation Trust (the Trust). The NMC received a referral on 30 April 2021.

The concerns of this case are that you are alleged to have breached professional boundaries with Patient A and multiple colleagues at the Trust, all of whom were significantly younger than you. Improper sexual motivation and harassment have also been alleged in this case.

It is reported that you made contact with all of the witnesses in question via social media using the same approach.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by both the NMC and Mr Walters on your behalf.

The panel first discussed the wider issues in this case and the definition of harassment, sexual motivation and breach of professional boundaries. The panel had already done so during its deliberations on the no case to answer application but was aware that it needed to go a step further for its deliberations on the facts of the case. It has already found no case to answer in respect of some of the charges relating to 6, 7, 8 and 9.

Harassment

Where harassment is alleged, the panel decided to adopt the definition set out in Section 26 of the Equality Act (2010) (with the parts concerning protected characteristics removed). That definition states that a person (A) harasses another (B) if:

- a) *A engages in unwanted conduct, and*
- b) *the conduct has the purpose or effect of —*

- i. *violating B's dignity, or*
- ii. *creating an intimidating, hostile, degrading, humiliating or offensive environment for B.*

Sexual Motivation and Professional Boundaries

In relation to sexual motivation, the panel considered that colleagues often form intimate relationships. There is often a sexual motivation as part of the reason such relationships form. The panel considers that there is nothing inherently wrong in a sexual motivation as part of the reason for seeking to form a relationship with a colleague. The panel considered that it would not be right to consider whether some might have issues of morality about such relationships. The panel considered, however, that sexual relationships that are entirely within the law may nevertheless give rise to regulatory concerns depending on the circumstances. The essence of the issue is whether the relationship is abusive in some way. However, adults are entitled to enter relationships with older colleagues if they wish, if the relationship is truly freely entered into by the younger colleague.

The panel considered your method of meeting people via social media and acknowledged that many people adopt the same method to form relationships. It considered that it was not inherently wrong to meet people in the workplace in that way. The panel has heard, and accepted your evidence that you were not seeking a primarily sexual relationship, but you wanted to form a long-term relationship, and so there was no improper sexual motivation in that context. The panel has heard no evidence to the contrary, and your unchallenged evidence about the relationships you have formed supported your assertion that you were motivated by a desire to form a long term relationship.

The panel also took account of the legal assessor's advice. He referred to the case of *Beckwith v Solicitors Regulation Authority* [2020] EWHC 3231 (Admin), in particular paragraph 16, which states that there is no universal principle across all professions, and it much depends on the regulatory scheme of the profession concerned. It also took

account of the recently concluded case of *SRA v Bretherton* which does not yet have a full judgement, but which has been widely reported in the legal press.

The panel considered that there are a number of important themes that have emerged, namely:

- The greater the age disparity between people the more likely it may be considered improper.
- The younger the female the more likely it is to be considered improper.
- The greater the disparity in seniority between the two the more likely it is to be considered improper.
- The closer the two work together the more likely it is to be considered improper.
- Any form of vulnerability increases the chance that misconduct will be established (but do not double count youth).

The converse is also true, so that the smaller the disparity in age, the older the woman, the greater the distance in the working relationship and the closer in status the less likely it will be that a relationship will breach professional boundaries.

Overlaying this, some matters are reprehensible to the extent that they may amount to professional misconduct, but short of that, considerations of morality are not relevant to the issue of sexual motivation and impropriety and breaching professional boundaries.

The panel considered social media as a general theme in this case. It took account of the NMC's guidance on using social media responsibly, and it did not consider any of the suggested behaviours in this case went against the guidance. The panel considered that using a name to find an open social media account and sending such a person a friend request was not inherently objectionable.

The panel noted that those you approached had open settings and accounts in their own names, were frequently contacted by colleagues with friend requests, that Facebook will

suggest people to approach, and that anyone approached that way can accept decline or ignore requests, or block people. In these circumstances there is no cogent reason why to approach a colleague with a friend request would be improper.

The panel heard evidence that you had moved to the UK and you wanted to form relationships via social media, as you felt lonely.

However, when taking into account its previous findings, the panel had some concerns (as set out above in the bullet points), as the aggravating features in this case related to the witnesses' ages [PRIVATE] and the grade disparity within the workplace. You were a band 6 nurse, and these witnesses were either students or apprentices.

You also admitted approaching a patient that was under your care in this way, which you accept was wholly inappropriate.

The panel considered that your approach to contacting people on social media was not inappropriate, however your persistence in contacting colleagues gave rise to concerns about breaching of professional boundaries.

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

Patient A

Patient A was admitted to hospital and treated; she was unconscious at the time. Patient A was eventually discharged, and you subsequently searched her name on Facebook and sent her a message and a friend request. The panel noted that you used Patient A's information from when she was under your care in hospital to locate her social media account.

Charge 1

The panel noted that charge 1a and 1b have been proved by your own admission. You have also admitted to charge 6 in that your actions related to a breach of professional boundaries.

There was no allegation of sexual motivation or harassment in relation to Patient A.

The panel found your admission properly made. This was a breach of professional boundaries. Patient A was a short term patient in the Accident and Emergency Department (A&E), and it is inappropriate to contact a patient personally after discharge. The panel noted your evidence that you had not done so before or since. The panel noted that your expressed reason was concern for Patient A but did not find this exculpatory.

Charge 2

2. In relation to Person C, a student at the Trust:

- a. messaged Patient A on Facebook;*
- b. sent Patient A a Facebook friend request;*
- c. sent one or more messages to Person C when they did not respond;*
- d. on an unknown date messaged Person C to ask if you could meet them, after they indicated they did not want to meet you;*
- e. on a date between 11 November 2019 and 15 December 2019, messaged Person C to say words to the effect of 'I miss your blonde hair and blue eyes';*
- f. ...*

- g. during Person C's second placement, told Colleague A that Person C 'was trouble' or words to that effect;*

- h. on 12 August 2020, when Person C posted a photo on Instagram, messaged:*
 - i. to ask where they were;*
 - ii. that you want to meet them and/or that you were coming to meet them;*

- i. on 5 September 2020, when Person C posted a photo on Instagram, messaged them to say "what when did they grow up so much" in reference to their breasts;*

Person C

Person C was a student paramedic at the ambulance trust in which you came into professional contact within the A&E department. You had sought out Person C's identity through Facebook and hoped to engage in a romantic relationship with her. At the time she was '21 or 22' years of age, and you were 31. She was not an employee of the same Trust as you but was on a work placement with the ambulance Trust.

Charge 2a (adding Person C on Facebook)

The panel noted that you have admitted the facts of charge 2a by your own admission, and so this has been found proved.

The panel then considered whether your actions in charge 2a amounted to improper sexual motivation and a breach of professional boundaries, in respect of charges 6 and 7. The panel found no case to answer in respect of harassment, in relation to charge 9.

In respect of sexual motivation, the panel referred back to its previous discussion before considering each of the disputed facts and considered that your actions in charge 2a did not amount to improper sexual motivation, as it was clear you were simply seeking a

relationship with Person C, and not just a sexual relationship. The panel therefore finds charge 6 not proved, in relation to charge 2a.

In respect of professional boundaries, the panel referred back to its previous discussion before considering each of the disputed facts, and considered that your actions in charge 2a did not amount to a breach of professional boundaries, as it decided there was no issue with simply adding somebody on social media in that way. The panel therefore finds charge 7 not proved, in relation to charge 2a.

Charge 2b (*adding Person C to Instagram*)

The panel noted that you have admitted the facts of charge 2b by your own admission, and so this has been found proved.

For the same reasons as above in charge 2a, the panel found charges 6 and 7 not proved.

Charge 2c (*sent messages to Person C when she did not respond*)

In reaching this decision, the panel took into account the oral and documentary evidence before it.

The panel took account of Person C's witness statement, which said:

'On dates I cannot recall, I would refuse to meet with Mr Predii, he would send multiple messages. I would ignore these message. If I did not respond to Mr Predii, he would then send me multiple messages saying, 'why aren't you replying?' He would also send multiple question marks such as '???'

Person C in her oral evidence also stated that if she ignored your messages, you would send more to prompt a response from her. When Person C was asked how many

messages you would send, she said 'probably three or four'. The panel accepted Person C's evidence, as she was consistent throughout her written and oral evidence.

You told the panel that you would send messages if you did not receive a reply, as you wanted to make sure nothing was wrong. You agreed in your oral evidence that, upon reflection, your actions did breach professional boundaries, although you did not consider this to be the case at the time of the incident.

In relation to professional boundaries, the panel found that your approach to contacting Person C was not inherently wrong (as set out above). However, when considering the age gap between you and Person C, the clear grade disparity, and your persistence in contacting Person C, the panel found that you did breach professional boundaries.

You were senior to her, she was young, she was not responding to your messages and you persisted. You had no relationship with her, and there was nothing to make you think that there was anything amiss with Person C.

In those circumstances this persistence was a breach of professional boundaries because you were pressuring her. This was not acceptable by reason of the disparities between you in age and as healthcare colleagues.

In light of the above, and on the balance of probabilities, the panel finds charge 2c proved and to be a breach of professional boundaries.

The panel also considered whether your actions in charge 2c amounted to improper sexual motivation, in respect of charge 7. For the same reasons above in charge 2a, the panel finds charge 7 not proved, in relation to improper sexual motivation.

The panel found no case to answer in respect of harassment for charge 2c, in relation to charge 9 for reasons given earlier.

Charge 2d (*messaging Person C asking to meet her after she indicated that she did not wish to do so*)

In reaching its decision, the panel considered all of the oral and documentary evidence before it.

In oral evidence, Person C was asked if she responded to the messages she received from you, and she said she did and mentioned not wanting to meet you. Person C highlighted that you were persistent in your messages about wanting to meet in person and described the language you used. Person C was asked how many messages she had received from you, and she said several. The panel noted that Person C stated that she felt you were coming to see her, whether she said yes or not.

The panel considered your oral evidence and you stated that, although you could not recall much of this event, it was not your intention to make Person C feel uncomfortable.

The panel accepted Person C's evidence, as she was consistent throughout, and could recall this event clearly because of the effect it had on her.

Therefore, in light of the above, and on the balance of probabilities, the panel therefore finds charge 2d proved.

The panel then went on to consider whether your actions in charge 2d amounted to improper sexual motivation, a breach of professional boundaries, and harassment in respect of charges 6, 7 and 9.

In relation to professional boundaries and harassment, the panel felt that your actions in charge 2d fit the definition of harassment (set out above) and breached professional boundaries, especially when considering Person C's clear recollection of the event and after describing how she felt at the time. Person C said in oral evidence that she felt intimidated by your messages. This was unwanted conduct. It did have the effect of

violating her dignity and of creating an intimidating environment for her. The panel therefore finds charge 6 and 9 proved, in relation to charge 2d.

For the same reasons above in charge 2a, the panel finds charge 7 not proved, in relation to improper sexual motivation.

Charge 2e (*messed Person C about missing her blonde hair and blue eyes*)

In reaching its decision, the panel considered all of the oral and documentary evidence before it.

The panel took account of Person C's witness statement, which said:

'...at some point between 11 November 2019 and 15 December 2019, Mr Predii... messaged me saying, 'I miss your blonde hair and blue eyes'.

The panel considered that in her oral evidence, Person C stated that she remembered replying back to your message saying that she *'doesn't think she has blue eyes'*, which the panel felt was relevant.

Whilst there is not much documentary evidence relating to this charge, the panel considered that Person C was consistent throughout her evidence, and she had a clear recollection of this event. The panel considered that there would be no reason as to why she would fabricate this.

Therefore, in light of the above, and on the balance of probabilities, the panel therefore finds charge 2e proved.

The panel then went on to consider whether your actions in charge 2e amounted to improper sexual motivation or a breach of professional boundaries, in respect of charges 6 and 7.

In relation to professional boundaries, the panel considered that you did breach professional boundaries as you specifically referred to attributes of Person C in your message, when there was no current existing relationship. The same considerations about age and seniority disparity between colleagues apply. The panel therefore finds charge 6 proved, in relation to professional boundaries.

For the same reasons above in charge 2a, the panel finds charge 7 not proved, in relation to improper sexual motivation.

The panel found no case to answer in respect of harassment, in relation to charge 9.

Charge 2g (said Person C “was trouble”)

In reaching its decision, the panel considered all of the oral and documentary evidence before it.

The panel considered that there was little evidence in relation to this specific charge other than Person C’s evidence. In particular the NMC did not provide any evidence from the person to whom this was alleged to have been said, who was Person C’s supervisor.

The panel considered that based on the other evidence this comment is out of character. Your interaction with young female colleagues was almost always characterised by paying compliments and flattery, not criticism or “banter”. The panel considered that it was not likely to have been something you would have said.

Therefore, in light of the above, the panel therefore finds charge 2g not proved.

Subsequently, charges 6, 7 and 9 are also not proved.

Charge 2hi and 2hii (*posting messages asking where Person C was and saying that he was coming to see her*)

In reaching its decision, the panel considered all of the oral and documentary evidence before it. It considered these two sub charges together because they are interlinked.

The panel noted that you have admitted the facts of charge 2hi by your own admission, and so this has been found proved. You have not made admission to charge 2hii.

The panel considered the evidence of Person C. It noted that although her exact location would not have been known to you by the image she posted alone, Person C was clear in her evidence that she was frightened by your message. She did not know that you could not locate her from the photograph, and was worried that you could. Person C was clear in her evidence she had already told you that she did not want to meet, and had subsequently stopped responding to your messages.

The panel considered that, based on the evidence it has seen and heard previously, this is indicative of a pattern of behaviour in relation to your persistence towards Person C.

The panel then went on to consider whether your actions in charge 2h amounted to improper sexual motivation, a breach of professional boundaries, and harassment in respect of charges 6, 7 and 9.

In relation to harassment, the panel considered that your messages to Person C on 12 August 2020 where a resumption of messages some eight months after she told you she did not want you messaging her. It is clear that you were persistent, which is indicative of a pattern of behaviour. Person C stated that your messages to her on that day made her feel uncomfortable. The panel therefore finds charge 9 proved in relation to harassment.

For the same reasons above in charge 2e, the panel finds charge 6 proved, in relation to professional boundaries.

For the same reasons above in charge 2a, the panel finds charge 7 not proved, in relation to improper sexual motivation.

Based on the panel's reasonings above, the panel finds charge 2hii proved factually, as well as charges 6 and 9.

Charge 2i (reference to Person C's breasts in a message)

The panel noted that you admit to the facts of charge 2i, in addition to charge 6, in respect of a breach of professional boundaries and finds this proved on that admission. It is very clearly a breach of professional boundaries.

The panel then went on to consider whether your actions in charge 2i amounted to improper sexual motivation and harassment, in respect of charges 7 and 9.

In relation to improper sexual motivation, the panel considered your evidence in that you stated your message to Person C was a 'bad joke' in referring to her breasts. The panel considered that you referred to attributes of Person C's body, when you were not in an existing relationship. Although the panel does not have sight of the photo that Person C posted, it is clear from the evidence heard that the photo was not of a sexual nature. It was of Person C in tennis wear, low cut. The panel therefore found charge 7 proved, in relation to improper sexual motivation, because this was not in attempted furtherance of a romantic relationship. It was a gratuitous offensive reference to a woman's breasts.

In relation to harassment, the panel considered the written and oral evidence of Person C. It felt that her recollection of the event was clear as well as how she felt following the event. Person C was also credible and consistent in her evidence throughout. On the balance of probabilities, the panel therefore finds charge 9 proved, in relation to harassment. Whatever the motivation, the effect was harassing, as defined above.

Charge 3

3. *In relation to Person B, an apprentice at the Trust;*
 - a. *On 20 February 2021 added Person B on Facebook;*
 - b. *Sent Person B one or more messages suggesting it was good that they were young;*

Person B

Person B was a suggested friend through Facebook. You added her as a friend on Facebook and she then added you. You soon discovered that Person B was [PRIVATE] through your conversation with one another.

Charge 3a (added Person B as a friend on Facebook)

The panel noted that you have admitted the facts of charge 3a by your own admission, and so this has been found proved.

The panel then went on to consider whether your actions in charge 3a amounted to harassment, in respect of charge 9. The panel noted that it found no case to answer in respect of professional boundaries.

In relation to harassment, the panel did not feel that there was enough information before it to establish that your actions in charge 3a amounted to harassment. The panel took account of Person B's witness statement, which said:

'On 20 February [2021], Mr Predii added me on Facebook. I accepted his friend request. I accepted his friend request. Mr Predii then sent me a message saying 'hi...'. I responded asking if he works at Peterborough City Hospital because I was

not sure who he was. He confirmed that he did. I found this strange but I continued to speak to him because I wanted to know what he wanted.'

In her oral evidence, Person B stated that she was nervous, but she did not think it was serious at the time. She said the exchange made her feel uncomfortable and she felt it was inappropriate, but not that it had the effect within the definition of harassment set out above.

In her witness statement, Person B stated that HR had advised her to block you on Facebook although she said she did not, she simply removed you as a friend. In her oral evidence, she stated that she did not feel she needed to block you, as you were not trying to contact her repeatedly. The panel, as stated previously, did not consider it was an issue to simply add somebody as a friend on Facebook.

In light of the above, the panel does not find charge 9 proved in relation to harassment.

Charge 3b (sent messages saying it was a good that she was young)

The panel noted that you have admitted the facts of charge 3b, and so this has been found proved.

The panel then went on to consider whether your actions in charge 3a amounted to a breach of professional boundaries and harassment, in respect of charges 6 and 9.

In relation to professional boundaries, the panel considered that your actions did amount to a breach of professional boundaries, when considering the significant age gap and grade disparity between you. It considered that this was not appropriate in the circumstances. The panel also noted that you were under local investigation at the time for similar incidents. The panel noted that it was Person B who had to point out that the contact from you was inappropriate due to the age disparity. The panel therefore finds charge 6 proved, in relation to a breach of professional boundaries.

In relation to harassment, the panel considered that your actions in charge 3b did not amount to harassment. It considered your oral evidence, in which you stated that your message to Person B was purely innocent, and you did not intend for it to come across in an inappropriate way. The panel considered that, looking at the way charge 3b is charged, your actions would not be seen as harassing. This is because your message about whether it was good to be young was in response to a question from Person C. The subsequent messages you sent to Person B do not form part of this charge. The panel therefore finds charge 9 not proved, in relation to harassment.

Charge 4

4. *In relation to Person A, an apprentice at the Trust:*
 - a. *On 25 April 2020, read Person A's name badge in order to find them on social media;*
 - b. *on 25 April 2020, messaged Person A on Facebook to say she looked nice;*
 - c. *during or around May 2020:*
 - i. *messaged Person A after they asked you to stop messaging;*
 - ii. *waited for Person A outside the hospital;*
 - iii. *told Person A they were beautiful;*
 - d. *On an unknown date:*
 - i. *went to Person A's local area uninvited to try to meet them;*
 - ii. *pressured Person A to meet you;*
 - iii. *asked Person A for a hug;*
 - e. *On 20 June 2020:*
 - i. *left flowers on Person A's car bonnet;*
 - ii. *tried to record a video of Person A without their permission;*

f. ...

Person A

Person A was a patient safety apprentice at the trust that you noticed in the canteen, in April 2020. She was then 18 years of age. You subsequently contacted Person A via social media and engaged in a romantic relationship with her.

Charge 4a (*read her name badge to find her on social media*)

In reaching its decision, the panel considered all of the oral and documentary evidence before it.

The panel considered your oral evidence, in that you admitted to reading Person A's name badge, but did not accept that this was for the purposes of finding her on social media, which you say you decided to do later.

The panel also considered that it was your evidence, as well as Person A's evidence, that you contacted her on social media very soon after you noticed her in the canteen, and subsequently you formed a romantic consensual relationship with her. You also highlight this in your own local statement:

'I have met HCA Person A in the restaurant of the trust we both work, I had no courage to ask her in person the name and start a conversation but I saw her name badge and I did add her on social media and send her a message on that evening...'

You also addressed the same within the disciplinary interview, dated 30 November 2020:

'SP confirmed he did not know who Person A was before then although had seen her around the hospital, but advised he knew her name from her name badge whilst

at the hospital restaurant. SP then messaged Person A on Facebook and they started chatting...'

Your oral evidence was that you were too shy to speak to her in person, indicating that you wished to do so.

All the evidence points towards you looking at the name badge with the intention of finding her on Facebook and messaging her. The panel noted that this was indicative of a pattern of behaviour.

Therefore, in light of the above, and on the balance of probabilities, the panel finds charge 4a proved.

The panel found no case to answer in respect of charge 9, in relation to harassment.

For the same reasons above in charge 2a, the panel finds charge 6 and 8 not proved, in relation to improper sexual motivation and a breach of professional boundaries.

Charge 4b (messaged Person C to say she looked nice)

The panel noted that you have admitted the facts of charge 4b, and so this has been found proved.

The panel then considered whether your actions in charge 4b amounted to improper sexual motivation and a breach of professional boundaries, in respect of charges 6 and 8.

The panel found no case to answer in respect of harassment, in relation to charge 9.

In relation to an alleged breach of professional boundaries, the panel considered that your actions in charge 4b did not amount to such a breach, as Person A in her oral evidence could not recall how she felt when she received those messages from you as it was a long

time ago. Person A did not state that she felt uncomfortable in any way or that your actions were crossing a line. Person A stated in oral evidence that it was nice for someone to compliment her. The panel therefore finds charge 6 not proved, in relation to breach of professional boundaries.

For the same reasons above in charge 2a, the panel finds charge 8 not proved, in relation to improper sexual motivation.

Charge 4ci (*messed Person A after she indicated that he should stop doing so*)

In reaching its decision, the panel took account of all the documentary and oral evidence before it.

The panel heard evidence from Person A that she did not want you messaging her as she was worried her boyfriend at the time would see the messages. It considered her witness statement, which said:

'I explained that I had a boyfriend and asked Mr Predii to stop messaging me...'

The panel heard evidence that you did message Person A again, but she could not recall what you said to her and how she responded at the time.

The panel accepted Person A's evidence that she had asked you to stop messaging her but that you had resumed after a week or so, and that this was before a later exchange about her boyfriend.

The panel considered your evidence, in that you said you did not recall Person A asking you to stop messaging her.

The panel recalls from Person A's oral evidence that she notably lacked a clear recollection of the incident, but when taking to account that she was clear in that she

asked you to stop messaging her, this was consistent with other evidence the panel has heard and read about similar events. The panel noted that Person A could not recall the event clearly when she gave her oral evidence, but she was clearer in her witness statement, which was written closer to the time.

The panel also took account of Person A's handwritten statement that was provided locally, in which she said she asked you to stop messaging her and that she received another message from you a while later.

On the balance of probabilities, the panel finds charge 4ci proved.

The panel then considered whether your actions in charge 4ci amounted to improper sexual motivation and a breach of professional boundaries, in respect of charges 6 and 8.

The panel found no case to answer in respect of harassment, in relation to charge 9.

In relation to professional boundaries, the panel felt that this was a breach, as Person A had told you to stop messaging her, but that after waiting a week you began messaging her again. The panel considered that this is indicative of a pattern of behaviour and persistency. The panel also took account of the age gap and role disparity between you. The panel therefore finds charge 6 proved, in relation to professional boundaries.

For the same reasons above in charge 2a, the panel finds charge 8 not proved, in relation to improper sexual motivation.

Charge 4cii (waited for Person C outside the hospital)

The panel noted that you have admitted the facts of charge 4cii, and so this has been found proved.

The panel then considered whether your actions in charge 4cii amounted to improper sexual motivation and a breach of professional boundaries, in respect of charges 6 and 8.

The panel found no case to answer in respect of harassment, in relation to charge 9.

In relation to professional boundaries, the panel felt that your actions in charge 4cii did not amount to such a breach, as Person A clearly chose to go and speak to you on the day of the event, when she could have declined. It is clear from the evidence that the two of you had a conversation following her shift that lasted for about an hour, and which she was clear she enjoyed. The panel also considered that you had exchanged messages with each other beforehand regarding the shift she was working that day. There is no indication that Person A felt pressured to meet you at the time. Person A also messaged you stating that she did not believe you would come to see her, and said that she was surprised when you did, and that there was no indication from her that she did not want to see you. She expressed doubt that you would come rather than requesting that you did not. The panel therefore finds charge 6 not proved, in relation to professional boundaries.

For the same reasons above in charge 2a, the panel finds charge 8 not proved, in relation to improper sexual motivation.

Charge 4ciii (told Person A she was beautiful)

The panel noted that you have admitted the facts of charge 4ciii, and so this has been found proved.

The panel then considered whether your actions in charge 4ciii amounted to improper sexual motivation and a breach of professional boundaries, in respect of charges 6 and 8. The panel found no case to answer in respect of harassment, in relation to charge 9.

For the same reasons above in charge 4cii, the panel finds charge 6 not proved, in relation to professional boundaries.

For the same reasons above in charge 2a, the panel finds charge 8 not proved, in relation to improper sexual motivation.

Person A was flattered by the remark and said that it made her feel good about herself.

Charge 4di (*went to her home area uninvited to try to meet her*)

In reaching its decision, the panel took account of all the oral and documentary evidence before it.

The panel considered Person A's witness statement, which said:

'I also told him I did not want to meet him ... he said that he had come...especially to meet me and that it was unfair if I didn't. I felt pressure to meet Mr Predii and as though I could not say no. I felt pressured because I was put on the spot, but also because Mr Predii was [PRIVATE] older than me at the time...'

Person A also repeated the above in her oral evidence when she was asked if she asked you to come and meet her, and she said no. Person A was consistent throughout her evidence and was clear about her recollection of this event.

The panel considered your oral evidence, in which you said it was usually your suggestion to meet up as *'men usually make the first move'*.

The panel did not accept your evidence that there was an exchange of messages similar to those before your visit to see Person A at the hospital.

On the balance of probabilities, the panel finds charge 4di proved.

The panel then considered whether your actions in charge 4di amounted to improper sexual motivation and a breach of professional boundaries, in respect of charges 6 and 8. The panel found no case to answer in respect of harassment, in relation to charge 9.

In relation to professional boundaries, the panel felt that your actions did amount to a breach, as you were significantly older than Person A and she was clear in that she felt she was under pressure not to say no to you, you having driven to the area where she lived. The panel therefore finds charge 6 proved, in relation to professional boundaries.

For the same reasons above in charge 2a, the panel finds charge 8 not proved, in relation to improper sexual motivation.

Charge 4dii (pressured Person A to meet you)

The panel considered that for the same reasons as above in charge 4di, the panel finds charge 4dii proved on the balance of probabilities.

The panel found no case to answer in respect of harassment, in relation to charge 9.

For the same reasons as above in charge 4di, the panel finds charge 6 proved, in relation to professional boundaries.

For the same reasons above in charge 2a, the panel finds charge 8 not proved, in relation to improper sexual motivation.

Charge 4diii (asked Person A for a hug)

In reaching its decision, the panel took account of all the oral and documentary evidence before it.

The panel heard evidence from Person A that, towards the end of your conversation, you asked if you could hug her. You also said in oral evidence that you asked Person A for a hug.

It is Person A's evidence that she declined the hug, and it is your evidence that she accepted the hug and it lasted for a few seconds.

The panel therefore considered that, in light of the above, and when considering the evidence it has seen and heard previously, the panel finds charge 4diii proved on the balance of probabilities. It is not relevant to the charge whether or not a hug actually occurred.

The panel then considered whether your actions in charge 4diii amounted to improper sexual motivation and a breach of professional boundaries, in respect of charges 6 and 8.

The panel found no case to answer in respect of harassment, in relation to charge 9.

In relation to professional boundaries, the panel considered that your actions did not amount to a breach, as you had asked Person A for a hug and her evidence is that she declined, and you respected that decision. If, as you say, there was a hug Person A does not recall it and therefore it cannot have been improper. The panel considered that you were not persistent in asking for a hug, and as this was at the end of a lengthy walk outside work in a private life setting it would not have been improper. The panel therefore finds charge 6 not proved, in relation to professional boundaries.

For the same reasons above in charge 2a, the panel finds charge 8 not proved, in relation to improper sexual motivation.

Charge 4ei (*left flowers on the bonnet of Person A's car*)

The panel noted that you have admitted the facts of charge 4ei, and so this has been found proved.

The panel then considered whether your actions in charge 4ei amounted to improper sexual motivation and a breach of professional boundaries, in respect of charges 6 and 8.

The panel found no case to answer in respect of harassment, in relation to charge 9.

In relation to professional boundaries, the panel considered that your actions did not amount to a breach, as it was Person A's evidence that she felt that you leaving flowers on her car bonnet was a positive gesture. It heard evidence that you had given Person A flowers on occasions before. Person A said that she was embarrassed about the flowers, but she displayed them in her bedroom, and you subsequently went out together that evening. The panel considered that Person A was able to make her own decisions and she could have objected if she was uncomfortable. The panel therefore finds charge 6 not proved, in relation to professional boundaries.

For the same reasons above in charge 2a, the panel finds charge 8 not proved, in relation to improper sexual motivation.

Charge 4eii (*tried to record a video of Person C without her consent*)

In reaching its decision, the panel took account of all the oral and documentary evidence before it.

The panel heard evidence that you and Person A took some selfies together. You said in evidence that you do not ever recall Person A saying no or that she was uncomfortable.

Person A said in her oral evidence that you were trying to take the video of her in a 'joking' way. She said that she remembered seeing a red button on your phone screen which is indicative of the video mode. This suggests that you may have been preparing to take a video with Person A.

Person A made reference to the above in her witness statement, but she did not highlight seeing a red button on your screen.

The panel considered that Person A was clear about her recollection of the event and was consistent throughout her evidence.

The panel considered that you were inconsistent in your recollection of the event, as you told Mr Walters that you did not take a video of Person A, and then said to Ms Marcelle-Brown that you could not remember.

On the balance of probabilities, the panel finds charge 4eii proved.

The panel then considered whether your actions in charge 4eii amounted to improper sexual motivation and a breach of professional boundaries, in respect of charges 6 and 8.

The panel found no case to answer in respect of harassment, in relation to charge 9.

For the same reasons above in charge 4ei, the panel finds charge 6 not proved, in relation to professional boundaries.

For the same reasons above in charge 2a, the panel finds charge 8 not proved, in relation to improper sexual motivation.

Charge 5

5. *Following a relationship breakdown with Person A:*
 - a. *On an unknown date, left a note on their car stating, "I miss you xxx";*
 - b. *...*
 - c. *On 10 October 2020, waited by Person A's car in the staff car park;*
 - d. *On 25 October 2020 parked your car next to Person A's car in the staff car park;*

Charge 5 relates to you and Person A following a holiday you went on together which did not go well. Your relationship with Person A broke down during the holiday which all parties agree with.

Charge 5a (Note "I miss you")

The panel noted that you have admitted the facts of charge 5a, and so this has been found proved.

The panel then considered whether your actions in charge 5a amounted to improper sexual motivation, a breach of professional boundaries, and harassment, in respect of charges 6, 8 and 9.

In relation to professional boundaries, the panel considered that your actions did amount to a breach, as Person A had told you that she no longer wanted to speak to you and had blocked you on social media. Your relationship with her was over. This incident happened within the working environment, as it took place within the staff car park. You had waited for Person A after her shift had ended. It was clear that you knew at the time that she did not want any further contact with you after she broke up with you, and you could not have been mistaken about this. The panel considered that you were aware that this was the

only way you could speak with Person A, as she had blocked you on social media. The panel therefore finds charge 6 proved, in relation to a breach of professional boundaries, for the same reasons concerning disparities between you as in earlier charges

In relation to improper sexual motivation, the panel considered that your actions did not amount to this, as it was clear that you were still trying to rebuild your romantic relationship with Person A following the relationship breakdown, which would not amount to improper sexual motivation. Although the way you tried to do this breached professional boundaries it was not from an improper sexual motivation The panel therefore finds charge 8 not proved in relation to improper sexual motivation.

In relation to harassment, the panel considered that your actions did amount to this as, although it would not have been inappropriate to reach out to Person A (in another way) to rebuild a broken-down relationship, the panel heard evidence from Person A that she had blocked you on social media as she '*feared*' you. Although there is no evidence on how Person A felt about that note at the time, it was clear that Person A no longer wanted any contact with you. The panel therefore finds charge 9 proved, in relation to harassment, as defined by the panel.

Charge 5c (*waited by Person A's car*)

The panel noted that you have admitted the facts of charge 5c, and so this has been found proved.

The panel then considered whether your actions in charge 5c amounted to improper sexual motivation, a breach of professional boundaries, and harassment, in respect of charges 6, 8 and 9.

The panel decided that, for the same reasons as above in charge 5a, the panel finds charges 6 and 9 proved, in relation to a breach of professional boundaries and harassment.

The panel decided that, for the same reasons as above in charge 5a, the panel finds charge 8 not proved, in relation to improper sexual motivation.

Charge 5d (parked next to Person A's car)

In reaching its decision, the panel considered all of the oral and documentary evidence before it.

The panel heard evidence from Person A that she always parked on that particular level of the car park, as it was the closest route to get into the hospital. She stated that she had seen your car parked close to hers, a few spaces down, following her night shift.

The panel noted Person A's witness statement in which she said your car was parked directly next to hers.

The panel accepted that Person A said in her oral evidence that you did not park next to her car before you went on the holiday together, and it was only after you returned and you had broken up, that you began to do so. The panel also noted that you had previously parked close to Person A's car on 10 October and that therefore this was a repeated action, and goes to show persistent behaviour.

The panel decided that in light of the above, and on the balance of probabilities, charge 5d is proved.

The panel decided that, for the same reasons as above in charge 5a, the panel finds charges 6 and 9 proved, in relation to a breach of professional boundaries and harassment.

The panel decided that, for the same reasons as above in charge 5a, the panel finds charge 8 not proved, in relation to improper sexual motivation.

Charge 6

6. Your conduct in any or all of charges 1-5 was a breach of professional boundaries;

This charge is found proved in part (see below).

The following charges have been found proven in relation to charge 6:

- Charges 1a and 1b (by admission);
- Charges 2c, 2d and 2e,
- Charge 2hi and 2hii;
- Charge 2i (by admission);
- Charge 3b;
- Charge 4ci;
- Charges 4di and 4dii; and
- Charges 5a, 5c, and 5d.

Charge 7

7. Your conduct in charge 2 was sexually motivated in that you intended to pursue a future sexual relationship with Person C;

This charge is found proved in part (see below).

The following charges have been found proven in relation to charge 7:

- Charge 2i.

Charge 8

8. *Your conduct in charge 4 and/or 5 was sexually motivated in that you intended to pursue a future sexual relationship with Person A;*

This charge is found NOT proved (see findings above).

Charge 9

9. *Your conduct in any or all of charges 2-5 was harassing in nature;*

This charge is found proved in part (see below).

The following charges have been found proven in relation to charge 9:

- Charge 2d;
- Charges 2hi and 2hii;
- Charge 2i; and
- Charges 5a, 5c and 5d.

Fitness to practise

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

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

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

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

Submissions on misconduct

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

Ms Marcelle-Brown identified the specific, relevant standards where your actions amounted to misconduct. She submitted that it is the NMC's position that your actions have breached a number of sections of the Code. She referred to section five of the Code, in particular 5.1: '*respect a person's right to privacy in all aspects of their care*'. She reminded the panel that you used Patient A's details to search for her on social media following her discharge from hospital.

Ms Marcelle-Brown referred to section 20 of the Code, and submitted that all of the charges found proved as a whole amounted to such a breach relating to this section. She

referred to section 20.1: *'keep to and uphold the standards and values set out in the Code'*. She submitted that your actions were not in compliance with the standards and values expected of a registered nurse, as they amounted to a breach of professional boundaries, harassment and sexual motivation regarding Person C. She submitted that, in light of the context of the facts found proved, in particular the age and grade disparity, the number of witnesses and your approach to contacting them, your actions were improper in the circumstances.

Ms Marcelle-Brown referred to section 20.2: *'act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment'*. She submitted that, in light of the panel's findings in that your actions were found to be harassing in nature in relation to a number of the charges regarding Person A and Person C, the standards fell far short of what was expected.

Ms Marcelle-Brown referred to section 20.3: *'be aware at all times of how your behaviour can affect and influence the behaviour of other people'*. She submitted that your actions were repetitive in nature, and stressed that you admitted in oral evidence that you did not appreciate at the time how your actions made the witnesses feel.

Ms Marcelle-Brown referred to section 20.5: *'treat people in a way that does not take advantage of their vulnerability or cause them upset or distress'*. She submitted that all of the witnesses in this case were [PRIVATE], and were mostly junior staff at the Trust, which makes them vulnerable by nature. She submitted that the panel heard evidence that your actions made the witnesses uncomfortable and upset. She reminded the panel that one of the women was a patient under your care.

Ms Marcelle-Brown referred to section 20.6: *'stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers'*. She submitted that this section relates to Patient A.

Ms Marcelle-Brown referred to section 20.8: *'act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to'*. She submitted that at the time, you were an acting band 6 nurse, and it is clear from your actions that were found proved that you did not act as a role model, despite you being in a position of seniority.

Ms Marcelle-Brown referred to section 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'*. She submitted that this relates to social media and your use of it with the witnesses in question. She submitted that you did not respect the witnesses right to privacy when you sent inappropriate messages which were harassing in nature, and acted in a way that breached professional boundaries.

Ms Marcelle-Brown submitted that the charges found proved ultimately amount to misconduct, and are aggravated by the age and grade disparity between you and the witnesses, one of whom was also a patient under your care. She submitted that, as the panel noted in the decision on facts, your persistence in contacting them was what led to your actions amounting to a breach of professional boundaries and harassment.

In relation to the facts proved that did not amount to a breach of professional boundaries, sexual motivation or harassment, she submitted that the panel noted there was nothing inherently wrong with adding someone on social media. However, in this case you went on to breach professional boundaries and harass these colleagues, which she submitted was misconduct. She reminded the panel of your repeated behaviour on a number of occasions.

Ms Marcelle-Brown referred to the seriousness of the conduct. She submitted that, either collectively or individually, the charges found proved are serious enough to amount to misconduct and that you have fallen short of what would be proper in the circumstances. She referred to the NMC's guidance on *'How we determine seriousness'*, namely *'Serious concerns which are more difficult to put right'*. She submitted that this guidance makes

reference to 'concerns relating to harassment, including sexual harassment, relating to the professional context'. She reminded the panel that the facts found proved would be a serious concern and do amount to misconduct.

Ms Marcelle-Brown then referred to the section of the guidance titled: '*Serious concerns which could result in harm to patients if not put right*'. She submitted that this guidance states that matters will be seen as serious if a registrant has failed to uphold the reputation of the profession by not acting with honesty, integrity and treating people fairly.

Ms Marcelle-Brown finally referred to the last section of the guidance titled: '*Serious concerns based on public confidence or professional standards*'. She referred to deep-seated attitudinal concerns, and submitted that the panel may be of the view that you do have attitudinal concerns towards your approach to younger female colleagues. She referred to your pattern of behaviour. She submitted that you have also not shown any real insight into your actions and, although you made a number of admissions during the hearing as to how your actions may have come across to the complainants, your insight at this stage is limited in respect of the impact they could have had.

Ms Marcelle-Brown submitted that, in light of the NMC's guidance and the panels finding, the concerns are so serious that they should amount to a finding of misconduct.

Mr Walters submitted that the facts have been found proved largely by your own admission. He referred to the factual particulars in relation to charges 2a, 2b, 3a, 4a, 4b, 4ci, 4cii, 4diii, 4ei and 4eii. He submitted that those facts repeatedly relate to adding people on social media platforms and refer to acts done by you in furtherance of a prospective romantic relationship with Person A. He submitted that those facts are absent in the findings of sexual motivation, harassment and professional boundaries, and that those facts alone standing as they do are not sufficiently serious to act as a foundation for a finding of professional misconduct.

Mr Walters submitted that the panels focus in this case from now should be on those facts which have been found proved by admission or the panels own finding, and accompanied by findings of breaches of professional boundaries, and/or sexual motivation and/or harassment.

Mr Walters submitted that there are clearly parts of the Code that are engaged as part of the panel's factual findings. He referred to the guidance published by the NMC and submitted that, understandably, it is clear that where someone engages in conduct that is harassing in nature, that will be treated seriously. He reminded the panel that no other conduct has been repeated by you in respect of another patient. He submitted that there is some similarity in the conduct reflected in the factual findings, in particular regarding Person A, B and C.

Mr Walters reminded the panel that you accepted making the comment in charge 2i to Person C, and that this could be towards the more serious end of matters.

In relation to charges 4 and 5, Mr Walters submitted that the facts found proved in charge 5 are more serious than the facts proved in charge 4. He submitted that the facts at charge 5a, 5c and 5d were found to be harassing in nature, which is more serious. However, he referred the panel to the context of charge 4, in which Person A said in her oral evidence that matters developed to the point where she welcomed your attention.

Mr Walters submitted that the panel are dealing with factual findings, some of which are towards the lower end of the scale in relation to seriousness. He submitted that the thrust of his argument is that the panel should think very carefully about those factual particulars where there is no accompanying findings under charges 6 to 9.

Submissions on impairment

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

Ms Marcelle-Brown submitted that the panel will take into account your level of insight at this stage. She invited the panel to consider your level of engagement with the NMC's proceedings, as well as at the local investigation. She reminded the panel that you have properly engaged throughout from the outset, as well as locally.

Ms Marcelle-Brown submitted that you have not shown any insight or reflection in relation to your actions, nor demonstrated any steps taken to strengthen your practice since. She submitted that there is no information before the panel that suggests your behaviour will not be repeated. She submitted that the panel have not had sight of any references or testimonials, and the training certificates you provided are not recent nor are they all relevant to the concerns in this case.

Ms Marcelle-Brown referred to the NMC's guidance on '*Insight and strengthened practice*'. She referred to the three sections of this guidance that poses three questions: '*Can the concern be addressed*', '*Has the concern been addressed*', and '*Is it highly unlikely that the conduct will be repeated*'.

In relation to '*Can the concern be addressed?*', Ms Marcelle-Brown submitted that there are some attitudinal concerns in this case, and it is unlikely that you will be able to address the matters of the case by supervised practice or training. She submitted that the training certificates you have already provided are not suitable to address the concerns.

In relation to *'Has the concern been addressed?'*, Ms Marcelle-Brown submitted that you have demonstrated a lack of insight at this stage, and there is no evidence of reflection or strengthened practice since the incidents took place. She submitted that only in oral evidence did you state that you can see how your actions may have made the witnesses feel. She submitted that it was only after you heard all of the evidence, did you concede to a number of points.

In relation to *'Is it highly unlikely that the conduct will be repeated?'*, Ms Marcelle-Brown submitted that you stated in oral evidence that you [PRIVATE] and you wanted to form connections via social media. She submitted that, in the light of your limited insight at this stage, there is no evidence to suggest that you would not repeat your actions in the future.

Ms Marcelle-Brown referred to the case of *Grant*. She accepted that no harm was caused to Patient A, although as she was under your care, that the panel may feel that your actions did put Patient A at a risk of harm. She submitted that for the reasons already provided, your actions have brought the profession into disrepute, when considering the age differences and grade disparity, as well as the effect of those affected by your actions. She referred to a breach of fundamental tenets, and submitted that she has already taken the panel through sections of the Code and the relevant breaches. She submitted that there is no allegation of dishonesty in this case, and so limb four is not engaged.

Ms Marcelle-Brown concluded that your fitness to practise is currently impaired, because your actions fell far short of what was expected of a registered nurse. She reminded the panel that there has been no evidence of insight or remediation, and there remains a risk of repetition in this case. She submitted that there remains a risk to public protection. In the absence of a finding of impairment, she submitted that public confidence in the profession and the NMC as regulator would be undermined.

Mr Walters submitted that you have been subject to an interim conditions of practice order, which has been in place for some time. He submitted that the training certificates you provided to the panel were completed by you in order to meet some of conditions of

practice imposed by a past panel. He submitted that, in the most recent version of the interim order, no reference was made to you undertaking any training courses. He reminded the panel that the training that you did in 2021, in direct response to the interim conditions of practice order, was accepted to fulfil the requirements of that.

Mr Walters noted that it was submitted by the NMC that some of the training you undertook was old and not all relevant, and whilst he agreed that some of it is dated, he does not agree that all of it was not relevant.

Mr Walters submitted that you have been working for an IT company for some time. He reminded the panel that you have been unable to secure employment as a nurse. There is no suggestion that you have engaged in inappropriate communications in any other context since. He submitted that it is difficult for you to demonstrate that you have addressed the concerns, as you have not found employment in a nursing role.

In relation to clinical practice, Mr Walters submitted that this is unblemished and you are clearly a talented nurse. He accepted that you demonstrated poor judgement in your communication with young women, and that this is an aggravating factor.

In relation to remediation, Mr Walters submitted that there is some evidence of this. He reminded the panel of your training certificates and your own evidence of how you described the lessons you have learnt. He submitted that the question that causes greater difficulty is evidence that this remediation has been put into practice, which is challenging to answer due to your lack of success in finding employment as a nurse.

In relation to insight and remorse, Mr Walters submitted that you have demonstrated this. You admitted a large part of the charges at the outset of the hearing in November 2022. He submitted that the evidence seen and heard by witnesses in November 2022 had an effect on you, and the break between November 2022 and June 2023 gave you a chance to step back and reflect on your actions. He submitted that you have been able to reflect

on the impact your conduct has had on people, and you have apologised and he submitted that your evidence was genuine.

Mr Walters submitted that you have demonstrated some insight. You explained in your oral evidence how you would be much more careful in your use of social media platforms in the future, and the people you would contact. He submitted that you mentioned not making contact with students in the future. He submitted that there is evidence of growing insight into your behaviour in this case. You also demonstrated insight by recognising, in relation to Person A [PRIVATE]. He submitted that the fact that you were capable of demonstrating that in your oral evidence is an important factor.

In relation to a risk of repetition, Mr Walters submitted that you have not been working as a nurse and, due to the attitudinal issues found, you may need further time to reflect on the panel's findings in order to reach full insight.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgements. These included: *Cheatle v General Medical Council* [2009] EWHC 645 Admin, *Roylance v GMC*, *Nandi v GMC* [2004] EWHC 2317 (Admin), *Spencer v General Osteopathic Council* [2012] EWHC 3147 (Admin), *Cohen v GMC* [2008] EWHC 581 (Admin) and *Sheikh v General Dental Council* [2007] EWHC 577 (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 appreciated that breaches of the Code do not automatically result in a finding of misconduct. The matters found proved must be seriously below the standards to be expected of a nurse in order for it to be considered misconduct.

The panel was of the view that your 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:

‘5 *Respect people’s right to privacy and confidentiality*

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

To achieve this, you must:

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

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

To achieve this, you must:

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

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

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

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

20.8 *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 considered the oral and documentary evidence before it. It considered that, whilst some of the charges may not amount to misconduct when taken individually, when

taken cumulatively they are serious enough to amount to misconduct, particularly under charges 6 (professional boundaries), 7 (sexual motivation) and 9 (harassment).

The panel considered that the individuals involved were not vulnerable, apart from Patient A. However, when considering the overall nature of the charges and the circumstances, there would be a sense of vulnerability involved when taking into account the age gap and grade disparity between you and the witnesses.

The panel considered that a number of the proven charges were serious attitudinal matters which are more difficult to put right, as described in the NMC's guidance on '*How we determine seriousness*'. In particular, the charges in relation to Patient A, to the gratuitous reference to a colleague's breasts, and the harassment of a number of colleagues each amount to misconduct.

Therefore in light of the above, the panel found that your actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

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

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

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

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

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

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

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

The panel considered that limbs b) and c) of *Grant* are engaged in this case. The panel found that your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel had sight of the NMC's guidance on 'How we determine seriousness' when making its decision, 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... and use all forms of communication responsibly.'

The panel reminded itself that, throughout the timeline of these events, there are multiple examples of you lacking awareness of where personal and professional boundaries lie, and of failing to appreciate the effect of your actions on others. It considered that, based on the evidence it has seen and heard, you have needed to be told directly on a number of occasions not to undertake certain actions. For example, the matters involving Patient A, who was under your care when she was admitted, and obtaining her personal information from the Trust's system to make contact with her after she was discharged from the hospital. The panel took account of Witness 7's evidence in particular in that, during the local investigation, several incidents were raised to you and it was only at that point you subsequently realised that your actions were not appropriate.

The panel considered that you should already have been aware of professional boundaries as a registered nurse, and that your actions were inappropriate in the circumstances. The panel considered that, without evidence that demonstrates a sufficient level of insight into your actions, the panel could not be satisfied at this stage that you would not repeat your actions in the future.

The panel noted that you have given oral evidence and admitted a number of charges at the outset of the hearing, but it considered that this does not demonstrate that you have a sufficient level of insight and it was not claimed on your behalf that you have full insight. The panel considered and accepted the submissions of Mr Walters, who stated that hearing the witnesses give their live evidence has had a salutary effect on you. However, the panel was concerned that it appeared only after having heard witnesses give their oral

evidence regarding your actions, and speaking first-hand about the effects they had upon them, did you appreciate how they felt when the witness statements had been with you for a very long time.

The panel considered that you have demonstrated a repeated lack of understanding of the effect of your actions on others which led it to believe that, should you return to the workplace, similar problems are likely to occur in the future. It noted your oral evidence in which you stated that you are currently in a relationship, and so you would not repeat your actions again in the future, but the panel was not satisfied that this was convincing considering the repeated pattern of your behaviour over a significant period of time.

The panel highlighted some areas of the evidence it has heard from witnesses in this case and the effect your actions had on them. When Person A was asked during her oral evidence about why she did not make a complaint to anyone at the time of the events, she stated:

'It's not something I enjoy talking about or talking about to other people. It's still something I don't want to talk about...The whole situation is upsetting, it's horrible for me. [PRIVATE]... it's not something that anybody wants to go through or to have happened to them...'

The panel also considered the oral evidence of Person C, when she was asked if she responded to any of your messages at the time of the events:

'I believe that I said I didn't want to meet Mr Predii. I felt very uncomfortable at that point because he was very persistent. And the way he said things such as "I'm coming to meet you", it felt like I had no option. And if he did know where I was, he probably would have been there'.

The panel has heard evidence regarding your reasons for making contact with the witnesses via social media. However, it has not seen or heard any evidence from you that

demonstrates your understanding of the impact your actions had on the witnesses involved, nor of the impact on the public and the wider profession.

The panel agreed that the concerns in this case are largely attitudinal, which are more difficult to address in any event, however the panel was not satisfied that you have sufficiently addressed your actions thus far, and it could not be certain at this stage that you would not repeat your actions again in the future. It noted that this is not a single, isolated event and the concerns spread over a significant period of time (2018 to 2021), when you were eventually dismissed from your role.

The panel also noted that whilst under internal investigation, you contacted Person B, which resulted in charge 3. This suggests that you showed little or no insight into your behaviours at the time despite being under investigation for similar behaviours.

The panel acknowledged Mr Walters' submissions in that he did refer to training certificates you had obtained, but these are outdated and some are not relevant to these concerns. The panel considered that there is no evidence of how you have used that previous learning from your training to address the concerns and demonstrate your insight. The panel noted that you have also not provided a written reflective piece, and that you have had ample opportunity to do so.

In the absence of any evidence that demonstrates a sufficient level of insight and reflection, the panel is of the view that there is a risk of repetition, for the same reasons as set out above. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that a finding of impairment on public interest grounds is required, as a well-informed member of the public would be concerned to learn of your 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 your fitness to practise impaired on the grounds of public interest.

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

Sanction

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

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

Submissions on sanction

Mr Edwards informed the panel that in the Notice of Hearing, dated 29 September 2022, the NMC had advised you that it would seek the imposition of a striking-off order if it found your fitness to practise currently impaired.

Mr Edwards submitted that there were aggravating features in this case, namely:

- Your conduct occurred over a prolonged period of time.
- Your conduct was premeditated and calculated.
- Your conduct had the potential for harm.
- You have shown limited insight and understanding into your conduct.

Mr Edwards submitted that the only mitigating factor in this case is that there are no clinical practice concerns present.

Mr Edwards submitted that, given the seriousness of the concerns in this case, there are no workable conditions of practice that could be formulated to address the serious attitudinal issues in this case.

Mr Edwards referred to the SG. He submitted that this was not a single incident of misconduct, and there were several incidents that occurred over a significant period of time. He submitted that the nature of the concerns are largely attitudinal in this case. He submitted that there is no evidence of repetition since the referral was made to the NMC. However, he submitted that you have shown a lack of insight and understanding as the panel have also noted in its previous decision. He submitted that there is a risk of repetition in this case, considering the repeated nature of your conduct.

Mr Edwards submitted that there are a number of concerning elements in this case. You were given a warning about Patient A in relation to contacting her, however you went on to contact a number of colleagues via social media in a similar manner. He submitted that your behaviour appears calculated and predatory in nature, and your messages were inappropriate at times and some including sexualised language. He submitted that some of your comments also related to the age of the witnesses and the panel heard evidence that they felt uncomfortable, and sometimes threatened. He reminded the panel that you persisted in such behaviour even after the witnesses indicated they were not interested, and that this shows concerning deep-seated attitudinal issues.

Mr Edwards submitted that, in light of the above, a suspension order is not appropriate. He submitted that your actions appeared to be predatory in nature and there was a clear imbalance and abuse of power, given the age disparity between you and your colleagues. He submitted that a striking-off order is the only suitable sanction in the circumstances.

Mr Walters reminded the panel that it is not restricted by the guidance it has been referred to, and that the panel should exercise its broad discretion to apply a sanction which best fits the circumstances in this case, ensuring that such a sanction is proportionate.

Mr Walters submitted that the panel have made serious findings in this case, and there is a need to ensure an adequate level of public protection and public interest is imposed. He reminded the panel that the principle of proportionality goes both ways.

Mr Walters submitted that you concede that there are some aggravating factors identified by the NMC, but the characterisation in this case of premeditated conduct is not one of them. He submitted that you were unthinking of what was appropriate at the time as well as the impact of your behaviour on others. He reminded the panel that there is a difference between a lack of thoughtfulness and the description of conduct described by the NMC, in that your conduct was described by them to be premeditated.

Mr Walters referred back to the warning you were given in 2018 regarding the incident involving Patient A, and that the NMC considers this to be a concerning aspect as you went on to contact others. He invited the panel to view this as you being warned about your conduct, having contacted a patient, and you heeded that. He submitted that you did not contact any more patients after that incident, and this is evidence of you complying with the directions provided to you by senior colleagues. He reminded the panel that it also heard evidence that colleagues were in contact with one another via social media, and that workplace relationships were not uncommon.

Mr Walters submitted that, regarding your conduct relating to other colleagues, the panel is dealing with breaches of professional boundaries and harassment. He submitted that you acknowledge that this is a case that is serious and the panel will impose a sanction. He reminded the panel that you are under the terms of an interim conditions of practice order. He submitted that this is somewhat irrelevant, as this was imposed as part of a risk assessment, and the panel have now made conclusive findings of facts. However, it was relevant because you complied with that order as well as you could.

Mr Walters referred to the NMC's submission in relation to your limited insight and remediation. He submitted that this is not a case where it is impossible for you to develop full insight and address the attitudinal concerns identified. He invited the panel not to dismiss your opportunity to remediate, and instead to impose a conditions of practice order. He submitted that the conditions could consist of undertaking training, reflective work, regular enhanced supervision and that your supervisor should regularly report to the NMC regarding your conduct and behaviour towards others. He submitted that there are practicable and workable conditions of practice that can be imposed in this case, and he invited the panel to give you the opportunity to comply with those.

Mr Walters submitted that this hearing has had a salutary effect on you, and that sometimes it does take this experience to embark on further reflection and show insight. He submitted that you are different to the registrant that was acting in that way during the time of the incidents.

Mr Walters submitted that, although you have not been working as a nurse, the fact that you are engaging and present at this hearing is a demonstration of your commitment to the profession. He submitted that, should the panel not agree with a conditions of practice order in this case, the panel should conclude that a striking-off order is disproportionate. He submitted that you are someone who has not, since your suspension from work in 2020, repeated your conduct and have demonstrated no concerning behaviour since. He submitted that you have some insight and, although there is risk of repetition, there is the chance of further learning and reflection which can be demonstrated to a panel in the future.

Mr Walters submitted that, should a suspension order be imposed, it would be reviewed and you would have the opportunity to provide further evidence of reflection, insight and training. As part of his secondary submission, he invited the panel to impose a suspension order, to give you the opportunity to address the concerns in this case, rather than strike your name off the NMC's register. He submitted that it would be disproportionate, and that you are a talented and committed nurse, albeit one whose behaviour has fallen short.

The panel accepted the advice of the legal assessor.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- An abuse of your position of trust as a senior member of staff, baring in mind the witnesses were junior members of staff.
- Concerns involving improper sexual motivation and harassment.
- You have demonstrated a lack of insight into the concerns and the impact they had on patient and colleague witnesses.
- A clear pattern of conduct over a prolonged period of time.
- You were told a number of times not to undertake certain actions during the local investigation, but you continued to undertake similar actions, either intentionally or plainly failing to acknowledge the similarities and impact of those actions.

The panel also took into account the following mitigating features:

- There are no clinical concerns in this case.

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 your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *No evidence of general incompetence;*
- *Potential and willingness to respond positively to retraining;*
- *The nurse or midwife has insight into any health problems and is prepared to agree to abide by conditions on medical condition, treatment and supervision;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force; and*
- *Conditions can be created that can be monitored and assessed.*

The panel is of the view that there are no practical 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 suitably addressed through retraining, as the

concerns are largely attitudinal in nature. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public, nor would it be in 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 all of the evidence before it. The panel was concerned that you have only demonstrated a limited level of insight and a lack of understanding of your actions at this stage, and the impact that they had on others, despite these incidents occurring a number of years ago. The panel considered that your actions have demonstrated a repeated pattern of behaviour over the course of a number of years.

During the Trust's local investigations into different allegations from 2018 to 2021, these concerns were raised to you, and you stated on numerous occasions that you understood your actions were wrong, but you continued to act in a similar way whilst the investigations were ongoing. It noted that you have had ample opportunity to develop your insight and

demonstrate evidence of reflection, both during the local investigations and throughout the course of this hearing, but you have not done so. The panel was told that you only came to realise your wrongdoings after hearing the witnesses give their oral evidence first-hand during this hearing.

The panel highlighted that these are serious incidents of breaches of professional boundaries, harassment and improper sexual motivation with junior female colleagues. It was of the view that the matters in this case do not fit with a suspension order. The panel carefully considered the NMC's guidance titled '*How we determine seriousness*'. The panel having considered the principle of proportionality felt that the concerns in this case outweigh the imposition of a suspension order.

There is no evidence before the panel that indicates you have taken sufficient steps to address these concerns, and the training certificates that have been provided are either outdated or not relevant to these matters.

The panel took account of the NMC's guidance on '*Serious concerns based on public confidence or professional standards*', namely:

'We may also need to take action in cases where the concerns were not directly related to the care the nurse, midwife or nursing associate provided to people, but which call into question the basics of their professionalism. This may cover things that have happened in the nurse, midwife or nursing associate's private life. For example... or there's evidence to suggest a deep-seated attitudinal problem...'

...

We may need to take restrictive regulatory action against nurses, midwives or nursing associates whose conduct has had this kind of impact on the public's trust in their profession, who haven't made any attempt to reflect on it, show insight, and

haven't taken any steps to put it right. This may mean they can't stay on the register.'

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 your actions is fundamentally incompatible with you 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 looking at 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?*

Your actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with you remaining on the register. The panel was of the view that the findings in this particular case demonstrate that your actions were serious and to allow you 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, as for the same reasons as stated above, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of your 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 you in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in your own interests until the striking-off sanction takes effect. 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 Edwards. He invited the panel to impose an interim suspension order for a period of 18 months, on the grounds of public protection and public interest, to cover the 28-day appeal period.

Mr Walters submitted that he understands why the NMC makes an application for an interim order to cover any potential appeal period. He asked the panel that in imposing an interim order must be necessary rather than desirable.

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.

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

That concludes this determination.