

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

**Substantive Hearing  
Monday, 15 April 2024 – Friday, 19 April 2024**

Virtual Hearing

**Name of Registrant:** **Antony Edward Mann**

**NMC PIN:** 8810446E

**Part(s) of the register:** Nurses part of the register Sub part 1  
RN3: Mental health nurse, level 1 (20 November 1991)

**Relevant Location:** Gwynedd

**Type of case:** Misconduct

**Panel members:** Simon Banton (Chair, Lay member)  
Mark Dinwiddy (Registrant member)  
Keith Murray (Lay member)

**Legal Assessor:** Emma Boothroyd

**Hearings Coordinator:** Eleanor Wills

**Nursing and Midwifery Council:** Represented by Alban Brahimi, Case Presenter

**Mr Mann:** Not Present and not represented at the hearing

**Facts proved:** Charges 1a, 1b, 1c, 2a, 2b, 3a, 3b, 4a, 4b, 5a, 5b, 5c, 5d, 5e

**Fitness to practise:** Impaired

**Sanction:** **Striking-off order**

**Interim order:** **Interim suspension order (18 months)**

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Mr Mann was not in attendance and that the Notice of Hearing letter had been sent to Mr Mann's registered email address by secure email on 12 March 2024.

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

The panel accepted the advice of the legal assessor.

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

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

## **Decision and reasons on proceeding in the absence of Mr Mann**

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

Mr Brahimi submitted that there had been no engagement/unwilling engagement by Mr Mann with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure his attendance on some future occasion.

Mr Brahimi referred the panel to an email from Mr Mann dated 15 June 2023 to the NMC, in which Mr Mann stated the following:

*'Just take me off the register'.*

Mr Brahimi referred the panel to an email from Mr Mann dated 4 May 2024 to the NMC, in which Mr Mann stated the following:

*'I'm not in the slightest (sic) interested. Stop sending this bullshit. Strike me off and fuck off.'*

Mr Brahimi submitted that Mr Mann has not shown any interest in participating in these proceedings and has not engaged with the NMC. Mr Brahimi submitted that Mr Mann has therefore voluntarily absented himself. Further Mr Brahimi submitted that these allegations are serious in nature and therefore there is a strong public interest in the expeditious disposal of this case.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised *'with the utmost care and caution'* as referred to in the case of *R v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel has decided to proceed in the absence of Mr Mann. In reaching this decision, the panel has considered the submissions of Mr Brahimi and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mr Mann;
- Mr Mann has not engaged with the NMC.
- Mr Mann informed the NMC on 15 June 2023 via email:  
*‘Just take me off the register’.*
- Mr Mann stated to the NMC on 14 May 2023 via email.  
*‘I’m not in the slightest (sic) interested. Stop sending this bullshit. Strike me off and fuck off.’*
- There is no reason to suppose that adjourning would secure his attendance at some future date.
- A witness has attended today to give live evidence, and others are due to attend on later dates.
- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services.
- The charges relate to events that occurred between September 2019 and November 2019.
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events.
- There is a strong public interest in the expeditious disposal of the case.

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

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

### **Details of charge**

That you, a registered nurse:

1. In September 2019, behaved in an inappropriate manner toward Colleague A, in that you:
  - a. Asked Colleague A whether they had any piercings or tattoos in places no one could see or words to that effect.
  - b. Asked Colleague A whether their breasts were real or cosmetically enhanced or words to that effect.
  - c. Told Colleague A their breasts were a "good size" or words to that effect.
  
2. Your actions at charge 1 above were:
  - a. Sexual in nature;
  - b. Sexually motivated in that you sought sexual gratification by your actions;
  
3. On or around 22 October 2019, behaved in an inappropriate manner, in that you:
  - a. Told Colleague A that you reciprocated feelings of attraction towards a patient who had previously been in your care or words to that effect;
  - b. Said you could not be in a relationship with a woman who had a mental health diagnosis or words to that effect.

4. Your actions at charge 3 above were:
  - a. Sexual in nature;
  - b. A breach of professional boundaries.
  
5. Between 2 and 5 November 2019 with respect of Patient A:
  - a. Did not request that an on-call doctor attend to examine Patient A.
  - b. Did not update the Falls Pathway documents to show the unwitnessed fall.
  - c. Did not complete a Datix (incident review and management form) for the unwitnessed fall.
  - d. Failed to make a timely entry in Patient A's notes regarding the unwitnessed fall.
  - e. Failed to provide an adequate/accurate nursing handover; in that you did not mention Patient A's unwitnessed fall.

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

## **Background**

Mr Mann was employed, at the time of the allegations, as a full time Band 5 Staff Nurse on the Taliesin Ward (the Ward) by Betsi Cadwaladr University Health Board (the Health Board) since December 2013. Mr Mann was dismissed from his employment with the Health Board on 24 January 2022 following a disciplinary hearing.

A referral dated 12 May 2022 was received following Mr Mann's dismissal from the Health Board. It is alleged that Mr Mann acted in a sexually inappropriate manner towards Colleague A, who, at the time, was working as a student Nurse on the Ward.

It is alleged that in September 2019 that Mr Mann made several sexually suggestive comments to Colleague A. It is alleged that he firstly asked Colleague A if she had any piercing in places that he could not see under her uniform. It is alleged that that Mr Mann was staring at Colleague A's breasts and asked her if her breasts were real and/or cosmetically enhanced, and further he suggested that Colleague A's breasts were a good size. It is alleged that this interaction was sexual in nature and sexually motivated in that Mr Mann sought sexual gratification by his actions.

On 22 October 2019 there was allegedly a further instance of discussion with Colleague A during which Mr Mann stated that females who suffer with bipolar disorder can be sexually inhibited when they become unwell. It is alleged that Mr Mann, at this time, referred to a previous Patient (Patient B) on the Ward, allegedly stating that he was attracted to her and felt that the feelings were reciprocated. Further it is alleged that Mr Mann made comments regarding the fact he could never be in a relationship with an individual with a diagnosed mental health condition. It is alleged that this interaction was sexual in nature, and this was in breach of professional boundaries.

On a night shift between the 3 November 2019 and 4 November 2019, Mr Mann was the Nurse In Charge (NIC) on the Ward and the only nurse on shift, when a Patient (Patient A) had an unwitnessed fall at around 7:10 and was subsequently found on the floor. It is alleged that Mr Mann did not carry out any observations, did not request the on-call doctor to attend and did not complete a Datix or update the Falls Pathway document for Patient A, that are all necessary actions. Further it is alleged that Mr Mann did not make an entry in Patient A's records of the unwitnessed fall and failed to provide an accurate/adequate account of the event during the handover of the shift to Witness 2.

### **Decision and reasons on facts**

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

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

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: Colleague A, Student Nurse, employed by the Health Board, at the time of the allegations.
- Witness 2: Psychiatric Liaison Practitioner, the Ward Manager, employed by the Health Board, at the time of the allegations.
- Witness 3: Community Services Manager, Investigating Officer, employed by the Health Board, at the time of the allegations.

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

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

### **Charge 1**

“That you, a registered nurse, In September 2019, behaved in an inappropriate manner toward Colleague A, in that you:

- a. Asked Colleague A whether they had any piercings or tattoos in places no one could see or words to that effect.
- b. Asked Colleague A whether their breasts were real or cosmetically enhanced or words to that effect.
- c. Told Colleague A their breasts were a “good size” or words to that effect.”

**This charge is found proved.**

In reaching this decision, the panel took into account the internal meeting notes dated 22 January 2020, which included Mr Mann’s initial denial to all of the allegations, in their entirety, contained within charge 1. The panel had regard to the fact that, within the internal meeting notes dated and signed by Mr Mann on 14 March 2021, Mr Mann did subsequently admit that an interaction did take place with Witness 1 and that he had made comments regarding Witness 1’s breasts and piercings. The panel made specific reference to the following excerpt of the internal meeting notes dated and signed by Mr Mann on 14 March 2021:

*“Mr Mann stated that his comments were not intended to be inappropriate, he did recall the conversation and confirmed that this had been the topic of that conversation and that he had made those comments, he went on to state that comments similar to these are often made between staff on Taliesin ward and that the majority of staff take part in this type of conversation.”*

The panel noted Mr Mann’s assertion that this ‘*type of conversation*’ is a part of the culture of the workplace. The panel found that his assertion was not credible in light of the

evidence provided by Witness 1, Witness 2, Witness 3, Mr 4 and Ms 5 that it was not. The panel considered Witness 3's statement, dated 18 January 2023, to be important:

*"I spoke with the Unit Manager, Mr 4 and the Ward Manager, Witness 2, and took statements from all staff members involved. I found no evidence in the information I had received that inappropriate banter was a culture on Taliesin Ward."*

The panel also noted Mr 4's statement dated 23 June 2021 that: *"This was not the culture..."* and Ms 5's statement dated 29 March 2021: *"... That this was not the case but a topic of conversation that Mr AM himself would frequently raise with female staff members to be told by them that it wasn't appropriate."*

The panel took into account the evidence provided by Witness 1 under affirmation during the course of proceedings, as well as the evidence contained within Witness 1's statement dated 5 December 2022. The panel accepted Witness 1's oral account of the alleged interaction during which she explained she did not feel that the interaction was *'light-hearted'*, nor within the realm of normal *'banter'*, and that it did feel *'sexual in nature'*, *'direct' and 'personal'*. The panel took into consideration that Witness 1 did acknowledge that there was *'banter'* on the Ward between the staff but that this interaction went beyond what was appropriate.

The panel found Witness 1's account of the interaction to be credible in light of, the corroborating evidence and her consistent and clear account of the interaction. The panel preferred Witness 1's account of this interaction to that of Mr Mann's and found it took place in the manner she described.

The panel found charges 1a, 1b and 1c proved.

## **Charge 2**

“Your actions at charge 1 above were:

- a. Sexual in nature;
- b. Sexually motivated in that you sought sexual gratification by your actions”.

**This charge is found proved.**

In reaching this decision for charge 2a, the panel noted Witness 1’s oral account of the incident and that it, to her, had a ‘*sexual context*’. The panel considered the content of the comments made and noted that they involved referring to Witness 1’s ‘*breasts*’ and whether she had any ‘*piercings or tattoos in places he could not see*’. The panel noted the All Wales Dignity at Work Process issued in September 2015 and reviewed in September 2017, which set out examples of unacceptable/inappropriate behaviour in the workplace including making lewd or suggestive remarks. The panel decided that as a Registered Nurse and indeed the NIC, Mr Mann should have been aware of this policy and that his remarks were both sexual and inappropriate. The panel determined, in light of all the evidence provided to it that Mr Mann’s actions at charge 1, on the balance of probabilities, were sexual in nature.

The panel, when reaching a decision for charge 2b, took into consideration that Mr Mann was the NIC and was in a position of authority and superiority in relation to Witness 1, who was a Student Nurse at the time. The panel took into consideration that Witness 1, at the time of the incident was required to observe a patient and therefore could not leave her station as that would have involved neglecting her duty. The panel accepted Witness 1’s oral account that she was sitting down during this incident at the closed end of a corridor and that Mr Mann was standing over her and she felt vulnerable and trapped. The panel also took into account that Witness 1 in her statement dated 5 December 2022 stated that:

*“I was acutely aware I was unable to leave as I was observing a patient who was on continuous observation. I felt trapped in this situation.”*

The panel had regard to the context of the comments and the language and behaviour Mr Mann used. The panel noted that Witness 1 in her evidence given under affirmation stated that she felt the interaction was *'direct' 'personal'* and not *'light-hearted'*. The panel therefore determined given the nature of the interaction, the vulnerability of Witness 1 and the environment in which the incident occurred, on the balance of probabilities, charge 2b is found proved.

The panel found charges 2a and 2b proved.

### **Charge 3**

“That you, a registered nurse, on or around 22 October 2019, behaved in an inappropriate manner, in that you:

- a. Told Colleague A that you reciprocated feelings of attraction towards a patient who had previously been in your care or words to that effect;
- b. Said you could not be in a relationship with a woman who had a mental health diagnosis or words to that effect.”

### **This charge is found proved.**

In reaching this decision, the panel took into account that Mr Mann initially strongly denied these allegations at an internal meeting dated 22 January 2020. The panel noted that, Mr Mann subsequently admitted to having commented that he did *'fancy'* Patient B, in the internal meeting notes dated and signed by Mr Mann on 14 March 2021. The panel noted that Mr Mann stated that this was done as a *'flippant one off comment'* and that he believed *'he did not say anything that was inappropriate'*. The panel took into consideration Witness 1's oral evidence and the evidence contained in her witness statement dated 5 December 2022, in which she stated that Mr Mann described Patient B as *'young, blonde, had a good body and was attractive.'* The panel noted that Witness 1

was ‘shocked’ by Mr Mann’s statements that *‘there was a female patient on the ward who he could tell was attracted to him, he reciprocated these feelings of attraction towards her. ...could never be with a woman with a MH diagnosis as they would be too difficult to live with.’*

The panel determined that these alleged statements were made and were inappropriate and unprofessional in that a Registered Nurse would not be expected to behave in such a way and have such disregard to their patient’s dignity. Further the panel concluded that Mr Mann should not be making any such remarks to a junior colleague in the workplace. The panel determined that Witness 1’s evidence was credible as it was clear and consistent and therefore on the balance of probabilities the panel determined that charges 3a and 3b are found proved.

#### **Charge 4**

“Your actions at charge 3 above were:

- a. Sexual in nature;
- b. A breach of professional boundaries.”

#### **This charge is found proved.**

In reaching this decision, the panel took into account the content of the conversation, in that Mr Mann stated he was attracted towards Patient B and that he could not be in a relationship with a woman with a mental health diagnosis. Further the panel noted that Witness 1 in her statement dated 5 December 2022, stated that Mr Mann *“mentioned that females who suffer with bi-polar can be sexually disinhibited when they become ill”*. The panel therefore found on the balance of probabilities, charge 4a proved.

In reaching a decision in relation to charge 4b, the panel took into consideration that this conversation took place when Mr Mann was on a shift as a Registered Nurse. The panel

had regard to the fact that this conversation was in relation to a vulnerable patient, Patient B, who was previously in the care of Mr Mann. The panel noted the content of the conversation, in that it was sexual in nature and inappropriate. The panel took into consideration Witness 1's reaction to the conversation in that she was '*shocked*' to hear such statements. The panel determined that this conversation was a breach of professional boundaries and that a disinterested third party would be shocked to overhear the conversation.

The panel found charge 4a and 4b proved.

### **Charge 5**

"That you, a registered nurse, between 2 and 5 November 2019 with respect of Patient A:

- a. Did not request that an on-call doctor attend to examine Patient A.
- b. Did not update the Falls Pathway documents to show the unwitnessed fall.
- c. Did not complete a Datix (incident review and management form) for the unwitnessed fall.
- d. Failed to make a timely entry in Patient A's notes regarding the unwitnessed fall.
- e. Failed to provide an adequate/accurate nursing handover; in that you did not mention Patient A's unwitnessed fall."

**This charge is found proved.**

In reaching this decision in relation to charge 5a, the panel had regard to the investigation report and the internal meeting notes signed and dated by Mr Mann on 14 March 2021, in which Mr Mann stated that he did not contact the on-call doctor and that he accepted that it would normally be expected to contact the on-call doctor to examine the patient. The panel

had regard to Witness 3's statement dated 18 January 2023, in which the following was stated:

*"Tony did not request that the on call doctor attend to assess Patient A which would be the Health Board procedure."*

*"After these checks Tony should have called for the on-call Doctor."*

*"As the NIC (Nurse in charge) of the shift it would have been Tony's full responsibility to complete the falls pathway document, undertake visual checks, contact a doctor to assess Patient A and complete a DATIX incident form."*

The panel took into consideration Witness 2's evidence under affirmation that Mr Mann assessed Patient A and should have called for a doctor but that he did not do so. The panel noted the corroborating evidence provided in Ms 6's statement dated 8 February 2021, in which she described being the 'bleep holder' for the shift and that she was not contacted throughout the shift. The panel in light of the above evidence determined on the balance of probabilities that charge 5a is found proved.

In reaching its decision on charge 5b, the panel had regard to Witness 2's statement and evidence under affirmation in which he stated that the Falls Pathway document had not been completed and that it was Mr Mann's responsibility to complete it. Further the panel took into consideration the Falls Pathway document, initiated on 19 September 2019, which did not include a record of the fall of Patient A which occurred between 2 and 5 November 2019. The document did however record two previous falls of Patient A on 24 September 2019 and 23 October 2019. As such, the panel found that Patient A, a vulnerable patient, was known to be at risk of falling and as NIC Mr Mann would be aware of that. The panel referred to Witness 3's statement dated 18 January 2023, in which it is stated that it was Mr Mann's 'full responsibility to complete the falls pathway document'. The panel therefore determined, on the balance of probabilities, charge 5b is found proved.

In reaching its decision on charge 5c, the panel took into account the internal meeting notes signed and dated by Mr Mann on 14 March 2021, in which he confirmed that he did not complete a Datix for the unwitnessed fall. The panel took into consideration Witness 2's evidence in that Mr Mann did not complete the Datix and that he was aware that it was his responsibility to do so. The panel took into account Witness 3's statement dated 18 January, in which he stated it was Mr Mann's responsibility to complete the Datix. The panel had regard to the Datix Incident Review and Management Form for Patient A in which the incident is not recorded by Mr Mann. The panel therefore found charge 5c proved, on the balance of probabilities.

In reaching its decision on charge 5d, the panel determined that there is a duty imposed on a Registered Nurse to make timely entries in patient records to ensure patient records are accurate and up to date. The panel took into consideration the evidence of Witness 3 who stated that Mr Mann did not do this in a timely manner and that it was not done in time for handover. The panel took into account Patient A's records as referred to in Witness 3's statement dated 18 January 2023, in which it was evidenced that Mr Mann made an entry in Patient A's record of the fall at 07:40, on his next shift after the incident occurred, which was marked as retrospective, this was at least twelve hours later. The panel therefore determined on the balance of probabilities that charge 5d is found proved.

The panel when reaching its decision for charge 5e, accepted Witness 2's account, in both his oral and written evidence, that there was no reference by Mr Mann, at the time of the shift handover, to him of Patient A's fall. The panel noted Mr Mann's contention that it was *'difficult for him to accept that he did not mention anything about the fall during handover'*. Notwithstanding, the panel preferred Witness 2's evidence and found on the balance of probabilities that charge 5e is proved.

### **Fitness to practise**

Having reached its determination on the facts of this case, the panel then moved on to consider whether the facts found proved amount to misconduct and, if so, whether Mr

Mann's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

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

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

### **Submissions on 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. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances.*'

The panel had regard to the terms of 'The code: Standards of conduct, performance and ethics for nurses and midwives 2015' (the Code) in making its decision.

Mr Brahimi referred the panel to the case of *Calhaem v GMC* [2007] EWHC 2006 (Admin) in which Mr Justice Jackson commented on the definition of misconduct and he stated:

*'it connotes a serious breach which indicates that the doctor's fitness to practise is impaired.'*

Mr Brahimī referred the panel to the case of *Nandi v GMC* [2004] EWHC 2317 (Admin), in which Mr Justice Collins stated that:

*"the adjective 'serious' must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners."*

Mr Brahimī invited the panel to take the view that the facts found proved amount to misconduct. Mr Brahimī made the following written submissions in respect of the proved charges:

*'a. To make comments of a sexual nature to a student nurse where personal questions and observations are expressed is particularly concerning. Given there is no other context or explanation, the finding that this was towards sexual gratification means that such conduct would be considered as deplorable by fellow practitioners.*

*b. Expressing similar views of a sexual nature about a patient that was under the Registrant's care is not in accordance with keeping to professional boundaries. Taking this further by referencing their mental health in conversation of a relationship is overall conduct that falls short of what would be proper in the circumstances.*

*c. To have failed in acting properly after a patient fall and taking the correct action can have serious consequences if a patient is not seen to. In this particular case, the Registrant did not make several important requests and did not maintain (and delayed) correct record keeping and this connotes a serious breach.'*

Mr Brahimī referred the panel to the code and identified in his written submissions the specific, relevant standards where Mr Mann’s actions amounted to misconduct:

- ‘1 Treat people as individuals and uphold their dignity*
- 4 Act in the best interests of people at all times;*
- 5 Respect people’s right to privacy and confidentiality;*
- 7 Communicate early;*
- 8 Work cooperatively;*
- 9 Share your skills, knowledge and experience for the benefit of people receiving care and your colleagues;*
- 11 Be accountable for your decisions to delegate tasks and duties to other people;*
- 19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice;*
- 20 Uphold the reputation of your profession at all times;*
- 21 Uphold your position as a registered nurse, midwife or nursing associate;*
- 25 Provide leadership to make sure people’s wellbeing is protected and to improve their experiences of the health and care system.’*

Mr Brahimī, in his written submissions, stated:

*‘Overall, the NMC further submits that the Registrant’s actions as proven fall far short of what would be expected of a Registered Nurse. The public would expect that the registered nurses will uphold a professional medical reputation. The Panel may find that most in breach are that of “1” and “20” above. The Registrant has shown a disregard for the dignity and privacy of another individual and improperly displayed what should be expected of a registered nurse, in particular where the Registrant was the nurse in charge.’*

Mr Brahimī therefore invited the panel to find misconduct.

## Submissions on impairment

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

Mr Brahimy referred the panel to the NMC guidance titled '*Impairment*', reference '*DMA-1*', last updated 27 February 2024 and highlighted the following excerpt:

*"The question that will help decide whether a professional's fitness to practise is impaired is: "Can the nurse, midwife or nursing associate practise kindly, safely and professionally?" If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired".*

Mr Brahimy submitted that Mr Mann is impaired and that the first three limbs of Grant are engaged in this case. Mr Brahimy provided the following written submissions:

*'The first limb is engaged as a result of the Registrant putting a patient in unwarranted risks of harm. The Panel have accepted the evidence in respect of the charges proven and it follows that individuals were put at risk of harm where (but not limited to):*

- a. The Registrant has put Patient A in unwarranted risk of harm by not following up important processes that would ensure a doctor is called to assess them properly.*
- b. The Registrant, although causing no physical harm, certainly had an impact to the wellbeing and emotions of Colleague A as a result of his*

*conduct. Such behaviour is still considered harmful and he should have known better given that his role is to have knowledge around mental health.*

*The second limb is engaged as a result of the Registrant's behaviour, as found proven, plainly brings the profession into disrepute:*

*a. A nurse has a responsibility to their patients and this Registrant has overstepped those boundaries by considering and engaging in talks of a relationship with one. This can have a serious impact as to the care and focus that is required, which would only be wrongly assessed when mixed with personal feelings. It should also be noted that the Registrant is there to set an example and be a point of call to student nurses and not to engage in sexual conversations.*

*The third limb is engaged, where the Registrant has plainly breached fundamental tenets of the profession in numerous areas of the Code of Conduct as referred to above, but in particular:*

- a. Treat people as individuals and uphold their dignity (1.1 and 1.3);*
- b. Uphold the reputation of your profession at all times (20.1 and 20.5)*
- c. Uphold your position as a registered nurse, midwife or nursing associate (21.4 and 21.5)'*

Mr Brahimi submitted that there is a serious departure from the standards expected of a Nurse and the panel should consider the following written submissions on impairment on the following grounds:

*'Public protection*

*a. The Registrant has demonstrated a real risk of harm where he has failed to act properly after a patient has had a fall. The Panel has heard and read evidence where the consequences of not calling an on-[call] (sic) doctor would have meant that the patient is not assessed properly. In regards to not providing information at handing over and omitting notes for the patient, means that others are unable to treat a patient adequately if they are delayed with this crucial information. A real risk of harm, albeit not clinical, may still be attributed to Colleague A. Although these were conversations, the Panel will be aware of the impact that emotions and stress can have on a person's mental health. It is submitted that to subject someone to unwanted sexual conversations is a peak example that can have a serious impact on their wellbeing. There is a risk of repetition where the Registrant has failed a number of tasks in regards to Patient A and has engaged in at least 2 conversations of a sexual nature with Colleague A.*

*Otherwise in the public interest*

*a. The positive treatment of colleagues and patients is paramount to a nurse demonstrating that they can practice fairly, kindly and safely. The way a nurse behaves is what the public will perceive as the medical profession, because nurses set this example. In this case, the Registrant has completely set the wrong example. Sexual misconduct is not a unique concern but widely recognised as unacceptable behaviour and this will have an impact as to the trust that the public will have on the nursing profession. The nursing profession relies on student nurses to complete essential roles and then progress into full registered practitioners, and this has been put at risk where they may be dissuaded as a result of learning of such improper conduct. The public would also be concerned whether they or their family will be*

*treated adequately upon hearing of the Registrant's failure and delay to treat a vulnerable patient.'*

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Spencer and General Osteopathic Council* [2007] 2QB 462, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), *Campbell v General Medical Council* [2005] 1 WLR 3488, *Cheatle and General Medical Council* [2009] EWHC 645 and *Cohen v General Medical Council* [2008] EWHC 581.

### **Decision and reasons on misconduct**

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

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

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

*To achieve this, you must:*

*1.2 make sure you deliver the fundamentals of care effectively.*

*1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay.*

***8 Work cooperatively.***

*To achieve this, you must:*

*8.2 maintain effective communication with colleagues.*

*8.3 keep colleagues informed when you are sharing the care of individuals with other healthcare professionals and staff.*

*8.5 work with colleagues to preserve the safety of those receiving care.*

*8.6 share information to identify and reduce risk.*

**10 Keep clear and accurate records relevant to your practice.**

*This includes but is not limited to patient records. It includes all records that are relevant to your scope of practice.*

*To achieve this, you must:*

*10.1 complete all records at the time or as soon as possible after an event, recording if the notes are written some time after the event.*

*10.2 identify any risks or problems that have arisen and the steps taken to deal with them, so that colleagues who use the records have all the information they need.*

*10.3 complete all records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements.*

*10.4 attribute any entries you make in any paper or electronic records to yourself, making sure they are clearly written, dated and timed, and do not include unnecessary abbreviations, jargon or speculation.*

**13 Recognise and work within the limits of your competence.**

*To achieve this, you must:*

*13.1 accurately assess signs of normal or worsening physical and mental health in the person receiving care.*

*13.2 make a timely and appropriate referral to another practitioner when it is in the best interests of the individual needing any action, care or treatment.*

*13.3 ask for help from a suitably qualified and experienced healthcare professional to carry out any action or procedure that is beyond the limits of your competence.*

**14 Be open and candid with all service users about all aspects of care and treatment, including when any mistakes or harm have taken place.**

*To achieve this, you must:*

*14.1 act immediately to put right the situation if someone has suffered actual harm for any reason or an incident has happened which had the potential for harm.*

*14.3 document all these events formally and take further action (escalate) if appropriate so they can be dealt with quickly.*

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

*To achieve this, you must:*

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

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

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

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

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

*20.8 act as a role model of professional behaviour for students and newly qualified nurses and midwives to aspire to.'*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that the charges before it are at the higher end of the spectrum of seriousness.

The panel noted that the charges involve sexual misconduct, in that Mr Mann behaved in an inappropriate manner towards Colleague A and that the comments made by Mr Mann were sexual in nature and sexually motivated. The panel took into consideration that Colleague A as a result of Mr Mann's sexual misconduct was made to feel vulnerable and '*trapped*'. The panel also took into account the power imbalance present at the time of the interaction between Mr Mann, the NIC, and Colleague A, a Student Nurse, and the coercive nature of the conversation that took place.

The panel noted that the charges also involve breach of professional boundaries, in that Mr Mann made inappropriate comments of a sexual nature to a junior colleague regarding Patient B, who had been in his care. The panel determined that Mr Mann's practice in relation to the Patient B demonstrated a disregard for Patient B's dignity.

Further the panel noted that the charges included clinical misconduct in that Mr Mann disregarded his responsibilities and failed to safely, appropriately and in a timely manner attend to Patient A, who was in his care. The panel took into account that Patient A is a vulnerable adult patient, and as a result of Mr Mann's misconduct Patient A's fractured femur was not discovered nor addressed earlier. The panel determined that this caused Patient A avoidable pain and discomfort.

In light of the numerous serious and wide-ranging charges the panel found that Mr Mann's actions did fall seriously short of the conduct and standards expected of a Nurse and amounted to misconduct.

### **Decision and reasons on impairment**

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

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

*'The question that will help decide whether a professional's fitness to practise is impaired is:*

*"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"*

*If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not 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*

The panel determined that the "test" is satisfied on grounds a), b), and c).

The panel finds that Mr Mann negatively impacted the wellbeing of Colleague A as a result of his sexual misconduct. The panel further finds that Patient A was put at risk and was caused physical harm as a result of Mr Mann's misconduct in that he did not follow the proper processes in attending to Patient A. Mr Mann's misconduct has breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel considered that Mr Mann has not demonstrated an understanding of how his actions put Patient A at a risk of harm nor how his actions impacted Colleague A. The panel noted that Mr Mann has not demonstrated any understanding of why what he did was wrong and how this impacted negatively on the reputation of the nursing profession. Further the panel took into account that Mr Mann has

not demonstrated any remorse nor demonstrated how he would handle the situation differently in the future. The panel noted that Mr Mann has not engaged with NMC proceedings, and he has provided no evidence to consider in this regard.

The panel had regard to the fact that the charges include both sexual misconduct and clinical misconduct. The panel determined that the charges involving sexual misconduct indicates attitudinal issues which are difficult to remediate. The panel noted that failings in clinical practice are capable of being addressed, but in any event, Mr Mann has provided no evidence of having done so. The panel further noted Mr Mann's tone and language used, when communicating with the NMC. The panel noted that Mr Mann has not provided any evidence of strengthening of practice nor any evidence of any remedial steps he has undertaken. The panel took into account that Mr Mann has not demonstrated any remorse or provided any evidence of reflection in respect of his misconduct.

The panel noted that Mr Mann previously stated that the Ward was understaffed when Patient A fell. However, the panel had regard to the fact that this was refuted by several witnesses in the department. Further the panel noted that in Ms 6's statement dated 8 February 2021 that she was the '*bleep holder*' for the shift and was responsible for staffing across the Ward, but that this issue was never discussed or raised by Mr Mann. [PRIVATE].

The panel is of the view that there is a risk of repetition and subsequent risk of significant harm to patients and colleagues. The panel therefore decided that a finding of impairment is necessary on the ground 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 Mr Mann's misconduct has brought the profession into disrepute and has undermined the trust and confidence in the nursing profession. The panel determined that a well-informed member of the public would be concerned to find that Mr Mann has been allowed to practise without restriction given the serious and wide-ranging nature of the charges. The panel therefore determined that a finding of impairment on public interest grounds is required.

Having regard to all of the above, the panel was satisfied that Mr Mann's 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 Mr Mann off the register. The effect of this order is that the NMC register will show that Mr Mann has 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 Brahimi informed the panel that in the Notice of Hearing, dated 12 March 2024, the NMC had advised Mr Mann that it would seek the imposition of a striking-off order if it found Mr Mann's fitness to practise currently impaired.

The panel also bore in mind Mr Brahimi's written submissions as follows:

*'Proportionality*

- a. Finding a fair balance between Registrant's rights and the overarching objective of public protection;*
- b. To not go further than it needs to, the Panel should think about what action it needs to take to tackle the reasons why the Registrant is not currently fit to practise;*
- c. The Panel should consider whether the sanction with the least impact on the nurse practise would be enough to achieve public protection, looking at the reasons why the nurse isn't currently fit to practise and any aggravating or mitigating features.*

#### *Aggravating features*

- a. Lack of insight into failings;*
  - i. The registrant was employed by Betsi Cadwaladr University Health Board since December 2013. He did not attend the disciplinary hearing where he was dismissed. As the registrant has not engaged with the NMC investigation we do not have any information on his current employment status.*
- b. Abuse of power;*
- c. Further observations:*
  - i. Complainant of sexual comments was a student;*
  - ii. Registrant was the nurse in charge.*

#### *Mitigating features*

- a. Registrant has been qualified since 1991;*
- b. [PRIVATE].*

#### *Previous interim order and their effect on sanctions*

*a. Interim suspension order imposed on 30th May 2022 (period of 18 months), last reviewed on the 20th March 2024 where it was confirmed.*

*Previous fitness to practice history.*

*a. No previous referrals.*

### **Sanctions available**

*NMC submit that taking no action and a caution order are not suitable options for this case due to the nature of misconduct. Guidance is found at SAN-3a and 3b.*

*Taking no action: this would not be an appropriate course of action as the regulatory concern of sexual misconduct is serious. The public protection and public interest elements in this case are such that taking no action would not be the appropriate response;*

*Caution Order: similarly, a Caution Order is also not suitable as this is a sanction aimed at misconduct that is at the lower end of the spectrum. In this case the concern involved sexual misconduct towards a student nurse. Given these concerns, a more effective sanction is required.*

*With regards to a conditions of practice order (COPO), the NMC submit that this option does not adequately address and reflect upon the type of breaches in this case. NMC guidance is found at reference SAN-3c.*

*a. It is always difficult to formulate or consider such conditions that effectively deal with sexual misconduct, which is an attitudinal problem in this case.*

*b. The level of concern in this case would require a higher level of sanction than a COPO. The guidelines refer to “When conditions of practice are appropriate” and the Panel may find that these conditions are not met.*

*c. Measurable, workable and appropriate conditions can be put into place to address instances such as those in charge 5, however, a COPO would not suitably address sexual misconduct.*

*The NMC submit the Registrant’s actions do warrant a suspension order (SO) but this would not be sufficient. Suspension guidance is found at reference SAN-3d, ...*

*...*

*...*

*c. The seriousness of the regulatory concerns does warrant a temporary removal from the Register; however, the Registrant’s actions are not isolated but in fact repeated misconduct (two occasions of sexual conversations) and further heightened by omissions towards Patient A.*

*d. A suspension order will not address the concerns in this case or proportionately provide for an appropriate response to such serious charges.*

*The NMC submit that a striking-off order is appropriate in this case. The Panel may be assisted by guidance provided at reference SAN-3e. The NMC make the following submissions in response to the guidance:*

*a. Do the regulatory concerns about the nurse, midwife or nursing associate raise fundamental questions about their professionalism?*

*i. The NMC submit that yes, they do. The charges found proven are those in the higher category of seriousness as per the guidance. There has been no insight into these incidents save for his responses during the internal (employment) investigations. Even through these investigations he sought to initially argue against these accusations.*

*b. Can public confidence in nurses, midwives and nursing associates be maintained if the nurse, midwife or nursing associate is not removed from the register?*

*i. The NMC submit that no, it cannot. There has been an alarming revelation where he has engaged in conversation of a sexual nature referencing both a colleague and a patient. Beyond this, his failure to act properly once a patient had fallen meant the patient did not receive immediate treatment as a result of not being adequately assessed (such as an on-call doctor).*

*c. Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

*i. The NMC submit that yes, it is. As outlined in the guidance when assessing sexual misconduct "...any nurse, midwife or nursing associate who is found to have behaved in this way will be at risk of being removed from the register". There is no further evidence that the Panel has read or seen which would justify pointing to a less severe sanction. A member of public may be concerned why a less severe sanction is imposed and*

*most likely not accept that it would be a true and proportionate measure in response to the serious proven charges.*

*d. Given that the charges involve sexual misconduct, the Panel will also be assisted with guidance at reference SAN-2. This guidance says “Sexual misconduct is likely to create a risk to people receiving care and to colleagues as well as undermining public trust and confidence in the professions we regulate. A panel should always consider factors such as the duration of the conduct in question, the professional’s relationship or position in relation to those involved and the vulnerabilities of anyone subject to the alleged conduct. Long-term or repeated conduct is more likely to suggest risk of harm, together with conduct involving imbalances of power, cruelty, exploitation and predatory behaviour.” – further factors of consideration include:*

*i. “...situations where the nurse, midwife or nursing associate has abused a position of trust they hold as a registered professional or a position of power”*

*e. It is arguable as to whether the Registrant would have continued to behave this way until he was reported internally. A striking off order should then be considered proportionate as the misconduct will raise fundamental questions surrounding the Registrant’s respect for others and professionalism. Ultimately his actions will be considered incompatible with continued registration.*

**Sanction request:**

*This case presents attitudinal concerns in nature. For all the reasons previously argued, the NMC submit that the appropriate sanction in this case is a:*

## **Striking-off Order**

*The NMC have sought to assist the Panel by going through each of the possible sanctions and when weighing the evidence against the set guidance, it is justified that there be a striking-off order. Sexual misconduct is a difficult form of behaviour to remedy and the concerns are further heightened with findings of clinical misconduct. There is no insight into his wrongdoings and the Panel are not updated as to whether he has engaged in any form of training, experience or personal reflection. This sanction will show that the conduct of the Registrant has been properly addressed and it will maintain trust with the public that the NMC do take such allegations seriously and will take swift and appropriate action.'*

### **Decision and reasons on sanction**

Having found Mr Mann's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the 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:

- Lack of insight into the misconduct
- No demonstration of remorse
- No evidence of remediation
- No evidence of strengthening of practice
- Abuse of power and trust in that Mr Mann was the NIC and Colleague A was a Student Nurse, at the time.
- Patient A was caused actual harm

The panel also took into account the following mitigating features:

- In relation to charge 5, Mr Mann stated that the shift was understaffed, [PRIVATE].

However, the panel did not attach much weight to these mitigating features, given that Mr Mann did not mention being stressed during exchanges in the immediate aftermath of the incident, and that several witnesses on the shift refuted the fact that the Ward was understaffed.

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.

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

The panel next considered whether placing conditions of practice on Mr Mann's registration would be a sufficient and appropriate response. The panel is of the view that there are practical measurable, and workable conditions that could be formulated in relation to Mr Mann's clinical failings. However, the panel noted that sexual misconduct is indicative of attitudinal issues which are difficult to remediate and address with conditions. The panel noted that Mr Mann has not demonstrated any insight, remorse or reflection and he has not provided any evidence of any remedial steps he has undertaken or any strengthening of his practice. In addition, the panel determined that even if it were minded

to impose conditions, it was not confident that Mr Mann would comply with any conditions imposed given his limited engagement thus far with the NMC.

Furthermore, the panel concluded that the placing of conditions on Mr Mann's registration would not be appropriate as they would not adequately address the seriousness of this case and would not protect the public nor sufficiently address 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;*

The panel determined that the misconduct is not isolated, there are three instances of misconduct, two of sexual misconduct and one of clinical misconduct. The panel took into account that the sexual misconduct also involved abuse of power and that sexual misconduct is indicative of attitudinal problems. The panel took into consideration that the clinical misconduct resulted in actual harm being caused to Patient A. The panel determined that there is a high risk of repetition given Mr Mann's lack of insight and lack of evidence of remediation and strengthening of practice.

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a Registered Nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mr Mann's actions is fundamentally incompatible with Mr Mann 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?*

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

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

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

This will be confirmed to Mr Mann in writing.

## **Interim order**

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

## **Submissions on interim order**

The panel took account of the written submissions made by Mr Brahim:

*'Should the Panel make an order as to sanction beyond that of a caution, the NMC would invite that there be an interim order for a period of 18 months. The Panel will appreciate that the decision on sanction will not take effect until at least 28 days. The period of 18 months would therefore be sufficient should an appeal be lodged by the Registrant. The request and grounds argued for why an interim order is required would be the same as those previously presented at the misconduct and impairment stage. The Panel may agree that having no interim order would not be reflective of their finding that a sanction is required, beyond a caution.'*

Mr Brahim clarified that this application was for an interim suspension order for a period of 18 months.

## **Decision and reasons on interim order**

The panel was satisfied that an interim suspension 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 suspension 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 likely period of any appeal.

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

That concludes this determination.