

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

**Substantive Meeting
Tuesday, 31 October 2023 – Thursday, 2 November 2023
Monday, 5 February – Wednesday, 7 February 2024**

Virtual Meeting

Name of Registrant: Timothy Alan Bray

NMC PIN 79H0008W

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – Level 1 – 18 February 2013

Registered Nurse – Sub Part 2
Adult Nursing – Level 2 – 9 May 1983

Relevant Location: Herefordshire

Type of case: Misconduct

Panel members: Sarah Lowe (Chair, Lay member)
Manjit Darby (Registrant member)
Konrad Chrzanowski (Lay member)

Legal Assessor: Nicholas Levisieur (31 October - 2 November 2023)
Ashraf Khan (5 - 7 February 2024)

Hearings Coordinator: Amie Budgen (31 October - 2 November 2023)
Margia Patwary (5 - 7 February 2024)

Facts proved: Charges 1 proved in part, 2 proved, 3 proved in part, 4 proved in part, 5 proved in part, 6 proved in part, 7 proved, 8 proved, 9 proved, 10 proved, 14 proved in part, 15 proved, 16 proved, 17 proved, 18 proved in part, 20 proved in part, 21 proved and 22 proved.

Facts not proved: Charges 11, 12, 13 and 19.

Fitness to practise: **Currently impaired**

Sanction: **Striking-off order**

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

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that that the Notice of Meeting had been sent to Mr Bray's registered email address by secure email on 16 August 2023.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, dates and the fact that this meeting was heard virtually.

In the light of all of the information available, the panel was satisfied that Mr Bray has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Decision and reasons on application to amend charge 1) a) – 1) r)

At the outset of the hearing, the panel considered whether to amend the wording of charge 1) a)- 1) r).

The proposed amendment for charge 1 was to amend the year which '2017' to say '2018', as evidence before the panel indicated that the alleged concerns occurred after 2017. The panel considered that this amendment would provide clarity and more accurately reflect the evidence.

"That you a registered nurse;

1. On dates unknown between 2016 and ~~2017~~ October 2018 behaved in an unprofessional and/or inappropriate manner towards Colleague A by:..."

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

The panel was of the view that such an amendment, was in the interest of justice. The panel was satisfied that there would be no prejudice to Mr Bray and no injustice would be caused to either parties by the proposed amendment being allowed. It was therefore appropriate to allow the following amendment to ensure clarity and accuracy:

“That you a registered nurse;

1. On dates unknown between 2016 and **October 2018** behaved in an unprofessional and/or inappropriate manner towards Colleague A by:...”

Decision and Reasons on hearsay application pursuant to Rule 31

The panel considered whether to admit the evidence of Colleagues D, F and G as hearsay because the panel only had access to the statements from the investigatory process carried out by the Trust’s local investigation and not signed witness statements. Further, Mr Bray had not been asked about the charges relating to Colleague D during the Trust’s local investigation.

The panel heard and accepted the legal assessor’s advice on the issues it should take into consideration. The Legal Assessor also referred the panel to *Thorneycroft v NMC* [2014] EWHC 1565 (Admin).

The panel determined that the evidence of Colleagues D, F and G was relevant. It considered that Mr Bray, Colleagues D, F and G, nor the other witnesses involved in the alleged charges would be attending to give live evidence as the case was being heard as a substantive meeting, rather than a substantive hearing. Therefore, Mr Bray would not have the opportunity to cross examine the witnesses.

Further, the panel determined that Colleague D’s evidence is sole and decisive for some, but not all of the charges, and Colleagues F and G evidence was not the sole and decisive evidence. However during the Trust’s local investigation, Mr Bray was questioned on the events which were alleged to have occurred with Colleagues’ A, B, C, E, F, G, and H and but not Colleague D. The panel also considered the steps taken to secure the statements of Colleagues D, F and G, the seriousness of the charges and the impact on Mr Bray’s

career, the likelihood of fabrication and that notice was given the statements would be read.

The panel concluded, in all the circumstances, that it would not be fair for Colleague D's evidence to be admitted into evidence as hearsay but that Colleagues F and G's evidence would be admitted. The panel was satisfied that no injustice would be caused to either party by the evidence being considered but that the panel would attribute appropriate weight to Colleagues F and G's evidence.

Details of charge

"That you a registered nurse;

1. On dates unknown between 2016 and 2017 October 2018 behaved in an unprofessional and/or inappropriate manner towards Colleague A by:
 - (a) Tapping Colleague A on her bottom on one or more occasions.
 - (b) Stating on one or more occasions words to the effect of, 'ooh, what a peachy bum you've got'.
 - (c) Stating words to the effect of, 'oh, I'll get you some underwear'.
 - (d) Giving Colleague A risqué underwear as a secret Santa gift.
 - (e) Sending a message to Colleague A via Facebook Messenger stating words to the effect of, 'I heard that you ladies like men to be shaved'.
 - (f) Sending a message to Colleague A via Facebook Messenger stating words to the effect of, 'that you had shaved and that you would love to show her'.
 - (g) Sending a message to Colleague A via Facebook Messenger stating words to the effect of, 'hey, hun it was lovely working with you today'.
 - (h) Posting on one or more occasions messages on Colleague A's Instagram

in relation to pictures that she has posted, words to the effect of,

i. 'wipwoo'

ii. 'pretty girl'.

(i) Walking into the changing ~~rooms~~ room, on one or more occasions, unannounced when Colleague A was getting changed.

(j) Discussing with Colleague A on one or more occasions personal matters [PRIVATE] by stating words to the effect of, 'that you [PRIVATE] were not having sex'.

(k) Sending a message to Colleague A after she left the Eye Unit stating words to the effect of,

i. 'I miss you',

ii. 'the eye unit is not the same without you'.

(l) Hugging Colleague A on one or more occasions.

(m) Stating on one or more occasions, words to the effect of, that you were Colleague A's 'work dad'.

(n) Asking on one or more occasions matters relating to Colleague A's 'sex life' or words to that effect.

(o) Making comments on one or more occasions about Colleague A's boyfriend by stating words to the effect of, that Colleague A's boyfriend,

i. 'was very good looking'.

ii. 'I bet he treats you well in the bedroom'.

(p) Placing on one or more occasions your hands and/or arms around Colleague A's 'neck' and/or 'waist'.

(q) Stating to Colleague A whether you could 'see her nipple piercings' or words to that effect.

(r) When on a night out with colleagues at a Wetherspoons Public House, on one or more occasions, would seek Colleague A out in an attempt to sit

next to her.

2. On or around 13 September 2019 behaved in an unprofessional manner towards Colleague A by;

- (a) Making an unannounced visit to Colleague A whilst she was in hospital.
- (b) During the visit stating words to the effect of that 'Colleague A didn't look her usual gorgeous self'.

3. Your conduct in charge 1 and/or charge 2 amounted to harassment of Colleague A in that:

- (a) It was unwanted and/or
- (b) It related to Colleague A's sex and/or was sexual in nature and/or,
- (c) It had the purpose or effect of:
 - i. Violating Colleague A's dignity, and/or
 - ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague A.

4. Your actions in relation to some or all of the conduct described in charge 1 and/or charge 2 were motivated for the purposes of sexual gratification and/or for the purposes of pursuing a sexual relationship.

5. Behaved in an unprofessional and/or inappropriate manner towards Colleague B;

- (a) By seeking out Colleague B on Facebook on an unknown date in February 2021.
- (b) By sending on an unknown date in February 2021 a 'friend request' to Colleague B via Facebook.

(c) On 14 February 2021, in relation to Colleague B's Facebook profile picture:

- i. Sent a 'Like' emoji next to the picture and/or
- ii. Placed a 'heart emoji' next to the picture.

(d) On an unknown date in February 2021 whilst at the vaccination centre, stated to Colleague B words to the effect of,

- i. 'I had a dream about you'.
- ii. 'I dreamt that we were in the pub together, and we were getting really, really drunk and that you were so drunk that I took you in a wheelbarrow to my house and I wouldn't let you leave the house'.

(e) On an unknown date in February 2021, whilst at the vaccination centre you would:

- i. Attempt to speak to Colleague B
- ii. 'Stare' at Colleague B.
- iii. 'Wave' at Colleague B.
- iv. 'Smile' at Colleague B.

(f) On one or more occasion in February 2021 would say words to the effect of, 'hello Colleague B, hello'.

6. Your conduct in charge 5 amounted to harassment of Colleague B in that:

- (a) It was unwanted and/or
- (b) It related to Colleague B's sex and/or was sexual in nature and/or,
- (c) It had the purpose or effect of:
 - i. Violating Colleague B's dignity, and/or
 - ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague B.

7. Your actions in some or all of the conduct described in charge 5 were for the purposes of sexual gratification and/or for the purposes of pursuing a sexual relationship.

8. Behaved in an unprofessional and/or inappropriate manner towards Colleague C;

(a) On or around 13 March 2020:

i. Walked into the changing room unannounced whilst Colleague C was getting changed.

ii. Stared at Colleague C whilst she was getting changed.

(b) On or around 14 March 2020 stated to Colleague C words to the effect of;

i. 'Have you got that red bra on today?'

ii. 'You really liked it'

(c) On or around 27 September 2020 stated to Colleague C words to the effect of;

i. 'I hear you need to go and pee on a stick'.

ii. 'When was your last period'.

(d) On an unknown date after 27 September 2020 stated to Colleague C whilst pointing towards Colleague's genital area, words to the effect of,

'What is the operation for, is it for down there?'

(e) On one or more occasions on dates unknown would get changed in front of Colleague C without any prior warning.

9. Your conduct in charge 8 amounted to harassment of Colleague C in that:

(a) It was unwanted and/or

(b) It related to Colleague C's sex and/or was sexual in nature and/or,

(c) It had the purpose or effect of:

- i. Violating Colleague C's dignity, and/or
- ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague C.

10. Your actions in some or all of the conduct described in charge 8 were for the purposes of sexual gratification and/or for the purposes of pursuing a sexual relationship.

11. On unknown dates between 2017 and 2019 behaved in an unprofessional and/or inappropriate manner towards Colleague D by;

- (a) Hugging Colleague D on one or more occasions.
- (b) Stating to Colleague D on one or more occasions, words to the effect of, 'you have got a lovely figure'.
- (c) Stating to Colleague D on one or more occasions words to the effect of, 'nice bum'.
- (d) Stating to Colleague D after seeing a picture of her on social media, words to the effect of, 'I had a dream about you and it turned me on'
- (e) Stating to Colleague D words to the effect of, 'come to mine, I'll cook fish for you'.
- (f) Sending private messages to Colleague D and/or requesting Colleague D to be a friend on Snapchat.

12. Your conduct in charge 11 amounted to harassment of Colleague D in that:

- (a) It was unwanted and/or
- (b) It related to Colleague D's sex and/or was sexual in nature and/or,
- (c) It had the purpose or effect of:
 - i. Violating Colleague D's dignity, and/or

ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague D.

13. Your actions in some or all of the conduct described in charge 11 were for the purposes of sexual gratification and/or for the purposes of pursuing a sexual relationship.

14. On unknown dates between June and October 2019 behaved in an unprofessional and/or inappropriate manner towards Colleague E by;

(a) Stating words to the effect of, 'no nooky for your boyfriend tonight'.

(b) Stating to Colleague E when she informed you that she wore contact lenses, words to the effect of, 'only dirty girls wear contact lenses, they get chlamydia'.

(c) Whilst Colleague E was on the telephone to the pharmacy instructed them to tell the pharmacy to 'fuck off' or words to that effect.

(d) When instructing Colleague E to tell the pharmacy to 'fuck off' gestured by sticking up your middle fingers.

15. Your conduct in charge 14 amounted to harassment of Colleague E in that:

(a) It was unwanted and/or

(b) It related to Colleague E's sex and/or was sexual in nature and/or,

(c) It had the purpose or effect of:

i. Violating Colleague E's dignity, and/or

ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague E.

16. Your actions in some or all of the conduct described in charge 14 were for the purposes of sexual gratification and/or for the purposes of pursuing a sexual relationship.

17. Behaved in an unprofessional and/or inappropriate manner towards Colleague F by;

(a) On or around 20 November 2020 approached Colleague F and adjusted the collar on her uniform without Colleague F's consent.

(b) On or around 19 November 2020:

- i. Searched through Colleague F's social media without her knowledge.
- ii. Stated to Colleague F words to the effect of, 'your account should be private'.

18. Your conduct in charge 17 amounted to harassment of Colleague F in that:

(a) It was unwanted and/or

(b) It related to Colleague F's sex and/or was sexual in nature and/or,

(c) It had the purpose or effect of:

- i. Violating Colleague F's dignity, and/or
- ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague F.

19. Your actions in some or all of the conduct described in charge 17 were for the purposes of sexual gratification and/or for the purposes of pursuing a sexual relationship.

20. Behaved in an unprofessional and/or inappropriate manner towards Colleague G;

(a) On or around 27 February 2021 stated to Colleague G words to the effect of, 'you are a good scrubber'.

(b) On a date unknown stated to Colleague G words to the effect of, 'you look gorgeous today'.

(c) On a date unknown whilst Colleague G was getting changed stated words to the effect of, 'I'll be round there in a moment to see you in your knickers'.

(d) On or around 27 February 2021 without gaining Colleague G's consent beforehand;

i. Grabbed her.

ii. Squeezed her tight.

iii. Kissed her on the mouth on one or more occasions.

(e) Between the 27 February and the 2 March 2021 sent the following messages to Colleague G;

i. 'Gonna miss you so much when you go off to uni'

ii. 'Got anything planned for tomorrow hun'.

iii. 'Ah OK, you can always come and practise on me after'.

iv. 'Yeah I'm tuff, lol'.

v. 'You can pop round when you finish with stu and try it on my arm lol'.

vi. 'So proud of you darling, I'll be stalking you now though'.

(f) On or around 28 February 2021 sent a friend request on Snapchat to Colleague G.

(g) On or around 12 March 2021 stated to Colleague G, when referring to her leggings, words to the effect of;

i. 'Ooh, don't you look good'.

ii. 'Those look nice on you'.

(h) On one or more occasions on dates unknown sent messages to Colleague

G attaching a 'smiley face' emoji and/or 'heart' emoji.

21. Your conduct in charge 20 amounted to harassment of Colleague G in that:

- (a) It was unwanted and/or
- (b) It related to Colleague G's sex and/or was sexual in nature and/or,
- (c) It had the purpose or effect of:
 - i. Violating Colleague G's dignity, and/or
 - ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague G.

22. Your actions in some or all of the conduct described in charge 20 were for the purposes of sexual gratification and/or for the purposes of pursuing a sexual relationship.

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

Background

Mr Bray was referred to the NMC on 15 September 2021 by Wye Valley NHS Trust (the Trust). The alleged facts are:

At the time the concerns were raised, Mr Bray had been working as a Staff Nurse in [PRIVATE] (the Hospital). Mr Bray had been working there from 2008 until he was dismissed on 18 August 2021. He was suspended on 25 March 2021, after concerns were raised initially by two female members of staff who reported having had issues with his conduct. In November 2020 Colleague F was on placement in the ophthalmology department raised concerns about Mr Bray's conduct as her practice assessor. Mr Bray was alleged to have used inappropriate language in the Colleague C's presence and made inappropriate unwanted contact toward her. As a result of these concerns, a meeting was arranged, and attended by two managers and the Practice Facilitator, to discuss the allegations. At that time Mr Bray's alleged conduct was considered to be an isolated incident for which he had apologised and the Colleague C was allocated a different assessor. Mr Bray was sent an informal letter and the case was closed.

Further allegations were raised in March 2021 by Colleague C that Mr Bray had used inappropriate language and engaged in unwanted touching towards her. As a result of these concerns, an investigation was launched by the Trust and further concerns came to light about his conduct towards seven female colleagues. The types of concerns raised were that Mr Bray touched women's bums, held them in tight hugs, made inappropriate comments, entered changing rooms without knocking and changed in the same room. For example, Colleague C stated that Mr Bray entered the changing room while she was in her bra and then commented on her bra the next day.

It is further alleged that Mr Bray, on one occasion, listened to a private conversation being held by female members of staff, which included Colleague A, in which one colleague said her [PRIVATE] shaved himself "*down below*". Mr Bray was alleged to have then sent a message to Colleague A stating that he shaved himself and wanted to show her. On another occasion, Mr Bray allegedly made an inappropriate comment to Colleague B, stating that he had a dream of himself and Colleague B getting drunk and her spending the

night at his house. He made the comment about her spending the night at his house when there were no other colleagues around.

A disciplinary hearing was held on 16 August 2021 to consider the following allegations:

1. Inappropriate touching of female colleagues;
2. Inappropriate language being used towards colleagues;
3. Unwanted personal interactions, either in person or via social media, including in a professional setting.

Mr Bray engaged with the Trust investigation and said that he could remember some allegations, but not others. Mr Bray made some admissions in that he said he would touch someone on the shoulder or the arm just to say hello or to guide them in some way or try and offer support, he said on other occasions he hugged people. Mr Bray admitted that he may have touched Colleague A's bottom, slapped her on the bottom and/or made comments about her bottom occasionally but said there was no sexual motivation to those comments, and he did not remember some conversations. Mr Bray recalled having a conversation with Colleague B about a dream he had involving the both of them but denied any sexual element to it.

Further, Mr Bray said he remembered entering a shared changing room when Colleague C was partially undressed and may have commented on it later, but said he did not know why. Mr Bray also admitted to having once '*hearted*' Colleague B's profile picture on Facebook and also said that with regard to some of the allegations, his conduct had been unacceptable. Mr Bray said he was devastated at causing distress to a number of young female colleagues. He also accepted when questioned that the social media, physical contact, and language used was of a sexually motivated nature, and that his conduct was in breach of the Trust's policies.

[PRIVATE].

Mr Bray was dismissed by letter dated 18 August 2021. He is currently subject to an interim suspension order which was originally imposed on 13 October 2021.

Decision and reasons on facts

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

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

Charge 1) a)

“That you a registered nurse;

1. On dates unknown between 2016 and 2018 behaved in an unprofessional and/or inappropriate manner towards Colleague A by:

- (a) Tapping Colleague A on her bottom on one or more occasions.

This charge is found proved.

In reaching this decision, the panel took into account the written evidence and the ‘*Meeting Notes*’ of Mr Bray and Colleague A.

The panel considered that Colleague A’s evidence remained consistent throughout their written evidence and the ‘*Meeting Notes*’. Further, the panel considered that the incident was alleged to have occurred between 2016-2018, and Colleague A left the Ophthalmology Department (the Department) in 2018 and therefore both Colleague A and Mr Bray were working at the Department at the time which the alleged incident took place. It had regard to Mr Bray’s responses to the local investigation, in which he had recognised that his actions towards Colleague A were inappropriate.

In all the circumstances, the panel considered on the balance of probabilities that charge 1) a) is found proved as Colleague A’s evidence remained consistent and there is no reason why Colleague A would fabricate this event.

The panel next considered whether charge 1) a) was unprofessional and/or inappropriate.

The panel determined that this charge is both unprofessional and inappropriate, in light of Mr Bray's recognition that this was inappropriate and Colleague A identifying how Mr Bray's action made them feel. The panel also had regard to the Trust's policies. It determined that Mr Bray's behaviour was inappropriate and unprofessional as he was in a position of power in a senior management role working with younger female members of staff and his behaviour fell short of the standards expected of a registered nurse in accordance with the NMC Code of Conduct.

The panel therefore determined that charge 1) a) is found proved and Mr Bray's actions were inappropriate and unprofessional.

Charge 1) b)

"That you a registered nurse;

1. On dates unknown between 2016 and 2018 behaved in an unprofessional and/or inappropriate manner towards Colleague A by:

(b) Stating on one or more occasions words to the effect of, 'ooh, what a peachy bum you've got'.

This charge is found proved.

In reaching this decision, the panel took into account the written evidence and the '*Meeting Notes*' of Mr Bray and Colleague A.

The panel determined that in light of the evidence set out in charge 1) a), which was found proved, and considering that Colleague A had no reason to fabricate this event; on the balance of probabilities charge 1) b) is found proved.

The panel next considered whether charge 1) b) was unprofessional and/or inappropriate. The panel determined that this charge is both unprofessional and inappropriate for the same reasons set out in charge 1) a).

Charges 1) c) and 1) d

“That you a registered nurse;

1. On dates unknown between 2016 and 2018 behaved in an unprofessional and/or inappropriate manner towards Colleague A by:
 - (c) Stating words to the effect of, ‘oh, I’ll get you some underwear’.
 - (d) Giving Colleague A risqué underwear as a secret Santa gift.

These charges were found proved.

In reaching this decision, the panel took into account the ‘*Meeting Notes*’ of Mr Bray and Colleague A, as well as Colleague A’s written evidence.

The panel considered Mr Bray’s statement in the ‘*Meeting Notes*’, which stated that he did admit to buying Colleague A underwear. Mr Bray indicated that the underwear he bought Colleague A was from Ann Summers.

Mr Bray in his Trust interview stated:

“In retrospect it was probably not the most sensible present to get her...it looks terrible now doesn’t it, probably not at all the sensible thing to do.”

The panel determined that in light of the evidence from Mr Bray and Colleague A’s ‘Meeting notes’ and Colleague A’s written evidence, charge 1) c) is found proved. In relation to charge 1) d) the panel determined that in light of the evidence before it and Mr Bray’s admission and considering how Colleague A felt when she had received the underwear charge 1) d) is found proved.

The panel next considered whether charges 1) c) and 1) d) were unprofessional and/or inappropriate.

The panel determined that these charges are both unprofessional and inappropriate for the same reasons set out in charge 1) a).

Charges 1) e) and 1) f)

“That you a registered nurse;

1. On dates unknown between 2016 and 2018 behaved in an unprofessional and/or inappropriate manner towards Colleague A by:

(e) Sending a message to Colleague A via Facebook Messenger stating words to the effect of, ‘I heard that you ladies like men to be shaved’.

(f) Sending a message to Colleague A via Facebook Messenger stating words to the effect of, ‘that you had shaved and that you would love to show her’.

These charges are found proved.

In reaching this decision, the panel took into account Mr Bray’s admissions within the ‘*Meeting Notes*’ and Colleague A’s written evidence.

The panel considered Mr Bray’s admissions to charges 1) e) and 1) f), as well as Colleague A’s written evidence, which stated that she escalated her concerns with the matron. Further, the panel considered the evidence referring to a message exchange between Mr Bray and Colleague A on Facebook.

The panel determined that in light of Mr Bray’s admissions, and considering the supporting evidence of Colleague A, charges 1) e) and 1) f) are found proved.

The panel next considered whether charges 1) e) and 1) f) were unprofessional and/or inappropriate.

The panel determined that these charges are both unprofessional and inappropriate for the same reasons set out in the previous charges, which are found proved.

Charge 1) g)

“That you a registered nurse;

1. On dates unknown between 2016 and 2018 behaved in an unprofessional and/or inappropriate manner towards Colleague A by:

(g) Sending a message to Colleague A via Facebook Messenger stating words to the effect of, 'hey, hun it was lovely working with you today'.

This charge is found proved.

In reaching this decision, the panel took into account the '*Meeting Notes*' of Mr Bray and Colleague A, Colleague A's written evidence and the screenshots of the Facebook messages between Mr Bray and Colleague A.

The panel considered Mr Bray's statement within the 'Meeting Notes', which stated that his response to being asked about this allegation was "*yes, quite possibly yes*" and that he felt he had a good relationship with Colleague A. Further, Facebook screenshots show that Mr Bray messaged Colleague A saying the following: "hey hun it was lovely working with you today".

The panel determined that in light of the evidence before it, charge 1) g) is found proved.

The panel next considered whether charge 1) g) was unprofessional and/or inappropriate.

The panel determined that this charge is both unprofessional and inappropriate for the same reasons set out in the previous charges, which are found proved.

Charge 1) h)

"That you a registered nurse;

1. On dates unknown between 2016 and 2018 behaved in an unprofessional and/or inappropriate manner towards Colleague A by:

(h) Posting on one or more occasions messages on Colleague A's Instagram in relation to pictures that she has posted, words to the effect of,

- i. 'wipwoo'
- ii. 'pretty girl'.

This charge is found proved.

In reaching this decision, the panel took into account the '*Meeting Notes*' of Mr Bray and Colleague A and Colleague A's written evidence.

The panel considered that Colleague A's evidence remained consistent throughout their written evidence and the '*Meeting Notes*', stating that Mr Bray left a comment under one of Colleague A's Instagram post, saying "wipwoo".

The panel determined, on the balance of probabilities, that Charge 1) h) is found proved as Colleague A's evidence remained consistent and there is no reason why Colleague A would fabricate this event.

The panel next considered whether charge 1) h) was unprofessional and/or inappropriate.

The panel determined that this charge is both unprofessional and inappropriate for the same reasons set out in the previous charges, which are found proved.

Charge 1) i)

"That you a registered nurse;

1. On dates unknown between 2016 and 2018 behaved in an unprofessional and/or inappropriate manner towards Colleague A by:

- (i) Walking into the changing rooms, on one or more occasions, unannounced when Colleague A was getting changed.

This charge is found proved.

In reaching this decision, the panel took into account the 'Meeting Notes' of Mr Bray and Colleague A and Colleague A's written evidence.

The panel considered that within the 'Meeting Notes', Mr Bray admitted to walking in on Colleague A undressing. Further, Colleague A stated that Mr Bray "would barge in on female workers". The panel also consider that within the 'Meeting Notes', Colleague G also stated that Mr Bray would be "present when changing".

The panel determined, based on the evidence before it and Mr Bray's admissions, that charge 1) i) is found proved.

The panel next considered whether charge 1) i) was unprofessional and/or inappropriate. The panel considered Colleague A's statement where she stated:

"[Male member of staff] is another one of my colleagues who was very decently behaved unlike Tim. [...] was the only other male on the ward. When he needed to use the changing room, he would knock and wait for females to get out."

The panel determined that charge 1) i) is both inappropriate and unprofessional. The panel recognised that there might be some custom and practice whereby staff may change together however it felt that it was unprofessional for a senior male member of staff to change in the presence of junior female members of staff.

Charge 1) j)

"That you a registered nurse;

1. On dates unknown between 2016 and 2018 behaved in an unprofessional and/or inappropriate manner towards Colleague A by:

(j) Discussing with Colleague A on one or more occasions personal matters [PRIVATE] by stating words to the effect of, 'that you [PRIVATE] were not having sex'.

This charge is found proved.

In reaching this decision, the panel took into account the *'Meeting Notes'* of Mr Bray and Colleague A and Colleague A's written evidence.

The panel considered that within the *'Meeting Notes'*, when Mr Bray was questioned on this, he responded with "no, not that I am aware of". However, the panel considered that Colleague A's evidence has remained consistent and there is no reason why Colleague A would fabricate this event. Therefore, this charge can be found proved on the balance of probabilities.

The panel next considered whether charge 1) i) was unprofessional and/or inappropriate.

The panel determined that this charge is both unprofessional and inappropriate, in light of Colleague A identifying how Mr Bray's action made them feel. It determined that Mr Bray's behaviour was inappropriate and unprofessional as he was in a position of power, in a senior management role and working with younger female members of staff and his behaviour fell short of the standards expected of a registered nurse in accordance with the NMC Code of Conduct.

Charges 1) k) i) and 1) k) ii)

"That you a registered nurse;

1. On dates unknown between 2016 and 2018 behaved in an unprofessional and/or inappropriate manner towards Colleague A by:

(k) Sending a message to Colleague A after she left the Eye Unit stating words to the effect of,

- i. 'I miss you',
- ii. 'the eye unit is not the same without you'.

These charges are not found proved.

The panel determined that this charge is not found proved as it has no evidence as to when the text messages were sent other than it was sometime after 30 September 2018 and before 13 September 2019. Therefore, the panel cannot be satisfied the messages were sent within the time frame of the charge.

Charge 1) l)

“That you a registered nurse;

1. On dates unknown between 2016 and 2018 behaved in an unprofessional and/or inappropriate manner towards Colleague A by:

- (l) Hugging Colleague A on one or more occasions.

This charge is found proved.

In reaching this decision, the panel took into account the *‘Meeting Notes’* of Mr Bray and Colleague A and Colleague A’s written evidence.

The panel considered that Mr Bray stated “we got on very well, lots of hugs” in response to being questioned about this allegation. Further Colleague A’s written statement and responses in the *‘Meeting Notes’* is consistent.

The panel determined that based on the evidence before it, charge 1) l) is found proved.

The panel next considered whether charge 1) l) was unprofessional and/or inappropriate.

The panel determined that this charge is both unprofessional and inappropriate for the same reasons set out in charge 1) j), which was found proved.

Charge 1) m)

“That you a registered nurse;

1. On dates unknown between 2016 and 2018 behaved in an unprofessional and/or inappropriate manner towards Colleague A by:

(m) Stating on one or more occasions, words to the effect of, that you were Colleague A’s ‘work dad’.

This charge is found proved.

In reaching this decision, the panel took into account the ‘*Meeting Notes*’ of Mr Bray and Colleague A and Colleague A’s written evidence.

The panel considered that during the ‘*Meeting Notes*’, Mr Bray made admissions to this allegation. Further, within Colleague A’s written statement, she stated “I had him as my work Dad”.

The panel determined that based on the evidence before it, charge 1) m) is found proved.

The panel next considered whether charge 1) m) was unprofessional and/or inappropriate.

The panel determined that this charge is both unprofessional and inappropriate for the same reasons set out in charge 1) j). In addition, the panel considered that he used this term to legitimise his inappropriate and unprofessional interaction with younger female members of staff.

Charges 1) n), 1) o) i) and 1) o) ii)

“That you a registered nurse;

1. On dates unknown between 2016 and 2018 behaved in an unprofessional and/or inappropriate manner towards Colleague A by:

(n) Asking on one or more occasions matters relating to Colleague A's 'sex life' or words to that effect.

(o) Making comments on one or more occasions about Colleague A's boyfriend by stating words to the effect of, that Colleague A's boyfriend,

i. 'was very good looking'.

ii. 'I bet he treats you well in the bedroom'.

These charges are found proved.

In reaching this decision, the panel took into account the *'Meeting Notes'* of Mr Bray and Colleague A and Colleague A's written evidence.

The panel considered that during the *'Meeting Notes'*, Mr Bray responded to questions relating to charge 1) n) saying "no, not that I can remember". However, when Colleague A was asked the same questions, she expressed how Mr Bray's comments had made her feel uncomfortable. She stated that in relation to charges 1) o) i) and 1) o) ii), Mr Bray had said that her boyfriend "*is good looking, I bet he treats you well in the bedroom*".

In all the circumstances, the panel determined, on the balance of probabilities, that these charges are found proved as Colleague A's evidence remained consistent, she expressed that Mr Bray's comments had made her feel uncomfortable, and there is no reason why Colleague A would fabricate these conversations.

The panel next considered whether the charges were unprofessional and/or inappropriate.

The panel determined that these charges are both unprofessional and inappropriate for the same reasons set out in charge 1) j), which was found proved.

Charge 1) p)

"That you a registered nurse;

1. On dates unknown between 2016 and 2018 behaved in an unprofessional

and/or inappropriate manner towards Colleague A by:

- (p) Placing on one or more occasions your hands and/or arms around Colleague A's 'neck' and/or 'waist'.

This charge is found proved.

In reaching this decision, the panel took into account the '*Meeting Notes*' of Mr Bray and Colleague A and Colleague A's written evidence.

The panel considered that during the '*Meeting Notes*', Mr Bray made admissions to patting Colleague A on the bottom. Further, within Colleague A's written statement, she stated that Mr Bray had "put his hands around my neck and waist, touching my bum".

The panel determined that based on the evidence before it, that the entirety of charge 1) p) is found proved on the balance of probabilities.

The panel next considered whether charge 1) p) was unprofessional and/or inappropriate.

The panel determined that this charge is both unprofessional and inappropriate for the same reasons set out in charge 1) j), which was found proved.

Charge 1) q)

"That you a registered nurse;

1. On dates unknown between 2016 and 2018 behaved in an unprofessional and/or inappropriate manner towards Colleague A by:

- (q) Stating to Colleague A whether you could 'see her nipple piercings' or words to that effect.

This charge is found proved.

In reaching this decision, the panel took into account the *'Meeting Notes'* of Mr Bray and Colleague A and Colleague A's written evidence.

The panel considered that within the *'Meeting Notes'*, Colleague A stated that Mr Bray had asked if she had nipple piercings and said, "show me your nipples, I need to see your piercings".

The panel determined, on the balance of probabilities, that these charges are found proved as Colleague A's evidence remained consistent and there is no reason why Colleague A would fabricate these events.

The panel next considered whether charge 1) q) was unprofessional and/or inappropriate.

The panel determined that this charge is both unprofessional and inappropriate for the same reasons set out in charge 1) j), which was found proved.

Charge 1) r)

"That you a registered nurse;

1. On dates unknown between 2016 and 2018 behaved in an unprofessional and/or inappropriate manner towards Colleague A by:

(r) When on a night out with colleagues at a Wetherspoons Public House, on one or more occasions, would seek Colleague A out in an attempt to sit next to her.

This charge is found proved.

In reaching this decision, the panel took into account the *'Meeting Notes'* of Mr Bray and Colleague A and Colleague A's written evidence.

The panel considered that within the Colleague A's *'Meeting Notes'* and her written evidence, her recall of events remained consistent. It therefore determined that on the

balance of probabilities, in light of the previous charges found proved, that this charge is also found proved.

The panel next considered whether charge 1) r) was unprofessional and/or inappropriate.

The panel determined that charge 1) r) is both inappropriate and unprofessional. Although these events occurred outside of the work Mr Bray had not been invited and turned up on his volition. The panel was satisfied that this amounted to unprofessional and inappropriate behaviour by a senior manager where a complaint had been raised about his conduct by Colleague A.

Charges 2) a) and 2) b)

2. On or around 13 September 2019 behaved in an unprofessional manner

towards Colleague A by;

- (a) Making an unannounced visit to Colleague A whilst she was in hospital.
- (b) During the visit stating words to the effect of that 'Colleague A didn't look her usual gorgeous self'.

These charges are found proved.

The panel determined that Colleague A's statements have been consistent, indicating that she felt very uncomfortable by Mr Bray showing up to visit her in the hospital, uninvited, when she had already filed a complaint against him. The panel considered that Mr Bray made partial admissions to the charges during the '*Meeting Notes*', where he indicated that he had visited Colleague A in the hospital, however that this was to offer her support rather than being influenced by any other motive.

The panel determined that charges 2) a) and 2) b) are found proved based on the evidence before it.

The panel next considered whether the charges were unprofessional and/or inappropriate.

The panel determined that these charges are both unprofessional and inappropriate. In relation to the charges being inappropriate, the panel considered that Colleague A had expressed her discomfort from Mr Bray visiting her in the hospital without consent, determining that this breached professional boundaries. Further, the panel determined that Mr Bray's actions were unprofessional, particularly in relation to Colleague A having already filed a complaint against him based on the events which are detailed in the previous charges.

Charges 3) a), 3) b), 3) c) i) and 3) c) ii)

3. Your conduct in charge 1 and/or charge 2 amounted to harassment of Colleague A in that:

- (a) It was unwanted and/or
- (b) It related to Colleague A's sex and/or was sexual in nature and/or,
- (c) It had the purpose or effect of:
 - i. Violating Colleague A's dignity, and/or
 - ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague A.

These charges are found proved in relation to charges 1) a) – 1) j), 1) l) – 1) r), 2) a) and 2) b) and not proved in relation to charges 1) k) i) and 1) k) ii).

The panel determined that all charges except for 1) k) i) and 1) k) ii) were unwanted; related to Colleague A's sex; were of a sexual nature; violated Colleague A's dignity; and created an intimidating, hostile, degrading, humiliating and offensive environment for Colleague A. In its consideration, the panel took account of Colleague A's '*Meeting Notes*' and her written statement. It had particular regard to Colleague A's expressed discomfort relating to Mr Bray's actions and indication that it made her feel vulnerable. Colleague A stated within the '*Meeting Notes*' that Mr Bray had made the following statement when visiting her in the hospital:

“You’re not looking your gorgeous self”

Further, that Colleague A had filed a complaint against Mr Bray, as well as reporting the events to the matron, which the panel determined marks the seriousness of the impact that the events were having on Colleague A.

The panel therefore determined that charges 3) a), 3) b), 3) c) i) and 3) c) ii) are found proved in relation to charges 1) a) – 1) j) and charges 1) l) – 1) r). However, the panel determined that charge 3 in its entirety is found not proved in relation to charges 1) k) i) and 1) k) ii) as these charges were not found proved.

The panel next considered whether charges 3) a), 3) b), 3) c) i) and 3) c) ii) are found proved in relation to charges 2) a) and 2) b). In light of charges 2) a) and 2) b) being found proved, the panel determined that charge 3 in its entirety is found proved for the same reasons set out for charges 1) a) – 1) j) and 1) l) – 1) r).

Charge 4

4. Your actions in relation to some or all of the conduct described in charge 1 and/or charge 2 were motivated for the purposes of sexual gratification and/or for the purposes of pursuing a sexual relationship.

This charge was found proved.

The panel considered the Mr Bray and Colleague A’s *‘Meeting Notes’* and Colleague A’s written statement.

The panel determined that charge 4 is found proved in relation to charges 1) a) – 1) j) and 1) l) – 1) r) as these charges were found proved and the charges were of a sexual nature. However, the panel determined that charge 4 is not found proved for charges 2) a) and 2) b). The panel had regard to Mr Bray’s statement which indicated

that he visited Colleague A in hospital solely to offer her support. It therefore determined that whilst charges 2) a) and 2) b) were found to be unprofessional and inappropriate, there is no evidence before the panel to suggest that Mr Bray's actions were motivated for the purposes of sexual gratification and/or for the purposes of pursuing a sexual relationship with Colleague A.

Charges 5) a) – 5) f)

5. Behaved in an unprofessional and/or inappropriate manner towards Colleague B;

- (a) By seeking out Colleague B on Facebook on an unknown date in February 2021.
- (b) By sending on an unknown date in February 2021 a 'friend request' to Colleague B via Facebook.
- (c) On 14 February 2021, in relation to Colleague B's Facebook profile picture:
 - i. Sent a 'Like' emoji next to the picture and/or
 - ii. Placed a 'heart emoji' next to the picture.
- (d) On an unknown date in February 2021 whilst at the vaccination centre, stated to Colleague B words to the effect of,
 - i. 'I had a dream about you'.
 - ii. 'I dreamt that we were in the pub together, and we were getting really, really drunk and that you were so drunk that I took you in a wheelbarrow to my house and I wouldn't let you leave the house'.
- (e) On an unknown date in February 2021, whilst at the vaccination centre you would:
 - i. Attempt to speak to Colleague B
 - ii. 'Stare' at Colleague B.
 - iii. 'Wave' at Colleague B.
 - iv. 'Smile' at Colleague B.

(f) On one or more occasion in February 2021 would say words to the effect of, 'hello Colleague B, hello'.

Charges 5) d) and 5) e) ii) found proved, charges 5) a), 5) b), 5) c), 5) e) i), 5) e) iii) 5) e) iv) and 5) f) not proved

In reaching this decision, the panel took into account Mr Bray's partial admissions, the written statements of Colleague B, the *'Meeting Notes'* of Mr Bray and Colleague B, and the Facebook screenshots.

It determined that there is evidence, in the form of Facebook screenshots to support that the events did take place, as well as consistency in Colleague B's evidence. However, the panel determined that these charges do not amount to unprofessional or inappropriate behaviour on Mr Bray's behalf. The panel considered that within the *'Meeting Notes'* Mr Bray indicated that a lot of work colleagues interact with one another on social media, outside of work. Further, that Colleague B had the choice to decline Mr Bray's friend request but chose not to.

The panel considered Mr Bray's admissions, the Facebook screenshots, and Colleague B's consistency throughout her written statement and the *'Meeting Notes'*. Colleague B made the following statements:

"Mr Bray was "standing back against the wall staring"; and

I was "shocked at the dream, I found it weird and creepy".

Further, the panel considered that Colleague B indicated that Mr Bray's actions made her feel uncomfortable, and a local investigation was carried out after another member of staff witnessed the conversation.

The panel determined that all of the events in relation to this charge occurred but was satisfied that only charges 5) d) i), 5) d) ii) and 5) e) ii) amounted to unprofessional and inappropriate behaviour.

Charges 6) a), 6) b), 6) c) i) and 6) c) ii).

6. Your conduct in charge 5 amounted to harassment of Colleague B in that:

- (a) It was unwanted and/or
- (b) It related to Colleague B's sex and/or was sexual in nature and/or,
- (c) It had the purpose or effect of:
 - i. Violating Colleague B's dignity, and/or
 - ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague B.

These charges are found proved in part.

The panel determined that the entirety of charge 6 is found proved in relation to charges 5) d) i) and 5) d) ii). In reaching its decision the panel considered that the content of the dream that Mr Bray told Colleague B was about her, was sexual in nature.

In relation to charge 5) e) ii), the panel noted that Colleague B reported that Mr Bray was staring at her for three minutes and texted Colleague H to tell them that what Mr Bray was doing was making her feel uncomfortable. Whilst Mr Bray denied this, on the balance of probability the panel determined that Colleague B would have no reason to fabricate this. Therefore, the panel determined that these events did occur, however there is no evidence to suggest that Mr Bray's actions related to Colleague B's sex and/or was sexual in nature, and therefore charge 6) b) is not found proved. The panel did however determine that charges 6) a), 6) c) i) and 6) c) ii) are found proved as Colleague B stated that Mr Bray's actions were unwanted caused her discomfort.

The entirety of charge 6 is not found proved for charges 5) a), 5) b), 5) c) and 5) f) as these were not found proved.

Charge 7

7. Your actions in some or all of the conduct described in charge 5 were for the purposes of sexual gratification and/or for the purposes of pursuing a sexual relationship.

This charge is found proved.

The panel determined that charge 7 is found proved in light of charge 5) d) i) and 5) d) ii) being found proved to be related to Colleague B's sex and/or was sexual in nature in relation to charge 6) b).

Charges 8) a) i) - 8) e)

8. Behaved in an unprofessional and/or inappropriate manner towards Colleague C;

(a) On or around 13 March 2020:

- i. Walked into the changing room unannounced whilst Colleague C was getting changed.
- ii. Stared at Colleague C whilst she was getting changed.

(b) On or around 14 March 2020 stated to Colleague C words to the effect of;

- i. 'Have you got that red bra on today?'
- ii. 'You really liked it'.

(c) On or around 27 September 2020 stated to Colleague C words to the effect of;

- i. 'I hear you need to go and pee on a stick'.
- ii. 'When was your last period'.

(d) On an unknown date after 27 September 2020 stated to Colleague C whilst pointing towards Colleague's genital area, words to the effect of, 'What is the operation for, is it for down there?'

(e) On one or more occasions on dates unknown would get changed in front of Colleague C without any prior warning

Charge 8 in its entirety is found proved.

In reaching this decision, the panel took into account the 'Meeting Notes' of Mr Bray and Colleague C, and Colleague C' written statement in June 2022.

In relation to charges 8) a) i) and 8) a) ii), the panel determined that there were inconsistencies within Mr Bray's written statements. It considered that Mr Bray admitted to walking in on Colleague C in the changing rooms, however he stated that he had knocked before entering. The panel next considered that Mr Bray had initially stated that he was "horrified to have walked in" on Colleague C but continued to enter the changing room. However, in another written statement Mr Bray indicated that he knocked on the door and walked out straight away.

However, the panel determined that Colleague C's version of events remained consistent within her written statements. Colleague C stated the following:

"He continued to put his bag on top of the locker, said good morning and carried on getting changed."

The panel also noted that Mr Bray was there for enough time to notice the colour of Colleague C's bra.

The panel determined therefore determined that on a balance of probabilities, charges 8) a) i) and 8) a) ii) are found proved as there are inconsistencies in Mr Bray's written statements whereas Colleague C's written statements have remained consistent.

The panel next considered whether charges 8) a) i) and 8) a) ii) were unprofessional and/or inappropriate.

The panel determined that charges 8) a) i) and 8) a) ii) are both unprofessional and inappropriate as Mr Bray had remained in the changing rooms and stared at Colleague C whilst she was getting changed.

In relation to charges 8) b) i) and 8) b) ii), the panel considered that Mr Bray observed what colour Colleague C's bra was, stating to Colleague C:

"Have you got that red bra again".

The panel therefore determined that charges 8) b) i) and 8) b) ii) are found proved.

The panel next determined that charges 8) c) i), 8) c) ii), 8) d) and 8) e) are found proved.

In reaching its decision, the panel considered Mr Bray admitted to charge 8) c) i), relating to Colleague C taking a pregnancy stick. The panel considered that whilst Mr Bray did not admit to charge 8) c) ii), Colleague C's written statements remained consistent and therefore, on the balance of probabilities, both charges are found proved.

In relation to charges 8) d) and 8) e), the panel considered that whilst Mr Bray did not make direct admissions to these charges, he also did not deny them. Further, Colleague C's written statements remained consistent. Colleague C made the following statement:

Mr Bray "undid his top and that's when I left the changing room, got changed in front of me before and left the door open".

The panel determined that on the balance of probabilities and given that Colleague C had no reason to fabricate these events, these charges are found proved.

The panel next considered whether charge 8 in its entirety was unprofessional and/or inappropriate.

The panel determined that all of charge 8 was found proved in that the events did occur and were both unprofessional and inappropriate. In reaching its decision, the panel considered Mr Bray's admissions and Colleague C's written statements remained

consistent. It determined that the comments Mr Bray made to Colleague C breached professional boundaries, and Colleague C indicated that the events caused her discomfort within her written statements.

Charges 9) a), 9) b), 9) c) i) and 9) c) ii).

9. Your conduct in charge 8 amounted to harassment of Colleague C in that:

(a) It was unwanted and/or;

(b) It related to Colleague C's sex and/or was sexual in nature and/or;

(c) It had the purpose or effect of:

i. Violating Colleague C's dignity, and/or

ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague C.

These charges are found proved

In reaching this decision, the panel took into account the *'Meeting Notes'* of Mr Bray and Colleague C, and Colleague C's written statement in June 2022.

The panel had regard to the content of the conversation Mr Bray had with Colleague C was related to pregnancy testing and her having an operation in her genital area.

The panel was satisfied that Colleague C's written statements remained consistent in that she indicated that Mr Bray's comments were unwanted and made her feel uncomfortable, made the following statement with regards to charge 8) e):

Mr Bray "undid his top and that's when I left the changing room, got changed in front of me before and left the door open".

Further, Colleague C stated within her written statement that she felt her dignity had been violated by Mr Bray's actions and comments.

The panel determined that charge 9 was found proved in its entirety for all of charge 8. It determined, based on Colleague C's written statements that the conversations Mr Bray had with her, were unwanted and caused her discomfort and were related to Colleague C's sex and sexual in nature and created an intimidating hostile, degrading, humiliating or offensive environment.

Charge 10

10. Your actions in some or all of the conduct described in charge 8 were for the purposes of sexual gratification and/or for the purposes of pursuing a sexual relationship.

This charge is found proved

In reaching its decision, the panel considered the '*Meeting Notes*' of Mr Bray and Colleague C, and Colleague C' written statement in June 2022.

The panel determined that charges 8) a) i), 8) a) ii), 8) b) i) and 8) b) ii) were for Mr Bray's sexual gratification, however there no evidence to suggest that he was attempting to pursue a sexual relationship.

In relation to charges 8) c) i), 8) c) ii), 8) d) and 8) e) the panel could not draw the inference that Mr Bray's actions were for the purposes of sexual gratification and/or for the purposes of pursuing a sexual relationship. Although, Colleague C did express that his actions were unwanted and caused her discomfort.

Therefore, the panel determined that charge 10 is found proved in relation to 8) a) i), 8) a) ii), 8) b) i) and 8) b) ii), but only in relation to Mr Bray's sexual gratification.

Charges 11) a), 11) b), 11) c), 11) d), 11) e) and 11) f)

11. On unknown dates between 2017 and 2019 behaved in an unprofessional and/or inappropriate manner towards Colleague D by;

- (a) Hugging Colleague D on one or more occasions.
- (b) Stating to Colleague D on one or more occasions, words to the effect of, 'you have got a lovely figure'.
- (c) Stating to Colleague D on one or more occasions words to the effect of, 'nice bum'.
- (d) Stating to Colleague D after seeing a picture of her on social media, words to the effect of, 'I had a dream about you and it turned me on'
- (e) Stating to Colleague D words to the effect of, 'come to mine, I'll cook fish for you'.
- (f) Sending private messages to Colleague D and/or requesting Colleague D to be a friend on Snapchat.

These charges are not found proved

In reaching its decision, the panel consider the '*Meeting Notes*' of Mr Bray, Colleague A, Colleague D and Colleague E, as well as their written statements.

The panel noted that it determined not to admit the evidence of Colleague D from the '*Meeting Notes*', however Colleague A and Colleague E did reference the incident with Colleague D within their responses in the '*Meeting Notes*'. The panel considered that Colleague A's version of events remained consistent in their written statement and within the '*Meeting Notes*' in relation to Mr Bray hugging Colleague D.

The panel next considered that Mr Bray admitted to telling Colleague D about his dream after seeing the picture that they posted, however when asked if he could recall the conversation when he had told Colleague D that she "turned him on", Mr Bray stated that he only remembered parts of the conversation. Further, Mr Bray stated "*it was my dream, I don't know what I was thinking*".

The panel considered that there is not enough evidence to determine the time frame in which this conversation occurred, nor is there enough evidence to prove that this had occurred. Further, the panel determined that Colleague D's evidence is hearsay as these events were not put towards Mr Bray during the investigatory meeting.

In all the circumstances, the panel determined that Charge 11) a), 11) b), 11) c), 11) d) 11) e) and 11) f) are not found proved.

Charges 12) a), 12) b), 12) c) i) and 12) c) ii)

12. Your conduct in charge 11 amounted to harassment of Colleague D in that:

- (a) It was unwanted and/or
- (b) It related to Colleague D's sex and/or was sexual in nature and/or,
- (c) It had the purpose or effect of:
 - i. Violating Colleague D's dignity, and/or
 - ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague D.

These charges are not found proved

In reaching its decision, the panel consider the '*Meeting Notes*' of Mr Bray, Colleague A, Colleague D and Colleague E, as well as their written statements.

The panel determined that all of charge 12 is not found proved in light of charge 11 not being found proved. The panel considered that it did not admit Colleague D's responses in the '*Meeting Notes*' as evidence and that Colleague D's statements were hearsay as the allegations were not put before Mr Bray within the '*Meeting Notes*'. It therefore determined that all of charge 12 is not found proved as the stem of the charges, namely the entirety of charge 11 is not found proved due to a lack of evidence.

Charge 13

13. Your actions in some or all of the conduct described in charge 11 were for the purposes of sexual gratification and/or for the purposes of pursuing a sexual relationship.

This charge is found not proved

The panel determined that charge 13 is not found proved for the same reasons set out in charge 12.

Charges 14) a), 14) b), 14) c) and 14) d).

14. On unknown dates between June and October 2019 behaved in an unprofessional and/or inappropriate manner towards Colleague E by;

- (a) Stating words to the effect of, 'no nooky for your boyfriend tonight'.
- (b) Stating to Colleague E when she informed you that she wore contact lenses, words to the effect of, 'only dirty girls wear contact lenses, they get chlamydia'.
- (c) Whilst Colleague E was on the telephone to the pharmacy instructed them to tell the pharmacy to 'fuck off' or words to that effect.
- (d) When instructing Colleague E to tell the pharmacy to 'fuck off' gestured by sticking up your middle fingers.

Charges 14) a) and 14) b) are found proved.

The panel determined that charges 14) a) and 14) b) are found proved. In reaching its decision, the panel considered Mr Bray's admissions and the 'Meeting Notes' of Mr Bray and Colleague E. Further, the panel considered that Colleague F was present during the conversation Mr Bray had with Colleague E and both Colleague E and Colleague F made a complaint against Mr Bray in 2019, in relation to this.

conversation. This panel had sight of an email that Colleague E sent to Manager 2 in 2019, to raise this complaint.

In relation to charge 14) a), the panel determined that Colleague E's written statement remained consistent with the complaint she raised against Mr Bray, and the email to Manager 2 was sent in 2019, around the time that the event took place. Mr Bray made the following comment within the '*Meeting Notes*':

It was a "*stupid comment*".

In relation to charge 14) b), the panel considered that during the '*fact finding meeting*' in February 2021, Manager 2 stated that Colleague E informed her that Mr Bray spoke to her about catching Chlamydia. In response to Manager 2 asking Mr Bray about this, Mr Bray stated "*no I don't think I did*". However, within the '*Meeting Notes*' Colleague E spoke of Mr Bray's comments regarding chlamydia again.

The panel determined, on the balance of probabilities, that Mr Bray did have this conversation with Colleague E as the words used are so peculiar that they would be memorable. Further, the panel determined that Colleague E's evidence was comprehensive and consistent and indicated that they were distressed by the safety of other colleagues in light of Mr Bray's actions. The panel therefore determined that Charge 14) b) is found proved and did occur within the timeframe.

The panel therefore found charges 14) a) and 14) b) found proved based on the evidence before it.

The panel determined that charges 14) c) and 14) d) are not found proved.

In reaching its decision, the panel considered Colleague E did not mention these discussions in her witness statement, however Colleague E did discuss this in during the investigation meeting held by the Trust. However, the panel considered that

these events were not put to Mr Bray during the investigation meeting. In all the circumstances, the panel determined that there is insufficient corroborative evidence to support Charges 14) c) and 14) d) and therefore, these charges are not found proved.

Charges 15 a), 15) b) 15) c) i) and 15) c) ii).

15. Your conduct in charge 14 amounted to harassment of Colleague E in that:

- (a) It was unwanted and/or
- (b) It related to Colleague E's sex and/or was sexual in nature and/or,
- (c) It had the purpose or effect of:
 - i. Violating Colleague E's dignity, and/or
 - ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague E.

These charges are found proved.

In reaching its decision, the panel considered Mr Bray's admissions and the 'Meeting Notes' of Mr Bray and Colleague E. Further, both Colleague E and Colleague F made a complaint against Mr Bray in 2019, in relation this this conversation. This panel had sight of an email that Colleague E sent to Manager 2 in 2019, to raise her concerns.

The panel determined that charges 15) a), 15) c) i) and 15) c) ii) are found proved in relation to charges 14) a) and 14) b), which were found proved. The panel considered that Mr Bray stated that he was trying to make Colleague E feel better with his comments. However, Colleague E stated that Mr Bray's comments were unprofessional, inappropriate and made them feel uncomfortable. Further Colleague E stated that they did not want to work alone with Mr Bray and raised a complaint with Manager 2 and Manager 2 raised these concerns with Mr Bray. The panel

determined that charges 14) a) and 14) b) were unprofessional, inappropriate and violated Colleague E's dignity, in light of Mr Bray working in a management role and as Colleague E was young, new to the role and expressed that Mr Bray's comments were making her feel uncomfortable.

In relation to charge 15) b), the panel considered the context in which Mr Bray had made these statements to Colleague E and Colleague E's expressed discomfort. It determined that charge 15) b) is found proved as Mr Bray's comments were sexual in nature.

The panel therefore determined that charges 15) a), 15) b), 15) c) i) and 15) c) ii) are found proved.

Charge 16

16. Your actions in some or all of the conduct described in charge 14 were for the purposes of sexual gratification and/or for the purposes of pursuing a sexual relationship.

This charge is found proved.

In reaching its decision, the panel considered the evidence set out in charges 14 and 15.

The panel determined that Mr Bray's comments were designed to engage Colleague E in a conversation about her sexual relationships, for the purpose of his own sexual gratification. However, the panel determined that there is not enough evidence to suggest that Mr Bray's actions were to pursue a sexual relationship with Colleague E.

The panel determined that therefore Charge 16 is found proved solely on the basis of Mr Bray seeking sexual gratification.

Charges 17) a), 17) b) i) and 17) b) ii)

17. Behaved in an unprofessional and/or inappropriate manner towards Colleague F by;

(a) On or around 20 November 2020 approached Colleague F and adjusted the collar on her uniform without Colleague F's consent.

(b) On or around 19 November 2020:

- i. Searched through Colleague F's social media without her knowledge.
- ii. Stated to Colleague F words to the effect of, 'your account should be private'.

These charges are found proved.

In reaching its decision, the panel considered Mr Bray's admissions and the 'Meeting Notes' of Mr Bray and Colleague F.

The panel determined that charges 17) a), 17) b) i) and 17) b) ii) are found proved. The panel had regard to Mr Bray's admissions to the events, Further, that Colleague F had a conversation with Colleague E regarding Mr Bray's actions and comments and a complaint was raised against Mr Bray as a result. The panel had sight of an external email raising the complaint and the letter that was sent to Mr Bray regarding the incidents, within the detailed timeframe.

In light of all of the supporting evidence above, the panel determined that charges 17) a), 17) b) i) and 17) b) ii) are found proved in relation to the events occurring and the time scale of the events.

Charges 18) a), 18) b), 18) c) i) and 18) c) ii)

18. Your conduct in charge 17 amounted to harassment of Colleague F in that:

- (a) It was unwanted and/or
- (b) It related to Colleague F's sex and/or was sexual in nature and/or,
- (c) It had the purpose or effect of:
 - i. Violating Colleague F's dignity, and/or
 - ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague F.

These charges are found proved.

The panel determined that charges 18) a), 18) c) i) and 18) c) ii) are found proved. It considered that within the 'Meeting Notes' of Colleague F, she had indicated that Mr Bray's comments had created an "intimidating environment", which was supported by Colleague F raising her concerns to Manager 2.

Further, the panel considered the context of the events in that Mr Bray stated that he searched Colleague F on social media to ensure that her privacy settings were on and visited her Facebook account out of concern.

The panel is satisfied that Mr Bray's motivations behind checking the privacy settings of his colleagues' social media accounts was what he believed to be part of his role as a manager. However, it determined that Mr Bray's actions were inappropriate, and it is not his duty as a registered nurse to search his colleagues on social media to ensure they have private accounts. Further, Mr Bray's conversation with Colleague F regarding the privacy settings of their Facebook account was inappropriate, in which he stated that "your account should be private".

In all the circumstances, the panel determined that Mr Bray's actions in relation to 17) a), 17) b) i) and 17) b) ii) were unprofessional, inappropriate, unwanted and created an intimidating environment and therefore charges 18) a), 18) c) i) and 18) c) ii) are found proved.

However, the panel determined that there was not enough evidence to suggest that Mr Bray's actions related to Colleague F's sex and/or was sexual in nature and therefore charge 18) b) is not found proved in relation to charges 17) a), 17) b) i) and 17) b) ii).

Charge 19

19. Your actions in some or all of the conduct described in charge 17 were for the purposes of sexual gratification and/or for the purposes of pursuing a sexual relationship.

This charge is not found proved.

In reaching its decision, the panel considered the evidence set out in charge 18.

The panel had regard to Colleague F's statement that Mr Bray's actions were "unprofessional stepped into my personal space", as well as the email Colleague F sent to Manager 2, to report her concerns. However, the panel determined that there is no evidence to suggest that Mr Bray's conduct was for the purposes of sexual gratification and/or for the purposes of pursuing a sexual relationship with Colleague F. Therefore, charge 19 is not found proved.

Charges 20) a) and 20) b)

20. Behaved in an unprofessional and/or inappropriate manner towards Colleague G;

(a) On or around 27 February 2021 stated to Colleague G words to the effect of, 'you are a good scrubber'.

(b) On a date unknown stated to Colleague G words to the effect of, 'you look gorgeous today'.

These charges are found proved.

The panel determined that charges 20) a) and 20) b) are found proved in that the events did occur and that Mr Bray's conduct was both unprofessional and inappropriate. In reaching its decision, the panel considered the written notes of Mr Bray, Colleague G and Manager 3's statements within the '*fact finding meeting*', Colleague G's written witness statement and Mr Bray's partial admissions.

The panel considered the following admission made by Mr Bray within the '*fact finding meeting*':

Whilst denying that this was an innuendo, Mr Bray admitted to saying to Colleague G "*you are a scrubber*".

Mr Bray also made the following statement in relation to the leggings Colleague G was wearing:

"You look really good don't you."

The panel noted that Colleague G did not provide details of this event in her evidence, however Mr Bray admitted to sending Colleague G a message, stating:

"I sent her a message one day saying you look gorgeous today."

The panel considered that Mr Bray said he apologised to Colleague G for "*overstepping the mark*".

The panel determined that charges 20) a) and 20) b) are found proved based on the evidence before it. However, in relation to charge 20) b), Mr Bray admitted to making his comment to Colleague G in a message but did not say this face-to-face. Further,

the panel determined that Mr Bray's actions were both unprofessional and inappropriate as Colleague G expressed that Mr Bray's actions made her feel uncomfortable and Mr Bray breached professional boundaries by sending Colleague G a private message to compliment her physical appearance as one of her managers.

Charge 20) c)

20. Behaved in an unprofessional and/or inappropriate manner towards Colleague G;

(c) On a date unknown whilst Colleague G was getting changed stated words to the effect of, 'I'll be round there in a moment to see you in your knickers'.

This charge is found proved.

The panel determined that this charge is found proved in that the event did occur and that Mr Bray's conduct was both unprofessional and inappropriate.

"I might have said if I walk around will I see you in your knickers".

The panel determined that whilst Mr Bray has not made an admission to using the exact wording detailed in the charge, he did admit to making a statement using similar wording. The panel next considered that Mr Bray stated his comment was *"unprofessional, inappropriate and I was ashamed"*.

The panel determined, on the balance of probabilities, that this charge is found proved based on the evidence before it. Further, the panel determined that Mr Bray's actions were both unprofessional and inappropriate based on the context in which the conversation that took place between Mr Bray and Colleague G. It determined that Colleague G was a newer member of staff and Mr Bray had waited until Colleague G was on her own with him to make these comments. As well as Mr Bray admitting to his conduct being unprofessional and inappropriate.

Charges 20) d) i) and 20) d) ii)

20. Behaved in an unprofessional and/or inappropriate manner towards Colleague G;

(d) On or around 27 February 2021 without gaining Colleague G's consent beforehand;

i. Grabbed her.

ii. Squeezed her tight.

These charges are found proved

The panel determined that charges 20) d) i) and 20) d) ii) are found proved in that the events did occur and that Mr Bray's conduct was both unprofessional and inappropriate.

In reaching its decision, the panel considered the evidence set out in charge 20) c). It noted that Colleague G's written statement and her comments within the *'fact finding meeting'* remained consistent. Whereas Mr Bray's version of events were inconsistent. Mr Bray made the following statements:

"I remember the interview went well and being excited."

"I don't remember pulling the curtains back as Colleague G was getting unchanged."

In all the circumstances, the panel determined that Colleague G's evidence was preferable over Mr Bray's as it remained consistent when Mr Bray's evidence did not. Therefore, on the balance of probabilities, the panel determined that charges 20) d) i) and 20) d) ii) are found proved in that the events did occur.

The panel also determined that Mr Bray's conduct was both unprofessional and inappropriate. It considered that Colleague G had not given Mr Bray consent to touch her and that Mr Bray breached professional boundaries in accordance with the NMC Code of Conduct, abusing his position of trust as a manager.

Charge 20) d) iii)

20. Behaved in an unprofessional and/or inappropriate manner towards Colleague G;

iii. Kissed her on the mouth on one or more occasions.

This charge is found not proved.

The panel determined that charge 20) d) iii) is not found proved. In reaching its decision, the panel considered that Colleague G stated that Mr Bray had kissed her through her face mask, however she was unsure as to whether he was attempting to kiss her on the mouth. Further, Mr Bray also said he was unsure as to whether he kissed Colleague G through her face mask. Mr Bray stated:

"I remember jumping up and down and I perhaps could have given her a quick kiss of congratulation."

The panel noted that Mr Bray's story had changed from not being able to remember the events, to being excited but not kissing Colleague G, to then giving Colleague G a "quick kiss". In all the circumstances, the panel determined that there is evidence to support that Mr Bray did make physical contact, however there is not enough evidence to suggest that Mr Bray kissed Colleague G on the mouth. Therefore, Charge 20) d) iii) is not found proved.

Charge 20) e) found proved in its entirety.

20. Behaved in an unprofessional and/or inappropriate manner towards Colleague G;

(e) Between the 27 February and the 2 March 2021 sent the following messages to Colleague G;

- i. 'Gonna miss you so much when you go off to uni'
- ii. Got anything planned for tomorrow hun'.
- iii. 'Ah OK, you can always come and practise on me after'.
- iv. 'Yeah I'm tuff, lol'.
- v. 'You can pop round when you finish with stu and try it on my arm lol'.
- vi. 'So proud of you darling, I'll be stalking you now though'.

This charge was found proved in its entirety.

The panel determined that these charges are found proved in that the events did occur, and that Mr Bray's conduct was both unprofessional and inappropriate.

In reaching its decision, the panel considered the written notes of Mr Bray and Colleague G's statements within the *'fact finding meeting'*, Colleague G's written witness statement, the screenshots of the messages between Mr Bray and Colleague G and Mr Bray's partial admissions.

The panel considered that Colleague G's evidence remained consistent and that the screenshots showed that Mr Bray made the following comments to Colleague G between 27 February and 2 March 2021:

"I am going to miss you when you go off to uni."

"so proud of you darling, I will be stalking you now though."

The panel determined that Colleague G's evidence remained consistent and screenshots support some of the charges. Further, it noted that on the 27 February 2021, Mr Bray stated "*I overstepped the mark*". It therefore determined, on the balance of probabilities, that these charges are found proved.

The panel also determined that Mr Bray's conduct was both unprofessional and inappropriate. It considered that Colleague G expressed that Mr Bray's behaviour was unwanted and that Mr Bray breached professional boundaries in accordance with the NMC Code of Conduct, abusing his position of trust as a manager.

Charge 20) f)

20. Behaved in an unprofessional and/or inappropriate manner towards Colleague G;

(f) On or around 28 February 2021 sent a friend request on Snapchat to Colleague G.

This charge is found proved

The panel determined that this charge is found proved in that the event did occur, and that Mr Bray's conduct inappropriate, but was not unprofessional.

In reaching its decision, the panel considered the written notes of Mr Bray and Colleague G's statements within the '*fact finding meeting*', Colleague G's written witness statement and Mr Bray's admission.

The panel determined that Colleague G's evidence remained consistent within the statements she made during the '*fact finding meeting*' and her written witness statement. Further, Mr Bray made the following statement:

"I suppose I sent her a friend request, yes."

The panel therefore found charge 20) f) proved in that the event did occur, based on the evidence before it. The panel further determined that the Mr Bray's conduct was inappropriate in that he sent a younger female member of staff a friend request on Snapchat, a social media platform which is used in her personal life. However, the panel determined that Mr Bray's conduct was not unprofessional, noting that Colleague G had the option to decline his request in this instance.

Charge 20) g) i) and 20) g) ii)

20. Behaved in an unprofessional and/or inappropriate manner towards Colleague G;

(g) On or around 12 March 2021 stated to Colleague G, when referring to her leggings, words to the effect of;

- i. 'Ooh, don't you look good'.
- ii. 'Those look nice on you'.

These charges are found proved.

The panel determined that these charges are found proved in that the events did occur, and that Mr Bray's conduct was both unprofessional and inappropriate.

In reaching its decision, the panel considered that during the *'fact finding meeting'*, Colleague G stated that Mr Bray had said:

"You look good don't you" and stroked her thigh.

Further, Mr Bray admitted to recalling the conversation with Colleague G during the local investigation. The panel next considered that during the *'fact finding meeting'* in March 2021, Mr Bray admitted to the comments again, indicating that he was just

trying to build up Colleague G's confidence and saying she looked lovely, he said *"she was always worried about her appearance."*

In all the circumstances, the panel determined that Charges 20) g) i) and 20) g) ii) are found proved in that the events did occur. The panel further determined that the Mr Bray's conduct was both unprofessional and inappropriate as Colleague G indicated that Mr Bray's behaviour was unwanted and made her feel uncomfortable. Further, the panel determined that Mr Bray breached professional boundaries in accordance with the NMC Code of Conduct, abusing his position of trust as a manager in making these comments to a younger, female member of staff.

Charge 20) h)

20. Behaved in an unprofessional and/or inappropriate manner towards Colleague G;

(h) On one or more occasions on dates unknown sent messages to Colleague G attaching a 'smiley face' emoji and/or 'heart' emoji.

This charge is found proved

The panel determined that this charge is found proved in that the event did occur, and that Mr Bray's conduct inappropriate, but was not unprofessional.

In reaching this decision, the panel considered that during the investigation meeting, Mr Bray was asked if he recalled sending Colleague G a 'smiley face' and/or 'heart' emoji, and he made admissions to sending Colleague G a 'smiley face' emoji. Mr Bray then went on to explain that he was doing this to help Colleague G to feel better about her appearance.

The panel determined that Charge 20) h) is found proved on the basis that Mr Bray admitted to sending Colleague G a 'smiley face' emoji, but there is no evidence that he sent her a 'heart emoji'. The panel also determined that Mr Bray's conduct was

inappropriate as Colleague G indicated during the local investigation that Mr Bray's actions were unwanted. However, the panel did not determine that Mr Bray's conduct was unprofessional in this instance.

Charges 21) a), 21) b), 21) c) i) and 21) c) ii)

21. Your conduct in charge 20 amounted to harassment of Colleague G in that:

- (a) It was unwanted and/or
- (b) It related to Colleague G's sex and/or was sexual in nature and/or,
- (c) It had the purpose or effect of:
 - i. Violating Colleague G's dignity, and/or
 - ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague G.

These charges are found proved.

The panel determined that charge 21) a) is found in relation to charge 20 in its entirety except for charge 20) d) iii). The panel considered that Colleague G remained consistent when indicating that Mr Bray's conduct was unwanted, making her feel intimidated and vulnerable, within her written statement, the local investigation and the *'fact finding meeting'* notes.

The panel next determined that charges 21) b) and 21) c) are found proved in relation to charges 20) a), 20) b), 20) c), 20) d) i), 20) d) ii), 20) g) i) and 20) g) ii), in that Mr Bray's conduct was both related to Colleague G's sex and/or was sexual in nature, violated her dignity and created an intimidating hostile degrading humiliating and offensive environment. In reaching its decision, the panel considered the nature of the charges found proved and the context in which these events occurred.

Lastly, the panel determined that charges 21) a), 21) b), 21) c) i) and 21) c) ii) are not found proved in relation to charge 20) d) iii), as this charge was not found proved.

Charge 22

22. Your actions in some or all of the conduct described in charge 20 were for the purposes of sexual gratification and/or for the purposes of pursuing a sexual relationship.

This charge was found proved.

In reaching its decision, the panel considered the written notes of Mr Bray and Colleague G's statements within the *'fact finding meeting'*, Colleague G's written witness statement and Mr Bray's admissions to some of the charges.

The panel determined that charge 22 is found proved in relation to charges 20) a), 20) b), 20) c), 20) d) i), 20) d) ii), 20) g) i), 20) g) ii), in that Mr Bray's conduct was for his own sexual gratification. However, the panel determined that there is no evidence to suggest that Mr Bray's conduct was for the purposes of pursuing a sexual relationship with Colleague G.

The panel determined, based on the evidence before it, that Mr Bray's conduct was for the purposes of sexual gratification in charges 20) a), 20) b), 20) c), 20) d) i), 20) d) ii) and 20) g) due to the context of the events, set out in Colleague G's evidence. Further, that Mr Bray's conduct was sexual in nature, and there is no evidence to suggest that his motivation behind his actions had any explanation other than him seeking sexual gratification from a junior member of staff.

In relation to charges, 20) d) iii), 20) e), 20) f) and 20) h), the panel determined that there is no evidence to support that Mr Bray's conduct was for the purposes of sexual gratification and/or for the purposes of pursuing a sexual relationship with Colleague G.

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

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

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

Representations on misconduct and impairment

The NMC requires the panel to bear in mind its overarching objective to protect 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. The panel has referred to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) and *Council for the Regulation of Health Care Professionals v (1) General Dental Council and (2) Fleischmann* [2005] EWHC 87 (QB).

In its written submissions, the NMC invited the panel to make a finding of impairment on both public protection and public interest grounds. The submissions state:

Misconduct

The comments of Lord Clyde in Roylance v General Medical Council [1999] UKPC 16 may provide some assistance when seeking to define misconduct:

[331B-E] Misconduct is 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 rule and standards ordinarily required to be followed by a [nurse] practitioner in the particular circumstances.

As may the comments of Jackson J in Calheam v GMC [2007] EWHC 2606 (Admin) and Collins J in Nandi v General Medical Council [2004] EWHC 2317 (Admin), respectively

[Misconduct] connotes a serious breach which indicates that the doctor's (nurse's) fitness to practise is impaired.'

And

'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 practitioner.'

Where the acts or omissions of a registered nurse are in question, what would be proper in the circumstances (per Roylance) can be determined by having reference to the Nursing and Midwifery Council's Code of Conduct.

At the relevant time, Ms Bray [sic] was subject to the provisions of The Code: Professional standards of practice and behaviour for nurses and midwives (2015 ("the Code")). The NMC submit that Mr. Bray breached the following provisions of the Code:

Treat people as individuals and uphold their dignity

To achieve this you must:

1.1 treat people with kindness, respect and compassion

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

20.2 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, 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

24 Respond to any complaints made against you professionally

To achieve this you must

24.2 use all complaints as a form of feedback and an opportunity for reflection and learning to improve practice

The NMC submit that the alleged misconduct in this case is plainly serious. It involves a pattern of serious breaches of professional and sexual boundaries, towards multiple colleagues in the workplace over a prolonged period of time. It is conduct that involves a power imbalance which is a breach of trust and an abuse of position. Mr Bray used his position and took advantage, targeting junior female colleagues. It is conduct that amounts to intimidating, harassing behaviour and is sexual in nature, which taken overall is unprofessional and inappropriate. Mr Bray's pursuit of junior female colleagues within the workplace and via private social media platforms could be considered as form of stalking.

Mr Bray being in a senior role requires a level of responsibility and professionalism ensuring that colleagues are not placed within an environment where conduct such is taking place. Colleagues should be able to look to their senior colleagues to ensure that they are able to conduct their tasks without being in fear and free from those who seek to display conduct such as that displayed by Mr Bray. Mr Bray has in effect betrayed this responsibility by undertaking conduct that creates a hostile environment for others to work in. Mr Bray has breached his fundamental duty to ensure a safe working space and has effectively abused that position of trust, which is between junior and senior colleagues, thus calling into question his trustworthiness as a professional nurse.

The conduct displayed by Mr Bray should be considered as being extremely seriously [sic] and by not taking such a stance could severely undermine the profession and send out the wrong message to those who work, or are looking to work within it. Such conduct has the propensity to severely undermine the confidence and drive down the standards expected within the profession. The conduct is not only completely inappropriate but is also a significant departure of the standards expected of a registered nurse, which as stated is aggravated by Mr Bray's senior position.

The conduct breaches the clear and unmistakeable boundaries which is a fundamental principle of the profession. Such boundaries are present to enable colleagues, and those who require treatment, the necessary protection in order to allow them to work in an environment freely and from hostility, humiliation, bullying, intimidation, and sexual harassment. It is conduct that not only breaches this fundamental tenet but also breaches the principles found within the Equality Act 2010 and the Trust's own policy.

Mr Bray should be a role model providing leadership, demonstrating professionalism and integrity for colleagues to aspire to. However, his actions placed colleagues in fear causing them a significant amount of emotional distress and/or harm, which indirectly could have had a detrimental impact on patient safety. In order to achieve the overarching objective Mr Bray must at all times protect, promote and maintain the health, safety and wellbeing of the public and this must include colleagues too.

In these circumstances, not only is the conduct a serious departure from the Code of Conduct, but it is also a serious departure from the standards expected of a registered professional, and as such amounts to serious misconduct.

Impairment

Impairment needs to be considered as at today's date, i.e., whether Mr. Bray's fitness to practice is currently impaired. The NMC defines impairment as a registrant's suitability to remain on the register without restriction. There is no burden or standard of proof to apply, as this is a matter for the fitness to practice panel's own professional judgment. The NMC's Guidance on impairment found at DMA-1 states that the question to assist on whether a professional's fitness to practise is impaired is, 'Can the nurse, midwife or nursing associate practise kindly, safely and professionally?'

The questions outlined by Dame Janet Smith in the 5th Shipman Report (as endorsed in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)) are instructive. Those questions are:

- a) *Has Mr. Bray in the past acted and/or is liable in the future to act as so to put a patient or patients at unwarranted risk of harm; and/or*
- b) *Has Mr. Bray in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or*
- c) *Has Mr. Bray in the past committed a breach of one of the fundamental tenets of the [nursing] profession and/or is liable to do so in the future and/or*
- d) *Has Mr. Bray in the past acted dishonestly and/or is liable to act dishonestly in the future*

The NMC submit that questions (a), (b) and (c) are engaged in this case.

Impairment is a forward-thinking exercise which looks at the risk the registrant's practice poses in the future. NMC guidance adopts the approach of Silber J in the case of R (on application of Cohen) v General Medical Council [2008] EWHC 581 (Admin) by asking the questions; whether the concern is easily remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated.

Mr. Bray's unprofessional and inappropriate behaviour persisted for a prolonged period and caused junior female colleagues to feel uncomfortable, disgusted, and powerless. It affected them and their behaviour at work such that they hoped to avoid being alone with him. Many were reluctant to speak up and felt scared of being disbelieved, given his seniority and the culture of acceptance around his behaviour, instilled fear about repercussions. Some of Mr. Bray's behaviour went on openly in the presence of other colleagues but some of the more worrying behaviour took place once complainants were alone. Many of them felt so concerned that they discussed it with their loved ones who told them it was wrong and to report him.

Mr. Bray's behaviour persisted after he was warned about it informally. He was a Senior Nurse and Practice Assessor and in a position of trust and responsibility with

influence and reach, having access to female colleagues and students. Mr. Bray's colleagues had the right to be treated with dignity and respect and enjoy their working lives free from unwanted and / or harassing behaviour, within an environment built on safe and proper professional boundaries.

The NMC submit that there is a real risk of repetition of the type of conduct complained of and if repeated, such conduct could cause actual harm to include psychological and / or emotional harm to female colleagues, in future. Moreover, although there was no evidence of actual patient harm, there is a risk of harm to them due to Mr Bray's conduct. For example, colleagues who are subjected to such conduct, being within a hostile environment, may impact on their ability to care for their patients. They may start to lack or lose confidence, affecting their ability to undertake their duties towards those that they are assigned to care for. Colleagues being in such an environment are not trained to cope with pressures such as this. Having to constantly cope with conduct such as that displayed by Mr Bray may well have an adverse effect on the way a nurse performs their duties, impacting on patient safety.

Mr. Bray's conduct has brought the profession into disrepute. Registered professionals occupy a position of privilege and trust. Members of the public trust nurses with their lives and rightly expect the highest standards around the safe and effective administration of medicines and clinical record keeping. Nurses not only provide a duty of care towards patients, but they are also expected to adhere to their Code of Conduct.

Colleagues / fellow nurses / members of the professions would be appalled and concerned by Mr. Bray's unprofessional / sexualized behaviour towards junior female colleagues.

The misconduct alleged in this particular case is so serious that it calls into question Mr. Bray's fundamental professionalism and attitudes in relation to his position of privilege and trust as a registered nurse. Not only does the conduct displayed have a negative impact on the reputation of the profession but also breaches fundamental tenets of the profession.

Applying the NMCs guidance on Insight and Strengthened Practice, the NMC submit that in this case the concerns are attitudinal in nature and therefore difficult to remediate.

As regards insight, Mr. Bray has made admissions, expressed remorse, and apologised for his actions at local level. Mr. Bray has not submitted a detailed reflective statement to the NMC demonstrating insight in relation to how the concerns identified impacts on colleagues and the profession both on a public protection and public interest basis.

Mr. Bray has not taken any steps to address the concerns and has not provided any evidence of any relevant learning or training or strengthened his practice since the incidents took place. Mr. Bray has not presented any testimonials supporting any trouble-free period of employment, healthcare based or otherwise, that can speak to him demonstrating professional attitudes and behaviour, since the alleged incidents. Mr. Bray has offered a limited explanation for his significant departure from expected standards, with brief reference to matters [PRIVATE] affecting him at the time.

Mr. Bray has not been practicing as a nurse and has previously indicated that he no longer wishes to return to nursing and states that he accepts that his nursing career is over.

Given the nature and seriousness of Mr. Bray's behaviour, repeated over many years, affecting multiple colleagues, it is submitted that he has demonstrated a pattern of serious misconduct aimed at vulnerable females, in a prominent position of trust.

The NMC therefore submit that Mr. Bray remains a risk to the health, safety, or wellbeing of the public in the form of female colleagues. In these circumstances the NMC submit that Mr. Bray's fitness to practice remains impaired on the grounds of public protection and otherwise in public interest to maintain standards and promote confidence in the professions and the NMC as regulator.'

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included *Grant* and *Fleischmann*.

Decision and reasons on misconduct

When determining whether the facts found proved amount to misconduct, the panel had regard to the NMC guidance:

- Guidance on Misconduct - Ref: FTP-2a
- How we determine seriousness - Ref: FTP-3
- Serious concerns which are more difficult to put right- Ref: FTP-3a

along with the NMC Code. The panel noted that the introduction to standard 20 of the Code, regarding promotion of professionalism and trust sets out:

'You uphold the reputation of your profession at all times. You should display a personal commitment to the standards of practice and behaviour set out in the Code. You should be a model of integrity and leadership for others to aspire to. This should lead to trust and confidence in the professions from patients, people receiving care, other health and care professional'

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

1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

20.2 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, 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

24 Respond to any complaints made against you professionally

To achieve this, you must:

24.2 use all complaints as a form of feedback and an opportunity for reflection and learning to improve practice'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, there are numerous instances of inappropriate, unprofessional and sexual behaviour towards a number of junior female members of staff. Many of the instances were motivated in pursuit of sexual gratification and occurred over a period of time.

In the circumstances of this case, the panel found that Mr Bray's conduct was harassing in nature and was for his own sexual gratification and therefore inappropriate and at the higher end of the spectrum of serious misconduct and collectively did fall significantly short of the conduct and standards expected of a nurse and amounted to serious misconduct.

Decision and reasons on impairment

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

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

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

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

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

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

- 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 found limbs a, b and c in the *Grant* test were engaged in Mr Bray's case.

The panel noted that Mr Bray was a senior nurse on a unit where he exploited his position of power. His behaviour caused junior female members of staff emotional distress and could have potentially affected their clinical performance, which therefore raises the risks to patients they were treating. The panel is also in no doubt that Mr Bray's misconduct breached the fundamental tenets of the nursing profession to treat all colleagues with respect and in a manner that maintains their dignity and does not undermine their confidence in the profession.

Regarding insight, the panel considered that Mr Bray demonstrated limited insight into his misconduct. The panel note that during Mr Bray's Trust interview he offered his apologies and said that he had reflected on his behaviour. He stated:

"Looking at that it sounds absolutely awful and I am thoroughly ashamed of myself and have spent the last 8 weeks or so reflecting extensively on my behaviour. I am totally ashamed of myself. I have been completely unprofessional and would like to offer my unreserved apologies to everyone"

The panel was of the view that whilst Mr Bray had started to address his behaviour [PRIVATE], the panel had not been provided with any evidence of his understanding of what he had done wrong and how it had impacted negatively on his colleagues and the reputation of the nursing profession. The panel considered that Mr Bray has not sufficiently demonstrated how he would behave differently in the future.

The panel considered Mr Bray's misconduct was indicative of attitudinal issues which are, generally, difficult to remediate. It carefully considered the evidence before it in determining whether or not he had fully developed his insight and taken steps to address the issues arising from his past misconduct. Given that the misconduct in Mr Bray's case includes that of a sexual nature, and whilst he had apologised, the panel was of the view that he had not yet demonstrated complete remediation.

The panel is of the view that there is a risk of repetition based on Mr Bray's limited insight and lack of recent evidence that he has addressed his misconduct. The panel noted that despite being given clear guidance and a warning about his behaviour in November 2020, his inappropriate and unprofessional behaviour continued. In these circumstances, the panel considered that Mr Bray remains liable in the future to put patients at unwarranted risk of harm, to bring the profession into disrepute and to breach the fundamental tenets of the profession. Accordingly, the panel decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel 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, on the grounds of public interest, that your fitness to practise is impaired.

Having regard to all of the above, the panel was satisfied that Mr Bray'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 Bray off the register. The effect of this order is that the NMC register will show that Mr Bray 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.

Representations on sanction

The panel noted that in the Notice of Meeting, dated 16 August 2023 the NMC may ask for Mr Bray to be struck off if it found his fitness to practise currently impaired. This was also confirmed in its representation which was confirmed within the bundle.

The NMC in its submissions state:

Sanction

Taking into account the NMC Sanctions Guidance, the NMC considers that the appropriate and proportionate sanction in Mr Bray's case is a Strike Off Order.

The aggravating features in this case include:

- *Mr Bray was a senior nurse*
- *The complainants are junior colleagues*
- *It is conduct that occurred over a prolonged period of time.*
- *The conduct continued despite Mr Bray being warned not to continue with such conduct*
- *Mr Bray's conduct constitutes a breach of / an abuse of trust*
- *Lack of professionalism*
- *The conduct is attitudinal in nature*
- *The conduct included inappropriate sexual conduct / behaviour*

The mitigating factors in this case include:

- *Some admissions at an early stage*
- *Some insight regarding the conduct*
- *Mr Bray has expressed remorse*
- *...*

Taking the least serious sanctions first, it is submitted that taking no action or imposing a caution order would not be appropriate in the circumstances of this case.

Imposing a Conditions of Practise Order is not appropriate or proportionate. The concerns are not clinical in nature. Nor is a conditions of practice order sufficient to meet the public protection or public interest concerns in this case. The misconduct involves a pattern of unwanted sexualised behaviour towards a number of junior female colleagues in breach of trust which constitute sexual harassment and which therefore represent attitudes that fundamentally undermine Mr Bray's trustworthiness as a registered [sic], which cannot be tolerated by the NMC. Mr Bray's junior female colleagues suffered emotional and/or psychological harm as a result of his actions, attitudes and behaviour and were left fearful about being alone with him and /or speaking out.

It is therefore submitted that a Conditions of Practice Order is not an appropriate or proportionate sanction and there are no workable practicable relevant conditions that can achieve the overarching objective of protecting the public whilst balancing the competing interests of Mr Bray and which also serve to satisfy the wider public interest considerations in this case.

The NMC guidance on suspension orders states that this sanction may be appropriate where there is a single isolated incident and where there is no evidence of a deep seated and/or harmful attitudinal issue.

Mr Bray has displayed attitudinal concerns which are taken very seriously by the regulator and it is submitted that they engage the public protection and public

interest at a high level [sic]. Notwithstanding his broad admissions and remorse and brief reference to personal matters weighing on him at the time, and reference to having sought and received increased support [PRIVATE], Mr Bray provides no real explanation or remediation, if indeed it is possible to remediate the concerns in this case. Nor is he able to demonstrate and [sic] trouble free employments since and does not intend to seek to continue to practise as a nurse. It is therefore submitted that a suspension order is neither appropriate nor proportionate in this case.

Mr Bray's behaviour is wholly incompatible with remaining on the nursing register. Mr Bray's conduct does raise fundamental questions about his professionalism, whereby public confidence in the profession would be severely undermined if Mr Bray's [sic] were not removed from the register. Therefore, the NMC submit that the only appropriate and proportionate Sanction in all the circumstances of this case is a Striking Off Order.'

Decision and reasons on sanction

Having found Mr Bray'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 NMC guidance on sanctions, namely; SAN-1 (Factors to consider before deciding on sanctions), SAN-2 (Considering sanctions for serious cases) and SAN-3 (Available sanction orders). The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Mr Bray was a senior nurse who abused his position of power
- Colleagues were junior females
- Conduct that occurred over a prolonged period of time
- The conduct continued despite Mr Bray being warned not to continue with such conduct/behaviour
- Mr Bray's conduct constitutes a breach of an abuse of trust

- Lack of professionalism
- The conduct is attitudinal in nature
- The conduct included inappropriate sexual conduct/behaviour

The panel also took into account the following mitigating features:

- Some admissions at an early stage
- Some insight regarding the conduct
- Mr Bray has expressed remorse

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, and the public protection issues identified, an order that does not restrict Mr Bray'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 Bray'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 Bray's registration would be a sufficient and appropriate response. The concerns identified in this case are not clinical in nature. The panel considered that there was a deep-seated attitudinal problem and was not satisfied that Mr Bray would respond appropriately to a conditions of practice order in light of his repetition of behaviour despite clear direction to desist. In addition the panel was of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges and the facts found in this case. The sexual misconduct identified in this case was not something that can be addressed through retraining or supervision. Furthermore, the panel concluded that the placing of

conditions on Mr Bray's registration would not adequately address the seriousness of this case and would not protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The panel noted that a temporary removal from the register would not be sufficient in this case to mark the seriousness of the conduct in order to maintain public confidence. 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 there appeared to be a culture of acceptance of Mr Bray's behaviour which took place in plain sight, which was not sufficiently addressed by the Trust. This included a promotion of Mr Bray in the face of his behaviour and complaints. However, the panel considered Mr Bray's conduct was an abuse of power as a senior manager involving a series of instances of harassing behaviour involving 7 different complainants for his own sexual gratification over a prolonged period of time which was repeated despite clear direction to desist. Further it was satisfied there is a lack of insight and there are attitudinal problems. Therefore, 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 Bray's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with him remaining on the register.

Given the panel's view to why a suspension order was not appropriate the panel determined that to allow Mr Bray to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body. The panel noted that the serious

breach of the fundamental tenets of the profession evidenced by Mr Bray's actions is fundamentally incompatible with Mr Bray remaining on the register.

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 matters it identified, in particular the effect of Mr Bray'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.

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 Bray's own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Representations on interim order

The panel took account of the representations made by the NMC that it is also necessary for the protection of the public and otherwise in the public interest for an interim suspension order for a period of 18 months to cover the appeal period.

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.

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