

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

**Substantive Order Review Hearing  
Friday, 5 April 2024**

Virtual Hearing

**Name of Registrant:** Benedict Tauro Mapuvire

**NMC PIN** 00H0125S

**Part(s) of the register:** Registered Nurse - Mental Health  
September 2003

**Relevant Location:** Cornwall

**Type of case:** Misconduct

**Panel members:** James Lee (Chair, Registrant member)  
Sharon Aldridge-Bent (Registrant member)  
Helen Kitchen (Lay member)

**Legal Assessor:** Graeme Henderson

**Hearings Coordinator:** Elizabeth Fagbo

**Nursing and Midwifery Council:** Represented by Fiona McAddy, Case Presenter

**Mr Mapuvire:** Present and represented by Thomas Buxton, instructed by the Royal College of Nursing (RCN)

**Order being reviewed:** Suspension order (12 months)

**Fitness to practise:** Impaired

**Outcome:** **Suspension order (9 months) to come into effect on 16 May 2024 in accordance with Article 30 (1)**

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

At the outset of the hearing Mr Buxton, on your behalf, made a request that this case be held in partially in private on the basis that proper exploration of your case involves reference to [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms McAddy, on behalf of the Nursing and Midwifery Council (NMC), did not oppose this application.

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

The panel determined that [PRIVATE] the hearing be held partially in private as and when [PRIVATE] are being discussed.

## **Decision and reasons on review of the substantive order**

The panel decided to impose a suspension order for a period of nine months.

This order will come into effect at the end of 16 May 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 17 April 2023.

The current order is due to expire at the end of 16 May 2024.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found which resulted in the imposition of the substantive order were as follows:

*'That you a registered nurse;*

1. [...]

2. [...]

3. [...]

4. *Between the 29 October and 30 October 2020 made the following direct or indirect inappropriate comments towards Colleague 1;*

*(a) That "you missed Colleague 1", or words to that effect.*

*(b) That "your heart fluttered every time you saw Colleague 1", or words to that effect.*

*(c) That "you thought about Colleague 1 all the time", or words to that effect.*

*(d) That "you thought Colleague 1 was the one", or words to that effect.*

*(e) That "you and Colleague 1 should go out for a meal together", or words to that effect.*

*(f) That you wanted "to munch on Colleague 1" or words to that effect.*

*(g) That you "loved colleague 1", or words to that effect*

5. *On 30 October 2020 inappropriately touched Colleague 1 by "slapping her bottom".*

6. *Your conduct in charge 3 and/or charge 4 and/or charge 5 amounted to harassment of Colleague 1 in that;*

*(a) It was unwanted;*

*(b) It related to Colleague 1's sex;*

*(c) It had the purpose or effect of:*

*i. Violating Colleague1's dignity and/or*

*ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague 1.*

7. *Your actions in charge 3 and/or charge 4 and/or charge 5 were sexually motivated in that you were attempting to pursue a future sexual relationship with Colleague 1. **[Charge found proved in part]***
  
8. *Between 1 January 2019 and 31 December 2019 made the following inappropriate comments to Colleague 2;*
  - (a) *On one or more occasions stated that Colleague 2, “you are so beautiful” or words to that effect.*
  - (b) *On one or more occasions stated that Colleague 2 was “pretty”, or words to that effect.*
  - (c) *[...]*
  
9. *Between 1 January 2019 and 31 December 2019 inappropriately touched Colleague 2, in that;*
  - (a) *On one or more occasions, attempted to “hug” and/or “hugged” Colleague 2.*
  - (b) *On one or more occasions, attempted to “kiss” and/or “kissed” Colleague 2.*
  
10. *On or around 7 August 2019 sent to Colleague 2 a screenshot photograph of Colleague 2 with the word “amazing” written across it.*
  
11. *On or around 7 August 2019 without Colleague 2’s consent;*
  - (a) *Took a screenshot photograph from Colleague 2’s Facebook account.*
  - (b) *[...]*
  
12. *Your conduct in charge 8 and/or charge 9 and/or charge 10 and/or charge 11 amounted to harassment of Colleague 2 in that; **[Charge found proved in part]***
  - (a) *It was unwanted;*
  - (b) *It related to Colleague 2’s sex;*
  - (c) *It had the purpose or effect of:*
    - i. *Violating Colleague 2’s dignity and/or*
    - ii. *Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague 2.*

13. *Your actions in charge 8 and/or charge 9 and/or charge 10 and/or charge 11 were sexually motivated in that you were attempting to pursue a future sexual relationship with Colleague 2. [Charge found proved in part]*

*In light of the above your fitness to practise is impaired by reason of your misconduct.'*

The original reviewing panel determined the following with regard to impairment:

*'The panel concluded that your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to your breach of professional boundaries and sexual harassment serious.*

*The panel considered whether your misconduct is capable of remediation. The panel had concerns that the misconduct identified relates to a sexual nature towards colleagues, which would be difficult to remediate. The panel was of the view that you had not yet demonstrated any remediation and determined that there is a risk you may repeat the same behaviour again in the future.*

*Accordingly, the panel concluded that you have shown no insight or remorse into your misconduct and as such the panel considered that there is a real risk of repetition. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.*

*The panel bore in mind that the overarching objective of the NMC is 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, given that you abused your position of trust and breached professional boundaries towards colleagues. The panel therefore also finds your fitness to practise impaired on the grounds of public interest.*

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

The original panel determined the following with regard to sanction:

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

*The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel concluded that a conditions of practice order would not be the appropriate or proportionate order in this case given that the concerns are so serious in this case and do not relate to your clinical*

*competencies. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining alone.*

*Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not provide the required level of protection to the public.*

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

- A single instance of misconduct but where a lesser sanction is not sufficient;*
- No evidence of harmful deep-seated personality or attitudinal problems;*
- No evidence of repetition of behaviour since the incident;*
- The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

*The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register.*

*It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension order may have a punitive effect, it would be unduly punitive in your case to impose a striking-off order.*

*Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.*

*The panel noted the hardship such an order will inevitably cause you. However, this is outweighed by the public interest in this case.*

*The panel considered that this order is 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.*

*In making this decision, the panel carefully considered the submissions of Mr Joshi in relation to the sanction that the NMC was seeking in this case. The panel considered that the conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. However, in the panel's judgement, in this case, the misconduct is not fundamentally incompatible with remaining on the register. The panel was satisfied that you did not set out with the intention of causing distress to your colleagues although this was the effect.*

*The panel determined that a suspension order for a period of one year was appropriate in this case to mark the seriousness of the misconduct.*

*At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.*

*Any future panel reviewing this case would be assisted by:*

- *A reflective piece demonstrating insight into the impact of your actions on your colleagues and the nursing profession. The reflective piece should include your understanding on professional boundaries with your colleagues;*
- *Testimonials from paid or unpaid employment which make reference to your professionalism around female colleagues;*
- *Your attendance before the reviewing panel to give evidence demonstrating that you should be allowed to return to nursing practice. '*



## Decision and reasons on current impairment

The panel has considered carefully whether your fitness to practise remains impaired. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle, and your responses. It also took into account the submissions made by Ms McAddy on behalf of the NMC, your evidence given under affirmation and the submissions made by Mr Buxton on your behalf.

Ms McAddy outlined the background of the case and referred the panel to the relevant documents.

Ms McAddy submitted that your fitness to practise remains impaired. She submitted that misconduct of a sexual nature is difficult to remediate and that there is limited evidence before this panel to suggest that there has been remediation or that the risks have reduced. Ms McAddy highlighted that you have failed to provide the panel with testimonials from paid or unpaid employment which make reference to your professionalism around female colleagues, which was one of factors that the previous panel determined would be helpful in assisting a reviewing panel. She submitted that such evidence would be the true indicator of whether or not your fitness to practise is currently impaired.

Ms McAddy submitted that the risks to the public have not reduced and there remains a real risk of significant harm to the public and a real risk of repetition. She submitted that your reflective piece shows limited insight as it addresses that you now understand that your conduct in the workplace “*may*” have caused stress and discomfort to female colleagues, however at the time, you were unaware of this as they did not express any stress or discomfort to you. Ms McAddy told the panel that one of your colleagues gave evidence at the substantive hearing and described feeling “*violated and sickened*” by what happened. She submitted that it appears to suggest that in your mind further advances towards female colleagues would have been prevented if those involved told you that they were not interested, rather than understanding that you should not have been attempting

to engage with colleagues in this way. Ms McAddy concluded that your insight is limited as the reflection does not address the impact of your actions on your colleagues or the nursing profession.

Further Ms McAddy submitted that a finding of impairment is also necessary on the ground of public interest as the NMC's function includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance.

Ms McAddy invited the panel to impose a further suspension order for a period of 12 months.

The panel also had regard to your oral evidence, given under affirmation.

When questioned by Mr Buxton on what type of work you have undertaken since your suspension in April 2023. You answered that initially you did not work, however, due to the financial pressures you began looking for work.

When questioned by Mr Buxton on your current living situation, you answered [PRIVATE]. You submitted [PRIVATE]. You informed the panel [PRIVATE].

When questioned by Mr Buxton on whether you are currently employed and the nature of your work, you said that you are currently working as a delivery driver. You stated that this role consists of you communicating with customers and delivering their items based on their wishes and instructions, however, there is limited interaction with them. You stated that you have to work very long hours and the pay is low. You said that you have tried to find work within healthcare settings, however, it has been difficult to obtain any employment due to the nature of your conduct. You stated that none of your applications for a healthcare assistant role have been successful. You have been told by health agencies that there is an influx of overseas healthcare assistants.

When questioned by Mr Buxton on causing distress to the complainants in this case, and whether you accept that you caused them to distress you answered that you accept you have caused distress and you feel really bad to hear what your complainants said in regard to working with you. You said that you understand how breaching professional

boundaries and sexual remarks are unpleasant, distressing and can be frightening for some people, making them unenthusiastic in attending work. You said that it is something that you truly regret.

When questioned by Mr Buxton on whether you were looking for a relationship at work you answered that at the time you were seeking an intimate relationship, and you acknowledge that you went about this in the wrong way. You accept that you should not have made advances towards your female colleagues, and you regret doing so. You stated that you are currently in a happy and content relationship, and you have been transparent about your misconduct with your partner. You said that even if your relationship breaks down, you have learned from the past.

When questioned by Mr Buxton on your reflective statement, liaising with former work colleagues and what you gained from it you answered that you were honest and transparent with your colleagues about your misconduct case and sought their support in order to improve your conduct at work. You said that you received good guidance in terms of your interactions with female colleagues and they also put measures in place to assist with this such as putting you in a male dominated area. You stated that your female colleagues also provided you with references and feedback.

When questioned by Mr Buxton on what you had learned from your online training courses you answered that you were able to learn about verbal cues and nonverbal cues, body language, and how to interpret each of those factors.

When questioned by Mr Buxton on the assurances you can provide to the panel you answered that you have an unblemished career and have not had your conduct questioned before. You said that this matter caused you to reflect and change your behaviour. You stated [PRIVATE]. You said that you have been liaising with people in Church and have received feedback regarding your conduct and you are aware of how you can behave differently moving forward.

When questioned by Ms McAddy on when you had written your reflective statement you answered that you started writing the statement around two months ago. Ms McAddy asked if at that time you had completed the course on communication skills, you answered

that you had not and that you had completed this course within the last couple of weeks. Ms McAddy also questioned you on whether you had read the decisions and reasons from the substantive hearing in April 2023, you responded that you have read the document but may have missed some points.

You were questioned by Ms McAddy on whether you work with female colleagues at your current place of employment and whether you had taken any steps to obtain references from any of them. You answered that in your work whilst at a loading warehouse you have limited interaction with the female employee's, therefore you did not believe their references would be sufficient. Ms McAddy also questioned you on whether you have undertaken the professional boundaries course, the communication skills course and whether you have reflected on your personal behaviour. You answered that you have completed those courses, have had counselling at your Church and have also communicated with your church members, co-workers, and family members about your experience and have sought advice from them.

When questioned by the panel on how long the Professional Boundary course that you had recently completed, you answered that the course was three hours long and there was an assessment at the end which consisted of 20 questions.

The panel heard and accepted the advice of the legal assessor.

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether your fitness to practise remains impaired.

The panel acknowledged your reflective statement, your relevant training certificates and your submissions made today. It noted that you have developed some insight and have taken steps towards strengthening this, however, it was of the view that your insight remains lacking.

In light of this, the panel considered that female colleagues could be placed at a real risk of significant harm if you were permitted to practise unrestricted at this time due to the serious nature of the charges found proven in relation to issues with your professional boundaries. It was of the view that as the evidence before it today demonstrates limited insight, as your reflective statement and oral evidence did not address your abuse of your position of trust due to being senior to the junior female colleagues who came forward. The panel determined that you had shown insufficient insight into why your conduct had happened and the impact your conduct had on the wider nursing profession. For these reasons, the panel concluded that a real risk of repetition remains and therefore, a finding of impairment remains necessary on the ground of public protection.

For these reasons, the panel finds that your fitness to practise remains impaired.

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

Having found that your fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

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

The panel next considered whether imposing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel was concerned that you have provided no references to assure it that your behaviour towards female work colleagues has improved. The only means of addressing the risk would be for supervision. The panel considered that devising conditions that required a one-to-one chaperone at all times would be unworkable. The panel was not accordingly able to formulate conditions of practice that would adequately address the concerns relating to your misconduct.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow you further time to fully reflect on your previous conduct. It considered that you needed to gain a more developed insight into why your conduct took place and how it represented abuse of your position and the impact of your conduct on the nursing profession as a whole and not just the organisation that the individual nurse is working for. The panel concluded that a further nine months suspension order would be the appropriate and proportionate response and would afford you adequate time to further develop your insight. It would also give you an opportunity to approach other individuals and professionals to attest to your conduct and behaviour in workplace assignments and outside of the workplace since the substantive hearing.

The panel determined therefore that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of nine months would provide you with an opportunity to further reflect and gain a greater insight into your conduct and the impact of your conduct. It considered this to be the most appropriate and proportionate sanction available.

In light of the Sanctions Guidance the panel had to consider whether or not to impose a striking off order. The panel considered that in light of your progress (albeit limited) such an order would be disproportionate at this stage.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 16 May 2024 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- A further reflective piece demonstrating greater insight into why your conduct took place and the impact of your actions on your colleagues and the nursing profession. The reflective piece should include your understanding of professional boundaries with your colleagues; including your knowledge and understanding of what you have learned from any training you have undertaken
- Testimonials including testimonials from paid or unpaid employment which make reference to your professionalism around female colleagues; also including any other testimonials or references from others in the community who may have provided support to your learning and development
- Your attendance before the reviewing panel to give evidence demonstrating that you should be allowed to return to nursing practice.

This will be confirmed to you in writing.

That concludes this determination.