

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

**Substantive Hearing
Monday 11 March – Tuesday 26 March 2024**

Virtual Hearing

Name of Registrant: Joseph Keketsi Sefali

NMC PIN 05G03130

Part of the register: Registered Nurse - Adult – Sub Part 1
(September 2021)

Relevant Location: Warwickshire

Type of case: Misconduct

Panel members: Deborah Jones (Chair, lay member)
Melanie Lumbers (Registrant member)
Suzanna Jacoby (Lay member)

Legal Assessor: Suzanne Palmer (Monday 11 March 2024 –
Friday 22 March 2024)
Jayne Salt (Monday 25 March 2024 – Tuesday
26 March 2024)

Hearings Coordinator: Monsur Ali (Monday 11 March 2024)
Leigham Malcolm (Tuesday 12 – Tuesday 26
March 2024)

Nursing and Midwifery Council: Represented by Lucie Danti, NMC Case
Presenter

Mr Sefali: Present and unrepresented

Facts proved: 1-4, 5a)-d), 6a)-c), 7, 8a)-c), 9a)-f), 10a)-c), 11a)-
d), 12a)-c), 13a)i)-ix), 13b)-g), 14a)-c), 18 & 19

Facts not proved: 15, 16a)-c) & 17

Fitness to practise: **Stage not reached**

Sanction:

Stage not reached

Interim order:

Interim Suspension Order (18 months)

Details of charge

That you, a Registered Nurse;

- 1) *Between 27 April 2021 and 7 May 2021 failed to inform Cubbington Mill Care Home that you were the subject of a NMC investigation.*
- 2) *Prior to 20 October 2021 failed to inform Cubbington Mill Care Home that you were the subject of a NMC investigation.*
- 3) *On a date prior to 20 October 2021 informed Colleague A they only needed to provide a reference to the NMC to confirm you were working as a nurse.*
- 4) *Your acts and or omissions in charge 1) and or 2) and or 3) were dishonest in that you sought to conceal the fact that you were the subject of and NMC investigation.*
- 5) *On a date in June or July 2021 said to Colleague B words to the effect of;*
 - a) *'There is something different about you;*
 - b) *'I prefer you more natural';*
 - c) *'Are they as good looking as you?';*
 - d) *'Do you mind if I come and have a break with you?'*
- 6) *Your actions in charge 5) individually or collectively;*
 - a) *Were unwanted;*
 - b) *Caused alarm or distress to Colleague B*
 - c) *Were sexually motivated in that there were done for sexual gratification and or in pursuit of a sexual relationship.*
- 7) *On one or more occasions in June and or July 2021 did not move to allow Colleague B to pass with the intention of initiating physical contact.*
- 8) *Your actions in charge 7) were;*

- a) *Were unwanted;*
 - b) *Caused alarm or distress to Colleague B;*
 - c) *Were sexually motivated in that there were done for sexual gratification and or in pursuit of a sexual relationship.*
- 9) *In or around September 2021 you said to Colleague C words to the effect of;*
- a) *'Don't you know this by now?;*
 - b) *'You said you don't need help';*
 - c) *'You don't even know how to change a pad';*
 - d) *'So do it';*
 - e) *'oh yes that's how you do it';*
 - f) *'Who do you think you are?';*
- 10) *Your actions in charge 9) individually or collectively were;*
- a) *Intimidating and or insulting;*
 - b) *Intended to be intimidating and or insulting;*
 - c) *Caused alarm or distress to Colleague C.*
- 11) *In or around August 2021 at Harpers Field Care Home;*
- a) *Made sexually suggestive comments to Colleague D;*
 - b) *Told Colleague D that you fancied them;*
 - c) *Said to an unknown care assistant 'I can disappear off with you for a few minutes'.*
- 12) *Your actions in charge 11) individually or collectively;*
- a) *Were unwanted;*
 - b) *Caused alarm or distress to Colleague D or the unknow care assistant;*

- c) *Were sexually motivated in that there were done for sexual gratification and or in pursuit of a sexual relationship.*

13) *On 9 September 2021;*

- a) *Said to Colleague E words to the effect of;*
 - i) *'We don't usually have carers like you';*
 - ii) *'Where can I find a chunky white woman like you to marry';*
 - iii) *'How do I get a number from a specific girl';*
 - iv) *'Does he make you happy';*
 - v) *'Does he satisfy you?';*
 - vi) *'Have you been with a black man before?';*
 - vii) *'Does he fulfil your needs?';*
 - viii) *Questioning them about their relationship and whether they would sleep with other people;*
 - ix) *That you would transfer to Harper Fields to be closer to Colleague E.*
- b) *Looked at Colleague E's bottom;*
- c) *On one or more occasions touched your genital area whilst looking at Colleague E;*
- d) *Winked at Colleague E;*
- e) *Asked Colleague E to add you to your Facebook page;*
- f) *Sat next to Colleague E after singing a song that contained sexual lyrics;*
- g) *Touched Colleague E's shoe.*

14) *Your actions in charge 13) individually or collectively;*

- a) *Were unwanted;*

- b) *Caused alarm or distress to Colleague E;*
- c) *Were sexually motivated in that there were done for sexual gratification and or in pursuit of a sexual relationship.*

15) *On 10 September 2021 said to Colleague E 'There's a hunky black man here' or words to that effect.*

16) *Your actions in charge 14);*

- a) *Were unwanted;*
- b) *Caused alarm or distress to Colleague E;*
- c) *Were sexually motivated in that there were done for sexual gratification and or in pursuit of a sexual relationship.*

17) *On the 9 and or 10 September 2021 you slept on duty.*

18) *On one or more occasions between July 2021 and October 2021 used inappropriate manual handling when providing personal care in that you did not provide that care with the assistance of another colleague.*

19) *On or around 16 September you placed a resident at increased risk of infection when providing personal care by wiping from back to front.*

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

Background

On 6 January 2022 the NMC received a referral in relation to your nursing practice. The referral raised concerns about your nursing practice whilst working for Barchester Healthcare, at two different care homes; Harper Fields and Cubbington Mill.

An investigation by the NMC uncovered regulatory concerns including sexual harassment, sleeping on duty, and failing to notify your employer of an NMC investigation.

It was alleged that you made inappropriate comments and behaved inappropriately towards a Colleague B at Cubbington Mill. Examples include asking her 'Are they as good looking as you?' and creating a small space for her to move closely past you. Following Colleague B reporting the behaviour, you were alleged to have become abrupt and rude towards her, including arguing with her in front of a patient, and not assisting her with personal care for 'doubles' residents requiring care from two staff members.

You were also alleged to have been rude towards Colleague C at Cubbington Mill, for example, snapping 'don't you know this by now'. It is alleged that you refused to assist with personal care for 'doubles' residents requiring care from two staff members.

Colleague D alleges that you made sexually suggestive comments and behaved inappropriately towards her, for example, expressing that you fancied her.

It is further alleged that you made gestures and comments of a sexual nature to Colleague E and a care assistant, at Harpers Fields. Examples of this behaviour include saying 'Where can I find a chunky white woman like you to marry?', staring at her body and her bottom, asking questions about her sex life, and touching your genital area in front of her.

Colleague E also alleges that she observed you sleeping while on duty.

It is alleged that you did not tell Cubbington Mill Care Home that you were under an NMC investigation related to incidents whilst working for a previous employer, and this is alleged to have been dishonest.

Decision and reasons on application to amend the charges

The panel heard an application made by Ms Danti, on behalf of the NMC, to amend the wording of the following charges: 6, 8c, 11, 12, 13e, 14c & 16.

The proposed amendments were to correct typographical errors and provide clarity. The proposed amendment to Charge 11 however, was for the insertion of a whole new sub charge (sub charge 11d). It was submitted by that the proposed addition of sub-charge 11d would more accurately reflect the evidence before the panel.

The proposed amendments were as follows:

Charge 6

Your actions in charge 5) individually or collectively;

- a) **were** Unwanted
- b) **were** Sexually motivated in that there **they** were done for sexual gratification and or in pursuit of a sexual relationship

Charge 8c

Your actions in charge 7) individually or collectively;

*Were sexually motivated in that ~~there~~ **they** were done for sexual gratification and or in pursuit of a sexual relationship.*

Charge 11d

Said to Colleague D 'he doesn't have to know'

Charge 12

Your actions in charge 11) individually or collectively;

- a. *Were unwanted;*

- b. *Caused alarm or distress to Colleague D or the unknown n care assistant;*
- c. *Were sexually motivated in that ~~there~~ they were done for sexual gratification and or in pursuit of a sexual relationship.*

Charge 13e

Asked Colleague E to add you to your their Facebook page;

Charge 14c

Your actions in charge 13) individually or collectively;

Were sexually motivated in that ~~there~~ they were done for sexual gratification and or in pursuit of a sexual relationship

Charge 16

Your actions in charge 15);

- a. *Were unwanted;*
- b. *Caused alarm or distress to Colleague E;*
- c. *Were sexually motivated in that ~~there~~ they were done for sexual gratification and or in pursuit of a sexual relationship.*

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).

You indicated that you did not oppose the application to amend the charges.

The panel was of the view that such amendments, as applied for, were in the interest of justice. It considered that most of the amendments simply corrected obvious typographical

errors, or made the charges make grammatical sense, without in any way altering the nature or substance of the allegations. The proposed amendment to charge 11 reflected the evidence in Colleague D's statement, which you had been aware of for some time before the hearing. This amendment did not materially alter the nature or substance of charge 11.

The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendments being allowed.

Charges as amended

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 - d) 'So do it';*
 - e) 'oh yes that's how you do it';*
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 - a) Intimidating and or insulting;*
 - b) Intended to be intimidating and or insulting;*
 - c) Caused alarm or distress to Colleague C.*
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 - a) Made sexually suggestive comments to Colleague D;*
 - b) Told Colleague D that you fancied them;*

- c) *Said to an unknown care assistant 'I can disappear off with you for a few minutes'.*
- d) *Said to Colleague D 'he doesn't have to know'*

12) *Your actions in charge 11) individually or collectively;*

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 - iii) *'How do I get a number from a specific girl';*
 - iv) *'Does he make you happy';*
 - v) *'Does he satisfy you?';*
 - vi) *'Have you been with a black man before?';*
 - vii) *'Does he fulfil your needs?';*
 - viii) *Questioning them about their relationship and whether they would sleep with other people;*
 - ix) *That you would transfer to Harper Fields to be closer to Colleague E.*
- b) *Looked at Colleague E's bottom;*

- c) *On one or more occasions touched your genital area whilst looking at Colleague E;*
- d) *Winked at Colleague E;*
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17) On the 9 and or 10 September 2021 you slept on duty.

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19) On or around 16 September you placed a resident at increased risk of infection when providing personal care by wiping from back to front.

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

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

During the course of proceedings Ms Danti highlighted that matters would be raised relating to the health and personal circumstances of several witnesses. In view of these matters, she made an application for such parts of the hearing to be heard in private. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

You did not oppose the application.

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

The panel accepted the advice of the legal assessor and decided to hear any matters relating to the health of any of the witnesses in private, so as to keep the information out of the public domain, in accordance with Rule 19. It considered that the witnesses' right to privacy in relation to sensitive information about their health and personal circumstances outweighed the public interest, and hearing those matters in private would not detract from the transparency of the hearing in relation to the key alleged events described in the charges.

Witness evidence

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

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

- Colleague A: General Manager (registered nurse) at Cubbington Mill Care Home, at the time of the alleged incidents.
- Colleague B: Carer at Cubbington Mill Care Home, at the time of the alleged incidents.
- Colleague C: Carer at Cubbington Mill Care Home, at the time of the alleged incidents.
- Colleague D: Carer at Harper Fields Care Home, at the time of the alleged incidents.
- Colleague E: Carer at Harper Fields Care Home, at the time of the alleged incidents.
- Witness 1: General Manager (registered nurse) at Harper Fields Care Home, at the time of the alleged incidents.

Ms Emma King, special counsel, was instructed by the NMC to cross-examine three of the witnesses, Colleagues B, D and E, on your behalf. In addition, it had been arranged as a special measure at an earlier case management hearing that a number of the NMC's witnesses would give evidence with their cameras turned off so that you were unable to see them, and with your camera and microphone switched off throughout their evidence. You raised concerns with the panel that you believed that the witnesses who appeared at this hearing might not be the people that they claimed to be. You added that you knew for

'a fact' that one of the witnesses (Witness E) was not who she claimed to be, stating the following:

"I am not going to entertain the ghost fake fantasised victims. I need an independent body to verify these imagined witnesses. The laws allow creation of a fir comfortable environment for vulnerable victims to say their evidence and that would be placing them in a different room to me while independent authority has identified the victims to be correct ones but you are here plainly overriding the legal procedures. No way."

In order to address this concern, the panel of its own volition confirmed the identity of each witness in private (without the parties present) prior to the start of their evidence, by asking each witness to turn on their camera briefly and show a photographic identification document to the panel.

The panel also heard evidence from you under affirmation.

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

During both your oral evidence and submissions on the facts, indeed, throughout the entire hearing, you maintained that you believe the allegations against you in these proceedings to be the result of a plot to harm you and to engineer your removal from the register. You told the panel that the plot had begun in Belfast, after you had been referred to the police and the NMC by a Trust in Belfast. The police investigation had been closed with no further action on 24 February 2021, but you claimed that the NMC maliciously continued its pursuit of you when you returned to England. You also believe that the NMC has recruited employers and agencies to act against you and that they, in turn, have recruited nursing and carer colleagues to fabricate allegations against you in order to ensure that you cannot get employment. You also believe that you were deliberately

transferred by Barchester from one care home to another so that a different set of carers could make unfounded allegations against you as part of this plot. You also believe that residents were also recruited to speak out against you.

You provided the panel with a substantial number of documents including training certificates, employment contracts and email exchanges requesting references. You told the panel at length, orally and in writing, how the NMC, nursing agencies across the UK, and your employers and colleagues, had plotted against you. You wrote:

“You NMC have discussed with Unison officer that they will not represent me during this hearing while it is regulatory requirement that I get represented as a registrant. This is a registration requirement that I get representation in cases like this but as usual NMC has colluded with the union to destroy the defenceless vulnerable registrant.”

“I forward this certificates as an evidence to show the persecution [Colleague A] subjected me to on demanding the amount of training completed while I worked night shifts concurrently. I raise this to express that she was already knowing the nmc intentions about me and she was required to put me under intensive training while her other nurses were not subjected to that...[sic]”

“Nmc strategy to identify employers in secret and telling them to cause me trouble when they claim that they want references...[sic]”

“[NMC employee] has been following up asking about public prosecution decisions so that she could determine if she investigated the case or closed it. The decision was made on 24.2.2021 as when the case was closed but out of cruelty they paddled their vendetta to destroy me and get me jobless until 2023. How sad is that. Really embarrassing. Attached are hard evidence of this cruelty which I wish more exposures could follow.[sic]”

“I have observed nmc's dealings with my cases in my absence ignoring fundamental concerns of evidence as a strategy to pursuing their unfair, dishonest, discrimination and hate filled deep desire to rubb me off from a 24 years old hard earned nursing profession.[sic]”

“I genuinely told ... and ... nmc investigation team that I work at Maple leaf and Barchester but they could not find a legal tool in nmc Regulations to put an injunction or suspension on my practice as instructed by Belfast strategic meeting ... to stop me from practising while investigated hence they started a secret operation of seeking my employers to frame and create false allegations to stop me working. This happened in 5 employers so far after Barchester is three employers.[sic]”

“But following [NMC employee] manipulations [Colleague A] had to turn back against all that we agreed. She had done a defiant promise to disapprove [NMC employee's] manipulations before but she gave in to protect her job and plotted the sexual harassment allegations and recruited carers and Romanian nurses against me.”

You have persistently maintained that the NMC continued to pursue cases which should have been closed and that they have also contacted your employers and nursing agencies to involve them in a collusion against you. You expressed suspicions that the original referrals from Belfast arose out of events arising from your army career in Africa and you told the panel that if you ever returned to Africa that you would be assassinated.

The panel had careful regard to all the information you provided and considered your theory. It acknowledged that you appear to have a genuine and strong belief that your theory is correct. However, the panel was unable to identify any evidence which supported your theory of a collusion, vendetta, or plot against you involving the NMC or your past employers.

The panel considered it inherently unlikely that the NMC would pursue a plot against you involving several care homes, managers, nurses and patients across several countries and organisations, particularly given the large number of NMC registrants and the demands and constraints on NMC resources. It also noted that your theory would require links or collusion between a number of different organisations, including agencies and employers across a range of geographical areas in the UK. Again, this was inherently unlikely.

The panel did not consider that the evidence which you provided demonstrated the points which you claimed that it did. On the contrary, the panel considered that in a number of instances you seemed to have misunderstood NMC investigation processes, which appeared in the panel's view to have been carried out entirely in accordance with what would normally be expected. As an example, you considered it sinister that one NMC investigation was not closed until 2023 although a police investigation in respect of the same matters had been closed in 2021. However, as the panel explained to you many times during the hearing, it is common for the NMC to commence its own investigations (which involve a different purpose, burden, and standard of proof from criminal proceedings) after the conclusion of any police investigation.

Each of the witnesses in this case was asked about your allegation that they had colluded with others or had been recruited, asked, or influenced to make their allegations. Each witness denied it, and the panel could see nothing in their evidence, individually or collectively which suggested or supported the theory of collusion or fabrication between them.

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

Charge 1

- 1) *Between 27 April 2021 and 7 May 2021 failed to inform Cubbington Mill Care Home that you were the subject of a NMC investigation.*

In relation to Charge 1 the panel took account of the oral evidence of Colleague A, along with the job application form dated 27 April 2021, the candidate interview record dated 28 April 2021, the job description and the offer letter dated 07 May 2021.

The job application form, signed and dated the day before the interview has a section which reads:

“You must advise the company at interview if you have any restrictions in practising as a nurse, or are subject to an investigation by the NMC”

No details of the NMC investigation were written on your signed application form.

The panel saw in evidence a letter sent from the NMC, to you dated 24 March 2021. Following a referral by the police, you were informed that the NMC had screened the information received and that a need to investigate this case had been established.

You maintained, in your oral evidence, that you completed your job application form after your interview. The evidence does not support this claim. The panel have seen a signed and dated job application form completed the day before the interview. You suggested Colleague A guided you to write incorrect information on your job application form; altering the dates to make it look as if the form was completed before the interview and omitting any reference to the ongoing NMC investigation. Colleague A denies this, stating she had no reason to do this. In evidence when discussing your job application form, you stated:

“I have not written I have a case on presumption of innocence as I have not been found guilty.”

This contradicts your assertions that you informed Colleague A, or anyone at Cubbington Mill, of your NMC investigation.

Colleague A was clear in her evidence that you did not inform her that you were subject to an NMC investigation during the interview for the role on 28 April 2021, and that this was the reason there was no note of it on within the Candidate Interview Record. She stated that had she been informed then it would have been noted on the Candidate Interview Record and she would have escalated the matter allowing a risk assessment to be undertaken in line with company procedure. Also, additional supportive measures would have been put in place for you.

You told the panel that you informed Colleague A that you were subject to an NMC investigation. You alleged that the candidate interview record containing notes of the interview had been edited and that the evidence before the panel was incomplete.

The three-page A4 documents of interview notes before the panel, although photocopied and exhibited in reverse order, appeared complete and displayed no signs that they had been manipulated or that any section was missing. The interview scores recorded on different pages were correctly calculated and totalled the same total displayed within the document, supporting that no information was missing. You confirmed you had never seen this document prior to the hearing preparation.

Inconsistencies in your account were apparent when you said during the telephone meeting with Colleague A on 20 October 2021 that you were unaware of an NMC investigation until September 2021.

The panel considered Colleague A to be clear and balanced in her evidence. She did not appear to embellish or exaggerate her evidence and in fact, conceded that it was a learning point for her that the gaps in your employment history had not been identified and investigated. On balance, it preferred her evidence over yours. The panel accepted the evidence of Colleague A in that you did not inform her of the NMC investigation.

Your evidence for charge 1 was that you had informed Colleague A of the NMC investigation, but this evidence had been removed by the NMC. You provided no documentary evidence to support this. In other evidence, including documentary evidence from 20 Oct 2021, you state you were only aware of NMC investigation since September 2021; again, contradicting evidence.

For these reasons, the panel found Charge 1 proved.

Charge 2

2) Prior to 20 October 2021 failed to inform Cubbington Mill Care Home that you were the subject of a NMC investigation.

In relation to Charge 2 the panel took account of the oral and written evidence of Colleague A, which included the minutes of a telephone meeting between you and Colleague A on 20 October 2021. It also took account of your oral and written submissions.

Colleague A's witness statement clearly sets out that she first became aware that you were under investigation when she received an email from the NMC. Her written statement set out the following:

"Mr Sefali had asked me to provide a reference for the NMC. I asked him why he needed a reference and he said the NMC just wanted to know how he was practising as a nurse. I said I am happy to do that. He never ever mentioned that he was referred to the NMC. He didn't speak anything about working in Belfast. This conversation occurred in person in my office. I cannot recall the exact date of the conversation.[sic]"

"This interaction was a chance for him to tell me about the NMC investigation and explain what had happened but he didn't mention it. It came as a shock when I

received the email from the NMC stating the allegations. If Mr Sefali had told me about it, it would not as come as a shock when I received that email.[sic]"

In her oral evidence, Colleague A confirmed to the panel that she knew nothing about the investigation until receiving the email from the NMC. She explained clearly what action she would have taken had you informed her that you were under investigation by the NMC. She explained that she would have escalated the matter to HR who would have carried out a risk assessment and that these steps would have been taken to safeguard the residents at the Home. She added that she would have put supportive measures in place for you.

The panel also had regard to the minutes of Colleague A's telephone meeting with you on 20 October 2021. There was nothing within the minutes of the telephone meeting to suggest that Colleague A had any prior knowledge that you were under investigation by the NMC.

Under affirmation you told the panel on numerous occasions that you had made all potential employers aware that you were under investigation by the NMC. You pointed the panel to a number of emails between you and the NMC which, you said proved this. However, the panel noted, and you accepted, that these did not provide any evidence that you had, in fact, told the various agencies and employers of the NMC investigation.

You later gave contradictory oral evidence by stating the following:

"I didn't reveal to the agency because of fearing the case would be exposed and I wouldn't get a job."

In view of all the evidence before it the panel found Charge 2 proved.

Charge 3

- 3) *On a date prior to 20 October 2021 informed Colleague A they only needed to provide a reference to the NMC to confirm you were working as a nurse.*

In relation to Charge 3, again, the panel took account of the oral and written evidence of Colleague A, which included the minutes of a telephone meeting between you and Colleague A on 20 October 2021. It also took into account your oral and written evidence.

In the telephone meeting Colleague A stated:

“You never said there was a referral with accusations about yourself in with NMC. You asked me if I could provide you with a reference for NMC. And I asked you why you needed a reference for NMC, and you responded by saying they wanted to find out how you have been practising. I then informed if they contacted for a reference we would assist with information needed”

In her oral evidence Colleague A confirmed that you had not mentioned anything about an NMC investigation when you asked her to provide a reference.

Under cross-examination you stated the minutes of the telephone meeting on 20 October 2021 *“were accurate, but did not provide accurate details as you were tired from your nightshift”*. However, the panel had sight of the minutes from the investigation meeting with Witness 1 the previous week on 13 October 2021 where it was clear you were suspended from work during the time in which you said that you worked the night shift.

In view of the evidence before it, and on the balance of probabilities, the panel found Charge 3 proved.

Charge 4

- 4) *Your acts and or omissions in charge 1) and or 2) and or 3) were dishonest in that you sought to conceal the fact that you were the subject of an NMC investigation.*

The panel had sight of an email sent to you by the NMC dated 9 December 2020 where you were informed by a screening officer that a referral had been made to the NMC about you by the police. Within your email response you refer to the allegations against you and provide explanations. You also wrote:

“I have a lot of job vacancies offered to me but I will consider them after a Christmas journey. I hope that the case will be finished by then.”

There were further email exchanges between you and the NMC in January, February, and March 2021.

From this, it was perfectly clear to the panel that on 9 December 2020, you had been aware of the allegations against you and the NMC’s investigation. On 24 March 2021 it was confirmed to you in writing that your referral was subject to a full investigation by the NMC.

Subsequent to this email you attended an interview with Colleague A on 28 April 2021 for a nursing position at Cubbington Mill Care Home. It has already been established that you did not disclose the NMC’s investigation to Colleague A.

There was therefore evidence before the panel that you were aware of the NMC investigation into your nursing practice on 9 December 2020 and failed to disclose it at an interview on 28 April 2021. This evidence, along with your admission during oral evidence that you *‘didn’t reveal to the agency because of fearing the case would be exposed and I wouldn’t get a job’*, led the panel to believe that you had in fact acted dishonestly by withholding information which you knew you had a duty to disclose. The job application form, which you signed and dated, also made it clear that you had a duty to disclose any NMC investigation.

The panel was of the view that an ordinary, decent member of the public, in view of this evidence, would regard your actions as dishonest.

In view of the evidence before it, and on the balance of probabilities, the panel found Charge 4 proved in relation to Charges 1, 2 and 3.

Charge 5

In considering Charge 5 the panel took into account the oral and written evidence of Colleagues A and B, your oral and written evidence and the questions asked on your behalf by Emma King, special counsel.

5) *On a date in June or July 2021 said to Colleague B words to the effect of;*

a) *'There is something different about you;*

b) *'I prefer you more natural';*

The panel considered Charges 5a and 5b together.

There is no dispute that a conversation occurred at the start of a night shift in around June or July 2021 which involved a discussion about Colleague B's hair.

Colleague B's written statement set out the following:

"During a night shift in June or July 2021, I was in the nursing station, just having a chat with Mr Sefali. He said, 'there is something different' about me, to which I replied that I had had my hair extensions taken out. Mr Sefali said, 'I prefer you more natural'. I brushed this comment off by laughing and walking away because I felt awkward..."

...This comment made me feel awkward, especially because we were the only two staff members present. Being one on one made me feel uncomfortable and a bit uneasy. Mr Sefali was not directly saying that he found me attractive but I just did not know how to take that comment.”

Despite the passage of time, Colleague B was able to clearly recall the events in question. She provided the panel with clear oral evidence which the panel considered to be consistent with her written statement.

Colleague B explained to the panel in significant detail how the comments had made her feel ‘uncomfortable and awkward’ and how afterwards she felt that she no longer wanted to work at the Home. The clarity of Colleague B’s recall and the details and specifics that she described to the panel added to her credibility.

In your oral evidence you denied making any of the comments set out within Charge 5a and 5b. You accepted that you discussed Colleague B’s hair with her, but you told the panel that she had asked you for £500 in order to get hair extensions. This was strongly denied by Colleague B. You alleged that these charges had been engineered by Colleague B.

On balance, the panel preferred the evidence of Colleague B.

For these reasons, the panel found Charge 5a and 5b proved.

c) *‘Are they as good looking as you?’;*

There is no dispute that a conversation occurred at some point in the evening of a night shift in June/July 2021, involving discussion around the television programme Love Island.

Colleague B’s written statement read:

“Another comment Mr Sefali made during a shift around June or July 2021 was when I was in the lounge watching a show called Love Island. Mr Sefali asked what the show was about and I replied, 'it is about good looking men and women going to find love'. Mr Sefali said, 'are they as good looking as you?'. I said, 'of course they are because I look like a potato' and started laughing because I did not know what to respond.

This comment made me feel awkward, especially because we were the only two staff members present. Being one on one made me feel uncomfortable and a bit uneasy. Mr Sefali was not directly saying that he found me attractive but I just did not know how to take that comment.”

You told the panel that Colleague B’s allegations had been choreographed and engineered to fit against Company policies, in order to discredit you.

On balance, the panel preferred the evidence of Colleague B and found Charge 5c proved.

d) *‘Do you mind if I come and have a break with you?’*

In her witness statement Colleague B set out:

“Another example was around June or July 2021 when I was in the nursing station feeling quite tired because I had worked three nights in a row. The nursing station is usually where the nurses stay, so when Mr Sefali came in, I said that I was just having a little break but I would move into the lounge. Mr Sefali said, 'do you mind if I come and have a break with you?’.

Nurses and carers would not usually have their breaks together as one person needs to be on the floor, in case any call bells sound. It is just something that we know we are not supposed to do. We do not take official breaks as we get paid for the full shift, so if we were needed we would continue to work.

As it was just the two of us on the night shift, I felt very uncomfortable due to the comments about my appearance and this comment combined.”

In her oral evidence she explained that the Home was large, and one member of staff was always needed to be alert for any resident who needed assistance. She told the panel that she had never known any other member of staff to suggest taking breaks together.

In your evidence, you told the panel that it was Colleague B who had suggested you take a break at the same time. Your evidence around the taking of breaks held many inconsistencies, including where and when you took them, the length of the break or whether you were alone on breaks or not. You also informed the panel how busy you were at night-time with your numerous tasks which required completion; you also informed the panel that you would always find time to sit and watch the ten o'clock news.

On balance, the panel preferred the evidence of Colleague B and therefore found Charge 5d proved.

Charge 6

6) *Your actions in charge 5) individually or collectively;*

a) *Were unwanted;*

Colleague B set out in her written statement that she did not ask for your opinion:

“I did not know Mr Sefali very well, so I did not feel comfortable with him making this type of comment about my appearance. I felt that it was an inappropriate comment to make, especially as I had not asked for his opinion. I am getting married and Mr Sefali did not know me very well. I felt that it was an unnecessary comment. There was no need to add his preference on my appearance.”

Her oral evidence was consistent with her written statement. Colleague B had no prior relationship with you and in the panel's view, she had no motive to lie about the comments she alleges you made. In view of this evidence, the panel found Charge 6a proved.

b) Caused alarm or distress to Colleague B

Colleague B explained to the panel in significant detail how the comments had made her feel alarmed and distressed. She said: *“I panicked every time I went to work because I didn’t know what he would do. I didn’t want to work with him again... it got too much. I felt very uncomfortable because of the comments he made... he was always watching me every time I walked past.”* The clarity of Colleague B’s recall and the details and specifics that she described to the panel added to her credibility.

In oral evidence, when talking about Colleague B you said: *“it may be possible that she’s not interested, but she has given the behaviour that someone is interested”* ... *“She was asking questions for me to say something nice to her like I love you”*.

On balance, the panel found Charge 6b proved.

c) Were sexually motivated in that they were done for sexual gratification and or in pursuit of a sexual relationship.

Colleague B in her oral evidence said: *“he was always watching me every time I walked past. I was younger and assumed he was attracted to younger carers. The others were older. His comments were serious as opposed to sarcastic/jokey.”* When asked if there was sexual desire, she said: *‘Yes, he had been like that... To me that was sexual as it made me feel uncomfortable’*.

You strongly denied that you acted in a sexually motivated manner whilst working with Colleague B. You told the panel that Colleague B was attempting to ‘sexualise’ events and portray your behaviour as sexually motivated when it was not. When it was put to you that Colleague B was not interested in you, you said: *‘everyone shows interest in their own way. She has given the behaviour of someone who is interested. She wanted me to appreciate her beauty and express feelings for her.’*

Taking account of all the evidence, the panel could not see what would have motivated you to have made the comments other than the pursuit of sexual gratification or a sexual relationship.

On balance, the panel found Charge 6c proved.

Charge 7

7) On one or more occasions in June and or July 2021 did not move to allow Colleague B to pass with the intention of initiating physical contact.

You accepted that an incident took place involving you and Colleague B in a resident's bedroom, however, you denied preventing her from passing.

Colleague B's written statement sets out the following:

"...in one resident's bedroom, Mr Sefali was at the end of the bed and I had to come from the opposite side to leave the room. Rather than moving for me or even squeezing in briefly, he did not make any gap for me and I had to brush past him. It was evident that I wanted to pass and Mr Sefali had finished what he was doing, but he remained at the end of the bed. Mr Sefali knew that I wanted to get past but he just looked at me.[sic]"

The panel also had regard to Colleague B's email reporting the issues to Colleague B dated 24 September 2021, which stated:

"...he also would make a small space to walk past if we were both to be in a resident's room which I didn't feel comfortable with especially as it is only us two on a night shift..."

In her oral evidence, Colleague B maintained that you had refused to move despite her asking you to. She told the panel that she handed you the waste bag in order to get you to move. Emma King, special counsel, suggested on your behalf that this was a common situation because the rooms were small. Colleague B denied this and told the panel that on every other occasion, when working with another nurse or carer in a small room 'it just worked like clockwork'. She also told the panel that she had never had any similar incidents with any other member of staff.

In your oral evidence you denied that you had blocked Colleague B by not moving out of the way. You told the panel:

"I never blocked her way. I was in the corner towards the bed, near the door She couldn't get past. She would pass near me, she couldn't pass there when there's another person."

"The lady came in the room. She threw off the clean linen. Took the man to bed. I said he wanted to wash and dress. She made that decision without me. She excluded me."

You told the panel that Colleague B's account was not accurate and was just focused on getting you into trouble.

The clarity of Colleague B's recall and the details and specifics that she described to the panel added to her credibility. The panel considered her oral evidence to be compelling in contrast to your oral evidence which contained several inconsistencies and lacked detail and specificity. The panel therefore placed greater weight on the oral evidence of Colleague B.

On balance, in view of all the evidence before it, the panel found Charge 7 proved.

Charge 8

8) Your actions in charge 7) were;

a) Were unwanted;

From Colleague B's written statement, it was clear to the panel that your behaviour was unwanted.

"I panicked every time I went to work. I did not want to work with Mr Sefali again. It made me feel like I did not want to be there anymore..."

Within her oral evidence Colleague B stated plainly that your actions/behaviour were unwanted. In view of this evidence, the panel found Charge 8a proved.

b) *Caused alarm or distress to Colleague B;*

Colleague B explained to the panel in detail how your behaviour made her feel alarmed and distressed. She emphasised how the fact of it being a night shift and there being only the two of you working made her feel more vulnerable. She explained that she felt 'panicky' at the thought of having to work with you again. The clarity of Colleague B's recall and the details and specifics that she described to the panel made her a compelling witness.

On balance, the panel found Charge 8b proved.

c) *Were sexually motivated in that they were done for sexual gratification and or in pursuit of a sexual relationship.*

In response to questions put to her by Ms King on your behalf, Colleague B accepted that you had not said anything sexual. However, she explained that she had believed that was

your motivation, especially given the comments that you had previously made about her appearance.

You denied any sexual motivation, telling the panel that it was all part of trying to strengthen the allegations against you.

Taking account of all the evidence, the panel could not see anything other than sexual motivation as the reason for you to obstruct Colleague B from passing.

On balance, the panel found Charge 8c proved.

Charge 9

In considering Charge 9 the panel took into account the written and oral evidence of Colleague C and your written and oral evidence. It also took account of the notes of an investigation meeting on 4 October 2021 attended by Colleague's A and C.

It is not in dispute that Colleague C was a probationary carer at the Home. She worked with you on only two occasions: the first was in July 2021 when she was on her first shift. She normally worked upstairs but on the second occasion in September 2021 she worked downstairs with you. These allegations relate to mainly that second shift.

9) In or around September 2021 you said to Colleague C words to the effect of;

a) 'Don't you know this by now?;

Colleague C's written statement:

"The majority of the patients downstairs had to have two people to help them because they were lying in bed and couldn't move. These residents required double assistance. However, that night the residents didn't have that assistance.

Mr Sefali asked me to carry out all the care of the residents on my own, rather than helping me...

I asked Mr Sefali to write me a list setting out which residents required assistance and which ones I could assist by myself, because Mr Sefali knew all of the residents. Mr Sefali was very unhappy and he snapped at me, 'don't you know this by now?... I said no, it is only my second shift. You could tell me.[sic]'

Colleague C provided the panel with oral evidence which was consistent with her written statement. The panel considered her oral evidence to be fair and measured, and it found her to be a credible witness. She provided the panel with a clear and detailed account of the circumstances leading up to the events. She also described her empathy and compassion for the residents in the home, whom she felt concerned for, due to the substandard care she felt that they received that night, due to your conduct.

You denied refusing to help Colleague C. You told the panel that Colleague C was overconfident but not very good at her job. You further told the panel that she was 'terrorising you'.

You alleged that nurses and carers at the Home, including Colleague B, bullied you, terrorised you and beat you. During cross examination, when you suggested to Colleague C that you were the victim of bullying, she was firm in her response that that was not true, and you were not bullied. Further, during cross-examination you accepted that you did get frustrated with Colleague C at the time as you considered she was not doing her job properly. The panel determined, in view of the evidence before it and your acceptance that you were frustrated at the time, that it was more likely than not that you did say the comments as alleged.

Colleague A, the home manager was asked if she was fully aware of any reports of you being bullied by staff. She responded that there were no reports of you being bullied, adding that she is fully aware of company policy regarding bullying and the procedure she

would be required to follow should bullying be reported. She was therefore certain there was no bullying against you.

On balance, the panel preferred the evidence of Colleague C and found Charge 9a proved.

b) *'You said you don't need help';*

Colleague C's witness statement set out:

"I asked Mr Sefali for help on a few occasions, and he responded in 'oh you said you would do it...' 'you said you don't need me'. He just ignored me and walked away. [the resident] was not very aware or responsive... I had to physically move her which made it difficult to change her pad."

You again denied refusing to help Colleague C.

The panel found Charge 9b proved for the same reasons as set out in Charge 9a.

c) *'You don't even know how to change a pad';*

Colleague C's witness statement set out:

"After Mr Sefali walked away he said "you don't even know how to change the pad". I said "Look, I know how to change a pad, are you serious? I have worked upstairs with no complaint". I was trying not to argue and eventually I left."

In her oral evidence she told the panel your tone was arrogant and sarcastic. She said it made her feel disappointed and sad.

You accepted that you probably did say this to Colleague C. You reiterated that you didn't think she was good at her job. You said you would *"not, not, not accept people who don't clean my residents"*.

On the balance of probabilities, given your acceptance, the panel found Charge 9c proved.

d) *'So do it';*

Colleague C's witness statement set out:

"When I was changing another resident, Mr Sefali was trying to show me how to clean and apply cream. I said that I knew how to do it so he said "So do it" in a very negative way."

In her oral evidence she told the panel that she felt angry that you were suggesting she was not doing a proper job. She said you went behind her to check on what she had done, just to create an argument.

You said you did not remember saying this to Colleague C.

On the balance of probabilities, the panel found Charge 9d proved.

e) *'oh yes that's how you do it';*

Within the notes of the investigation meeting Colleague C explained how she felt distressed by comments that you had made whilst working together. In her oral evidence provided to the panel, Colleague C expressed that it was the sexual nature with which you stated *"Oh yes, that's how you do it"* which made her feel uncomfortable. She told the panel that on this occasion she had been working with an Agency Nurse, who had pulled a face when you made this comment. She told the panel you had had *"a look like pleasure"* with a smile on your face.

You denied the charge, saying it was *"lies – it shouldn't be allowed"*.

On the balance of probabilities, the panel accepted Colleague C's evidence and found Charge 9e proved.

f) *'Who do you think you are?'*

In the notes of the investigation meeting dated 4 October 2021 Colleague C stated:

"There was a delicate situation with an EOL [end of life] resident and family were present. Joseph was arguing with [Nurse] about education background saying that he's better. I told him to be quiet because of the lady in the EOL situation, he was aggressive, saying "Who do you think you are?" It is very stressful to work with him, I have asked management I do not want to work with Joseph."

In her oral evidence she told the panel that Management had asked everyone to be quiet and respectful around that resident. She was shocked that you were so loud right outside the lady's room.

You told the panel that Colleague C's account was wrong. You told the panel that she showed you no respect. You claimed she had followed you to the clinical room, where she should not be and had hit you and shouted at you. You told the panel that the working environment was toxic.

Given her clear and consistent evidence, and the contemporaneous evidence on the investigation meeting, the panel accepted Colleague C's account of this event and found Charge 9f proved.

Charge 10

10) *Your actions in charge 9) individually or collectively were;*

a) *Intimidating and or insulting.*

The panel noted Colleague C's written statement which set out:

“He had a bully-like approach. Mr Sefali was focused on proving his capabilities and proving that he is a nurse. He was more focused on himself than trying to help residents and work nicely.”

In her oral evidence Colleague C told the panel plainly that she felt uncomfortable and insulted. The panel accepted the evidence of Colleague C, who it considered to be a credible and believable witness and found Charge 10a proved.

b) Intended to be intimidating and or insulting;

In your evidence to this hearing, you told the panel repeatedly that you thought that Colleague C was not good at her job. You criticised her work and accused her of bullying and terrorising you. Indeed, you told the panel that she had continued to bully you during this hearing: ‘you heard her, she is a terror woman.’

The panel found Colleague C to be calm and measured in her approach. She expressed sadness at your behaviour rather than criticism.

In view of all the evidence before it, the panel determined that there was sufficient evidence to find Charge 10b proved on the balance of probabilities.

c) Caused alarm or distress to Colleague C.

Colleague C expressed that she felt distressed by your comments in the investigation meeting on 4 October 2021. In her witness statement:

“the environment was stressful to work in and I should not have had to beg for help or work with someone who was not listening. He had a bully like approach.”

In her oral evidence she told the panel that your behaviour made her feel sad and disappointed. She told the panel that she felt you were targeting her trying to prove some strange point. She said that after the shift she felt very emotional: *“when a member of staff is unsupportive it is difficult, the job is very stressful.”*

The panel was of the view that due to the frank and consistent way in which Colleague C gave her evidence, as well as her written evidence, there was sufficient evidence before it to find Charge 10c proved.

Charge 11

The panel took account of the written and oral evidence of Colleague D. It also took account of your written and oral evidence, as well as the questions asked on your behalf by the Special Counsel.

11) In or around August 2021 at Harpers Field Care Home;

It is not in dispute that you worked a shift in August 2021 at Harpers Field Care Home with Colleague D and another carer.

Colleague D provided oral evidence to the panel. She told the panel that [PRIVATE], she was clear about what she heard you say, and how it made her feel. She remained firm and clear throughout her oral evidence about what she heard and what she saw. She was also fair and balanced in the way in which she answered questions during her oral evidence. For example, she did not appear to embellish or exaggerate her evidence, she which gave in a direct and frank manner.

a) Made sexually suggestive comments to Colleague D;

In her witness statement Colleague D set out:

“When working with Mr Sefali around August 2021, he made comments about fancying me. The comments he would make were along those sort of lines, but a bit more sexually suggestive. This happened on probably two different occasions. I cannot recall any specific quotes that Mr Sefali said to me. I recall that one of the comments he made was in front of a resident, which put me on the back foot.”

During her oral evidence Colleague D confirmed, as set out in her written statement, that you made sexually suggestive comments. She told the panel that despite her asking you to leave her alone, you were persistent and “kept pushing the boundaries”.

You denied the allegations, saying that Colleague D had created a story to augment her colleague’s allegations.

On balance, the panel accepted the evidence of Colleague D and found Charge 11a proved.

b) Told Colleague D that you fancied them;

Colleague D also confirmed, as set out in her written statement, that you told her that you fancied her:

“When working with Mr Sefali around August 2021, he made comments about fancying me.”

On balance, the panel accepted the evidence of Colleague D and found Charge 11b proved.

c) Said to an unknown care assistant ‘I can disappear off with you for a few minutes’.

Colleague D demonstrated a clear recollection of events surrounding this allegation. The panel was satisfied that the evidence it heard was accurate and free of any embellishments.

Colleague D described with clarity how the care assistant appeared frightened and did not want to be alone with you. Colleague D said that you were quite relaxed and 'full of himself'. Colleague D clearly described her feelings of fear and concern for the care assistant that night.

"The same night that Mr Sefali tried it on with me, the other CA [care assistant] popped up to Epsom Unit (my unit) to grab some pads. She asked me to come downstairs for a little while as she did not want to be on her own with Mr Sefali. I went down to Windsor Unit (their unit) and stood in the lounge with Mr Sefali and the other CA.

I witnessed Mr Sefali make a couple of suggestive comments towards the other CA. For example, 'I can just disappear off with you for a few minutes' and things like that. I responded, 'I might need her in a minute to give me a hand upstairs', just to get her out of it. I think that Mr Sefali was being more reserved while I was present. I cannot think of any further examples; I know there were more, I just cannot recall what they were."

In her oral evidence, Colleague D told the panel that she was very clear that the carer had been frightened by the situation: "she was shook up by it – she had a look of fear in her eyes."

You denied the conversation ever took place.

On balance, the panel accepted the evidence of Colleague D and found Charge 11c proved.

d) Said to Colleague D 'he doesn't have to know'

In her oral evidence, Colleague D also confirmed, as set out in her written statement, that you made the comment as alleged:

“I said to Mr Sefali, 'I am not interested and I am involved with somebody else', but Mr Sefali responded, 'he doesn't have to know' and all of that.[sic]”

You denied the conversation ever took place, repeating your allegation that Colleague D had created a story to augment her colleague's allegations.

On balance, the panel accepted the evidence of Colleague D and found Charge 11d proved.

Charge 12

12) Your actions in charge 11) individually or collectively;

a) Were unwanted;

The panel heard evidence from Colleague D that in response to your comments she stated explicitly that she was 'not interested'. Further, the panel heard evidence of how the care assistant had gone in search of Colleague D because she was afraid to be alone with you. The steps taken by Colleague D and the care assistant were clearly a firm attempt to discourage you from any further unwanted attention.

The panel was of the view, from the evidence before it, that it was obvious that your actions in Charge 11 were unwelcome and unwanted. It therefore found Charge 12a proved.

b) Caused alarm or distress to Colleague D or the unknown care assistant;

In her witness statement Colleague D set out:

“I have been sexually assaulted before, so Mr Sefali's conduct made me feel frightened and concerned about him being around myself and other care assistants. I did feel that there was a threat there. Having gone through it before means that you do not know when somebody is going to turn, but also Mr Sefali was not taking the hint at first, so you question whether it is going to go further.”

The panel heard evidence from Colleague D that she felt worried for her safety and the safety of the care assistant. Colleague D described with clarity how the care assistant was upset, fearful and did not want to be alone. Further, how they both felt threatened, and it was not until Colleague D mentioned that she was born a man that the situation deescalated. From the account provided by Colleague D, it was clear to the panel that both she and the care assistant had both been caused alarm and distress.

On balance, the panel accepted the evidence of Colleague D and found Charge 12b proved.

c) Were sexually motivated in that they were done for sexual gratification and or in pursuit of a sexual relationship.

In your oral evidence you firmly denied the charge and maintained that you were not in pursuit of a sexual relationship with either Colleague D or the care assistant. However, the panel heard from Colleague D that she felt your behaviour was sexually motivated – “that’s how it came across – there was an insinuation”. She described your demeanour as “relaxed and full of himself”.

The panel was of the view that your actions set out in Charge 11 can only have been in pursuit of sexual gratification.

From the evidence before it, and on the balance of probabilities, the panel found Charge 12c proved.

Charges 13a) i) – ix)

The panel took into account the written and oral evidence of Colleagues A and E and Witness 1, your written and oral evidence and the questions asked on your behalf by Ms King, special counsel.

It is accepted that you worked a night shift at Harpers Field Care Home on 9 September 2021.

13) *On 9 September 2021;*

a) *Said to Colleague E words to the effect of;*

i) *'We don't usually have carers like you'.*

Colleague E explained that this was at the beginning of the night shift and that she had never met you before.

"On Thursday 9 September 2021, I worked a nightshift with Mr Sefali. When I arrived for the handover in the nursing station at around 19:45, Mr Sefali was facing me and he said, 'we don't usually have carers like you' and I questioned 'what' and Mr Sefali said 'carers like you' and winked at me."

In her oral evidence, when asked how the comment *'we don't usually have carers like you'* made her feel, she replied "I didn't understand, I didn't know which way to take it. But then he winked at me and that was a flirty kind of thing when someone winks at you. It made me feel uncomfortable".

She told the panel that you kept looking at her bottom. She said that she did not like unwanted attention and said, 'you don't do that to people'.

The panel considered Colleague E's oral evidence to be measured, balanced and fair. The emotional impact the events had on Colleague E was apparent from her evidence. Colleague E described in detail how staff were generally more vulnerable at night, but most significantly, how she had felt that you had *'thrived off of her feeling vulnerable'*, and how she felt scared: *'I can take 'flirty banter', but Mr Sefali was persistent and it became scary.'*

Colleague E reported the incidents to Witness 1 the morning after the night shift. The panel therefore took account of the written statement that Colleague E provided to Witness 1 when she first reported the incidents, as well as Witness 1's witness statement to the NMC. The panel was of the view that the prompt reporting of the incidents added to the credibility of Colleague E's account.

You denied that the conversation took place. You denied any attraction to Colleague E and said that you would not answer such allegations.

In view of all of the evidence, the panel found Charge 13a) i) proved.

ii) *'Where can I find a chunky white woman like you to marry';*

In her witness statement Colleague E stated:

"After handover, I went into the kitchen to make the teas and coffees. Mr Sefali came into the kitchen after me and I engaged in normal chat, for example, 'where are you from', 'do you like working in care'. This escalated to him saying, 'where can I find a chunky woman like you to marry? I like girls with curves and girls who have them in the right places.' I cannot recall exactly what I said, I just changed the conversation to try and get the conversation off of me. I told him to go on a dating

website. I also said that it was rude to say that to someone. He then glared at me and my body. It was just a look, he looked me up and down and it was quite a long stare, which made me feel disgusting. I could not say how long he stared for.”

Colleague E confirmed this incident in her oral evidence and explained to the panel how she felt that this was a big escalation from the ‘general chit-chat’. She told the panel that she found your description very rude. She told the panel that she had said to you that she was just there to do her job and protect her clients.

You denied the conversation ever took place. You told the panel that Colleague E was making these accusations to ‘fulfil their dirty mission’. The panel accepted Colleague E’s evidence and found Charge 13a ii) proved.

iii) ‘How do I get a number from a specific girl’;

iv) ‘Does he make you happy’;

v) ‘Does he satisfy you?’;

vi) ‘Have you been with a black man before?’;

vii) ‘Does he fulfil your needs?’;

viii) Questioning them about their relationship and whether they would sleep with other people;

ix) That you would transfer to Harper Fields to be closer to Colleague E.

The panel considered all of these charges together as they related from one episode during the night shift.

In Colleague E's witness statement she set out:

"At around 10:30pm or 11:00pm, I sat in the lounge to eat my food as I had finished giving personal care to residents. Mr Sefali came into the lounge and started general chat. He said that technology made his chest vibrate, which I did not understand. He then said, 'How do I meet a British girl that I like?' to which I responded, 'I don't know, go to the pub or try online dating; I'm not a match maker'. He then said, 'How do I get a number from a specific girl' and looked at me.

I told Mr Sefali that I do not give my number out as I am in a stable and happy relationship and have been for over 10 years. He asked me, 'Does he make you happy?' and 'Does he satisfy you?', which I considered to be weird questions. I hyped up my relationship to try and get Mr Sefali off the subject. I can take 'flirty banter', but Mr Sefali was persistent and it became scary.

For example, he went onto say, 'Have you ever been with a man?' and 'Maybe I am the man you are looking for'. He asked, 'Have you got children?' and I said, 'No'. Mr Sefali said, 'He does not fulfil your needs'. I said, 'I want to buy a house before I have children'.

Mr Sefali mentioned Facebook and he asked to add me. I said, 'no, it's personal' as I do not want to add random people.

Mr Sefali asked about my relationship again and I said that I am happy. He asked if I missed sleeping with other people. I responded, 'that is too personal to be asking, but no'.

At around 12:00am, I became so uncomfortable that I said I was going to the kitchen to mop. Mr Sefali followed me. He talked about the staffing levels and asked how to get a transfer from Cubbington Mill Care Home to Harper Fields. Care Home, so that he could be closer to me. I was extremely nervous, so I laughed it off

and walked away.”

Colleague E told the panel in her oral evidence how these incidents made her feel vulnerable and disgusted because what if he did anything else. She described how you continue to stare at her body throughout the shift and she felt that she had to walk sideways to try to disguise her ‘boobs and bum’.

You denied the allegations. You told the panel that Colleague E was ‘well dressed and covered in her uniform, so me looking at her bottom is a lie.’

You told the panel that Colleague E had been telling you that you should go on online dating sites and that she snatched your phone and set-up an online dating profile for you. You told the panel that she had been complaining about the management at Harpers Field Care Home and suggested to you that you could become the manager.

When questioned about these suggestions Colleague E vehemently denied them, saying that they were ‘absolute rubbish’. She told the panel that she knew nothing about you other than your first name so could not have set up a dating profile for you.

In light of the strong and consistent evidence from Colleague E, the panel found Charge 13a iii) – 13a ix) proved on the balance of probabilities.

Charges 13b) – c)

b) Looked at Colleague E’s bottom;

c) On one or more occasions touched your genital area whilst looking at Colleague E;

The panel considered Charge 13b) and 13c) together. Colleague E’s written statement set out:

“...Mr Sefali said, 'carers like you' and winked at me. I cannot recall if anybody else was present at this time. I caught him looking at my bum multiple times, which made me feel uncomfortable...

...I walked past Mr Sefali, still in the kitchen, and I saw him looking at my bum. He then he touched his genital area. By this, I mean, he was squeezing his 'bits' over his trousers. By his 'bits', I mean his penis. He squeezed it and then stopped, there was no movement. This happened a few times throughout the night, for example, when walking through the corridors. When this happened, I walked away.”

In her oral evidence she told the panel that this occurred on several occasions on the night shift. She said that you were constantly trying to interact with her. She told the panel that your behaviour made her feel disgusting and she asked herself ‘why is a stranger taking such an interest in me?’ She told the panel that she felt you ‘thrived off of making her feel vulnerable’.

You denied the allegations asking how Colleague E would have known that you were looking at her bottom as you would have been behind her. You told the panel that you did not look at Colleague E’s attractiveness/unattractiveness and that you looking at her bottom was a lie.

You told the panel that you refute all these things, they are not in your nature and they are not a part of you. You told the panel that you should be a priest and that you have been to priesthood school.

The panel could find no reason for Colleague E to make them up these allegations. The panel detected no motive or axe to grind in the evidence of Colleague E, especially in light of the fact that Colleague E had not met you before the said 12-hour shift.

In view of all the evidence, including the clear written accounts to Witness 1 and the NMC and Colleague E's compelling oral evidence, the panel found the Charges 13b) and 13c) proved.

d) Winked at Colleague E;

The panel found charge 13d) proved for the same reasons as set out for Charge 13a)i).

e) Asked Colleague E to add you to their Facebook page;

The panel found charge 13e) proved for the same reasons as set out for Charge 13a)iii) – ix).

f) Sat next to Colleague E after singing a song that contained sexual lyrics;

g) Touched Colleague E's shoe.

The panel considered Charges 13f) and 13g) together as they related to the same incident.

Colleague E's written statement set out:

"Mr Sefali went into the medical cupboard and played a song. It was a male singing about what he would do to a woman's body. He then came out singing the part about what a man would do to a woman's body and sat down next to me. I cannot recall the song or the lyrics he was signing. I just recall it being sexual. He touched my shoe with his fingers and made it about my shoes, I was wearing Vans, and he said something like, 'are they comfortable', but I did not want to even look at him. Someone touching your shoe is nothing, but after 12 hours of someone being

disgusting there was a lot of tension. I pulled my foot away. He kept trying to talk to me, saying weird stuff, but I cannot recall any further examples.”

In oral evidence from Colleague E the panel heard a detailed account of how the touching of her shoe had triggered her and she felt so desperate to leave work that she booked a taxi. The panel considered her to have a good memory of events. She described feeling ‘horrible’ and ‘scared’ and that she ‘just wanted to leave’.

This incident, along with all of the other incidents which occurred on the shift of 9 September 2021 was reported to Witness 1 promptly, the morning after the night shift. The panel considered the prompt reporting to add to the credibility of the account of events.

In your oral evidence you firmly denied the allegations. You told the panel that you would have been very busy and would not have had time to do these things. However, the panel accepted Colleague E’s evidence that the incidents occurred throughout the night.

On the basis of all the evidence before it, the panel found the Charges 13f) and 13g) proved.

Charge 14

14) Your actions in charge 13) individually or collectively;

a) Were unwanted;

All of the evidence before the panel, including the clear detrimental emotional impact that your actions had on colleague E, indicated that your actions were unwanted. From the evidence before it, and on the balance of probabilities, the panel found Charge 14a proved.

b) Caused alarm or distress to Colleague E;

In her oral evidence, Colleague E explained how your actions throughout this shift had made her feel distressed, uncomfortable, and disgusting. She emphasised the vulnerability she felt with this being a night shift and with having to work with you alone. She told the panel that she had been too scared to walk home alone and had booked a taxi.

The panel bore in mind Colleague E's evidence in which she illustrated the impact the incident had had on her [PRIVATE].

From Colleague E's account of events and the upset she displayed relaying details to the panel, it was clear that the incidents had caused her distress at the time.

From the evidence before it, and on the balance of probabilities, the panel found Charge 14b proved.

c) Were sexually motivated in that they were done for sexual gratification and or in pursuit of a sexual relationship.

In your oral evidence you firmly denied and maintained that you were not in pursuit of a sexual relationship with Colleague E. However, the panel was of the view that your actions set out in Charge 13, such as touching your groin area several times during a 12-hour shift, whilst looking at Colleague E, can only have been in pursuit of sexual gratification.

From the evidence before it, and on the balance of probabilities, the panel found Charge 14c proved.

Charge 15

15) On 10 September 2021 said to Colleague E 'There's a hunky black man here' or words to that effect.

During oral evidence provided by Colleague E it became apparent to the panel that there was no evidence to support Charge 15, as the words appear to have been said by a resident, and not by you. The case presenter offered no evidence on this charge during closing submissions. The panel therefore found Charge 15 not proved.

Charge 16

16) Your actions in charge 15);

a) Were unwanted;

As Charge 15 has been found not proved, it follows that Charge 16a is not capable of being found proved.

b) Caused alarm or distress to Colleague E;

As Charge 15 has been found not proved, it follows that Charge 16b is not capable of being found proved.

c) Were sexually motivated in that they were done for sexual gratification and or in pursuit of a sexual relationship.

As Charge 15 has been found not proved, it follows that Charge 16c is not capable of being found proved.

Charge 17

17) On the 9 and or 10 September 2021 you slept on duty.

The panel took account of the written and oral evidence of Colleague E.

Colleague E's written statement set out the following:

...on the same night shift of 09 September 2021, I saw Mr Sefali sleeping while we were working on the unit floor at Harper Fields Care Home in Coventry ("the Home"). I recall walking by the lounge and the doors were closed, but I could see him asleep on the chair through the safety windows (from the corridor into the lounge)"

During her oral evidence Colleague E stated that she observed you in the lounge with your eyes closed. However, in response to questions she stated that she had observed from a distance and could not be 100% certain that you were asleep.

On the basis of the evidence provided by Colleague E, the panel could not be satisfied, on the balance of probabilities, that you slept on duty as alleged.

The panel therefore found Charge 17 not proved.

Charge 18

In considering this charge the panel took into account the written and oral evidence of Colleague B, and your written and oral evidence and the questions asked on your behalf by Ms King, special counsel.

18) On one or more occasions between July 2021 and October 2021 used inappropriate manual handling when providing personal care in that you did not provide that care with the assistance of another colleague.

The panel took account of the witness statement of Colleague B which set out:

“Mr Sefali said that he had done him on his own before and that he would rather do him on his own. I thought that this was an odd question to ask and I did not know why Mr Sefali would not just wait to provide care for this resident as a pair, knowing that the resident was a double.

Prior to my complaint, Mr Sefali and I would change this resident together with no issue. Sometimes I would say, 'oh let's do doubles now' and Mr Sefali would say that he had already done that resident on his own. It can be safer to have two people to change certain residents for both the safety of the staff and for the resident.

Mr Sefali did not wait for me to provide personal care to this resident. He provided care without my assistance. I did not understand how since this resident was not an easy gentleman to move. If a resident is recorded as doubles, it is never acceptable to provide care alone, even for your own safety. This is because it could cause harm to either the resident or to ourselves. For staff, moving the resident alone could cause injury. For the resident, possibly pushing or pulling them could cause them injury. This is why the risk assessment is carried out. I assume that this is written in some policy, but I was just taught this in training.

In her oral evidence, Colleague B explained to the panel that her basic training at Barchester had included manual handling and the correct processes to follow. She told the panel that residents were classified as ‘singles or doubles’ following a risk assessment by a registered nurse and that this information was recorded in the care plans.

You denied the allegations. You told the panel that Colleague B had a ‘fighting attitude’ towards you and that she had launched an attack on you.

You told the panel ‘When I look at residents I see if they are big or fragile. I will see who I can do alone.’

You also told the panel that these charges were choreographed in order to intimidate you.

The clarity of Colleague B's recall and the details and specifics that she described to the panel added to her credibility. The panel considered her oral evidence to be compelling in contrast to your oral evidence which it found to be implausible. The panel therefore placed greater weight on the oral evidence of Colleague B.

On balance, in view of all the evidence before it, the panel found Charge 18 proved.

Charge 19

In relation to Charge 19 the panel had careful regard to the written and oral evidence of Colleague B as well as your oral and written evidence.

19) On or around 16 September you placed a resident at increased risk of infection when providing personal care by wiping from back to front.

Colleague B's written statement set out the following:

"Mr Sefali rolled the resident towards him, so I asked him to pass me the wipes so that I could wipe the resident from behind. Mr Sefali got the wipes, added soap and water to a wipe, lifted the resident's leg up from the front and went in between her legs to wipe from back to front.

I could not believe what I was seeing and I asked, 'what are you doing'. Mr Sefali responded, 'I am the best bottom cleaner in here, nobody cleans bottoms as well as me'.

I could not believe what I was hearing. As a woman, I know the kind of infections that could be caused from wiping from back to front, bringing faeces towards the body rather than away from it. We should always clean residents from behind and

wipe from front to back, taking anything away from the body. This approach was completely unnecessary as I was present, so there was no need to clean the resident alone.”

The panel heard clear and compelling evidence from Colleague B, consistent with her written statement, explaining how you wiped a resident’s bottom from back to front. She explained how the technique was wrong, given that she had been present to assist, and how it increased the risk of the resident developing an infection. Colleague B told the panel that the correct procedure should be common knowledge for nurses. She had the resident’s back and bottom facing her, with faeces present, so she was the correct side to be the one to do the cleaning. She told the panel that she had been shocked by your actions.

In her oral evidence Colleague B expressed sadness for the resident and the way that they were treated and stated that she subsequently requested not to work alongside you.

You refuted this charge and said that you ‘have been cleaning perineums for years’ and that you know not to wipe from back to front because you are a midwife. In your closing submissions you told the panel ‘I am a midwife, I prescribe. I wouldn’t wipe in the wrong direction.’

The panel considered Colleague B’s evidence to be compelling and, on balance, it found Charge 19 proved.

The panel noted that there were consistent themes amongst all the witnesses’ evidence, regarding your conduct, as alleged in the charges. These themes included conduct of a sexual nature where each witness described feeling fearful, anxious and making attempts to stop you from further unwanted attention. The panel found all witnesses to be frank, open and honest with no reason to fabricate allegations or lie about you, especially as they had no prior relationship with you. Your evidence on the other hand was inconsistent and contradictory at times.

Interim order

The panel found a significant number of facts proved and handed down their written decision to you and Ms Danti. However, it noted that insufficient time remained to consider misconduct, impairment and sanction and questioned whether an interim order was required in the interim, until your case can be concluded.

The panel may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in your own interests. In view of the facts found proved and the lack of time to conclude your case, the panel invited submissions on a potential interim order from you and Ms Danti.

Submissions on interim order

Ms Danti, on behalf of the NMC, informed the panel that there is not currently an interim order in place. She submitted that an interim order is desirable but not necessary. She highlighted that the panel may impose an interim order of its own volition. However, the NMC's position is that an interim order is merely desirable and not necessary.

You were unclear about the purpose of an interim order and stated that you just wanted to know whether you were still a nurse.

Both the legal assessor and the Chair attempted to provide some clarity for you around an interim order. You made no submission in relation to the necessity of an interim order.

Decision and reasons on interim order

The panel accepted the advice of the legal assessor.

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest.

It may be many months before the panel are able to meet to consider misconduct, impairment, any possible sanction, and conclude your case. It was of the view that the facts found proved were serious as some were of a sexual nature and others related to patient care and also dishonesty. In its reasoning on the facts of your case the panel identified a risk of harm to patients and colleagues. In the circumstances of your case, the panel decided that some form of interim order was necessary.

The panel determined that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the seriousness of the facts found proved.

The panel therefore imposed an interim suspension order for a period of 18 months to allow sufficient time for a resuming hearing to be scheduled and for your case to be fully considered and concluded.

That concludes this determination.