

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

**Substantive Hearing
4-7 May 2021**

Virtual Hearing

Name of registrant: Choon Hock Khek

NMC PIN: 71F1363E

Part(s) of the register: Nursing Sub Part 1
RN3 Registered Nurse - Mental Health level 1

Area of registered address: Essex

Type of case: Misconduct

Panel members: David Boden (Chair, Lay member)
Susan Tokley (Registrant member)
Jill Wells (Lay member)

Legal Assessor: Michael Hosford-Tanner

Panel Secretary: Max Buadi

Nursing and Midwifery Council: Represented by Assad Badruddin, Case
Presenter

Mr Khek: Not present and not represented in absence

Facts proved: All

Facts not proved: None

Fitness to practise: **Impaired**

Sanction: **Striking off order**

Interim order: **Interim Suspension Order (18 months)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Khek was not in attendance, nor was he represented in his absence. Notice of this hearing had been sent via email to an email address held on the NMC register on 1 April 2021.

The panel took into account that the notice of hearing provided details of the date and time of the hearing and that it was to be held virtually. In addition it contained information about Mr Khek's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

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

The panel accepted the advice of the legal assessor.

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

Decision and reasons on proceeding in the absence of Mr Khek

The panel next considered whether it should proceed in the absence of Mr Khek. It had regard to Rule 21 and heard the submissions of Mr Badruddin. He drew the panel's attention to Mr Khek's response to the notice of hearing on 8 April 2021. Mr Badruddin informed the panel that Mr Khek had ticked 'No' to the question "Do you plan to attend the hearing?" and "Yes" to the question "Do you want the hearing to go ahead without you?". Mr Badruddin also drew the panel's attention to Mr Khek's response when he stated:

“...I am not attending the hearing because the allegation did not happen and I have supported this with my statement during my police interview and also my written response to NMC...”

Mr Badruddin submitted that Mr Khek was aware of today’s hearing and had chosen not attend. He submitted that Mr Khek has therefore chosen voluntarily to absent himself. Mr Badruddin also submitted the Mr Khek has provided a response to the charges. There has been no application made for an adjournment today and doing so would serve no purpose as there is no guarantee that adjourning would secure Mr Khek’s attendance at a future date.

Mr Badruddin invited the panel to continue in the absence of Mr Khek.

The panel accepted the advice of the legal assessor.

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

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

- No application for an adjournment has been made by Mr Khek;
- Mr Khek has informed the NMC that he has received the Notice of Hearing and confirmed he is content for the hearing to proceed in his absence;

- There is no reason to suppose that adjourning would secure his attendance at some future date;
- One witness has attended today to give live evidence, others are due to attend;
- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mr Khek in proceeding in his absence. Although the evidence upon which the NMC relies will have been sent to him at his registered address, he will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on his own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Mr Khek's decisions to absent himself from the hearing, waive his rights to attend, and/or be represented, and to not provide evidence or make submissions on his own behalf.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Mr Khek. The panel will draw no adverse inference from his absence in its findings of fact.

Details of charge

That you, a Registered nurse whilst employed at the Priory Hospital (“the Hospital”), Chelmsford;

1) On an unknown date in or around December 2003 & January 2004 in relation to Patient A, you:

a) Placed your hands on Patient A’s breasts;

b) Touched Patients A’s clitoris;

c) Put your fingers in Patient A’s vagina;

d) Placed Patient A’s hands on your trousers and/or crotch and/or erect penis;

e) Kissed Patient A:

i) On her mouth;

ii) On her face;

iii) On her neck.

2) Your actions in one or more of charges 1 a), 1 b), 1 c), 1 d) & 1 e) above, were sexually motivated in that you sought sexual gratification from such contact.

3) On one or more occasion on unknown dates in or around September 2003 and July 2004, during one to one meetings you:

a) Ran your finger down Patient A’s cheek;

b) Stroked Patient A's hair;

c) Placed your hand high up on Patient A's thigh;

d) Kissed Patient A on her head;

e) Made inappropriate comments to Patient A, in that you:

i) Told Patient A that you loved her;

ii) Told Patient A that you could be in a relationship with her, once she left the Hospital;

iii) Told Patient A that you could save her;

iv) Told Patient A that you would take her on a romantic trip to London.

4) Your actions in one or more of charges 3 a), 3 b), 3 c) & 3 d) above were sexually motivated in that you sought sexual gratification from such contact.

5) Your actions in charge 3 e) above were sexually motivated in that you intended to pursue a future sexual relationship with Patient A.

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

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

At the outset of the hearing, Mr Badruddin made a request that part of this case be held in private on the basis that proper exploration of Mr Khek's case involves references to the health conditions of Patient A, Patient B and Person A. The application was made pursuant to Rule 19 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

In respect of Person A, the panel asked Mr Badruddin if it would be necessary to anonymise him during the hearing as it might give indication of the identity of Patient A.

Mr Badruddin agreed with this and submitted that all witnesses be anonymised throughout the hearing.

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 to rule to go into private session in connection with the health conditions of the witnesses and any health related incidents as and when such issues are raised. The panel also determined that all witnesses will be anonymised.

Decision and reasons on application to admit Person A's witness statement and statement to the police as hearsay evidence

The panel heard an application made by Mr Badruddin under Rule 31 to allow the written statement of Person A and his statement to the police into evidence. Person A was not present at this hearing and, whilst the NMC had made sufficient efforts to ensure that this witness was present, he was unable to attend today. In an email dated 20 April 2021, Person A informed the NMC that this was due to current health concerns.

At the time of the panel's consideration of the matter at the outset of the case, a letter from Person A's GP was not available. But it was later produced and confirmed what Person A had said namely that there are cogent current medical reasons for not attending. When the GP letter became available, which was before the panel retired to consider the facts of the case, the panel considered whether it affected its decision, but concluded it supported its decision below on the Rule 31 application.

Mr Badruddin submitted that the statement Person A made to the police is reflected in the witness statement of Patient A. It specifically describes what Patient A had told him about what had occurred at the Priory and the incident at the park.

Mr Badruddin submitted that the statement is relevant as it corroborates the previous statement of Patient A, who will be providing oral evidence to all the charges. He also submitted that it will be relevant when the panel consider paragraphs 4, 6 and 7 of Person A's witness statement. This is where Patient A disclosed information to Person A while they were in a relationship.

Mr Badruddin drew the panel's attention to the NMC's guidance on hearsay evidence. This guidance is stated that hearsay evidence is not inadmissible. He submitted that the panel are not starting from a position where the evidence is inadmissible. He submitted that the panel is considering whether it should not be admitted because in the circumstances it would be unfair.

Mr Badruddin referred the panel to the case of *Thorneycroft v Nursing and Midwifery Council [2014] EWHC 1565 (Admin)* which outlined a list of factors to be taken into consideration when determining whether it would be fair to admit the witness statement of an absent witness into evidence. One of these factors is that it would not be fair to admit evidence if it was sole and decisive in respect of a serious charge.

Mr Badruddin submitted the statement of Person A is not sole and decisive to any of the charges. He submitted that the evidence supports the witness statement of Patient A and

more specifically in relation to the reporting of the sexual assault allegations raised against Mr Khek. He also submitted that the evidence supports paragraph 26 of Patient A's witness statement where she states that she disclosed some information related to the regulatory concerns to Person A.

Mr Badruddin submitted that there would be no unfairness to Mr Khek. He drew the panel's attention to an email from the NMC to Mr Khek, dated 21 April 2021, where he was informed of the NMC's intention to make this Rule 31 application. Mr Badruddin informed the panel that the NMC has not received a response from Mr Khek in this regard.

Mr Badruddin invited the panel to admit the witness statement and relevant statement to the police.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 provides that, so far as it is 'fair and relevant', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings.

The panel gave the application in regard to Person A serious consideration. The panel noted that Person A's statement had been prepared in anticipation of being used in these proceedings and contained the paragraph, 'This statement ... is true to the best of my information, knowledge and belief' and signed by him. The panel was of the view that the evidence of Person A is relevant as it confirms what Patient A has already said in her witness statement.

The panel noted that it was clear that the NMC had taken reasonable steps to secure the attendance of Person A. The panel also noted that his evidence is not sole and decisive as to the issues it has to determine.

The panel also bore in mind that Mr Khek has been notified of this Rule 31 application and had not responded. It also noted that he would have had an opportunity to cross examine the evidence but had voluntarily absented himself from the NMC proceedings.

The panel therefore determined that the material was relevant and that no unfairness or prejudice would be caused by admitting it into evidence.

The panel makes clear that this evidence will not be directly be tested by any cross-examination and therefore will attach such weight to it as it considers appropriate.

Background

The NMC received a referral from the Priory Group (the Priory) on 19 January 2018 relating to historical sexual abuse allegations involving Mr Khek and Patient A, dating back from 2003 to 2004. At the time of the alleged incidents, Patient A was 15-16 years old and was a patient on a mental health unit. The incidents occurred whilst Mr Khek was working as a Ward Manager on the Child and Adolescent Mental Health Services Unit (CAMHS) (the Unit) at the Priory Hospital (the Hospital), part of the Priory Group.

Mr Khek was employed at the Priory group from 2002 to 2006. It is alleged that Mr Khek had assaulted Patient A in a sexually motivated way on more than one occasion between September 2003 and July 2004, where during one to one meetings Mr Khek ran his fingers down Patient A's cheek, kissed her on the head, stroked her hair, placed his hand on Patient A's thigh. He also made inappropriate comments that he loved her, wanted to take her on a romantic trip and wanted to pursue a relationship with her after she had been discharged from the Hospital.

There was a specific alleged sexual assault which occurred between December 2003 and January 2004 where it is alleged that Mr Khek kissed Patient A on the mouth, face and neck, placed his hands on Patient A's breasts, touched Patient A's genitals, inserted his fingers into her vagina and then placed Patient A's hands onto his own crotch area.

It is further alleged that Mr Khek's actions were sexually motivated in that he sought sexual gratification from his conduct and/or that he intended to pursue a future sexual relationship with Patient A.

Decision and reasons on the facts

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

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

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:

- Patient A: Patient at the Hospital at the relevant time;
- Dr A: GP for Patient A.
- Patient B: Patient at the Hospital at the relevant time;

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

The panel considered the evidence of the witnesses and made the following conclusions:

The panel considered the evidence of Patient A to be credible. It noted that she was clear, consistent, articulate and provided detailed information intending to assist the panel. It also noted that she was clear when she did not remember certain details. She answered questions from the panel helpfully and credibly, notably when the panel asked her about matters raised by Mr Khek in his written responses to NMC and what he had said to the police.

The panel also noted that her demeanour supported her evidence at all times and was satisfied that she was completely genuine, was reliving and describing her experiences truthfully and could be believed in what she said. It noted that there were times she found it difficult to disclose more intimate information to the panel, but endeavoured to do so in order to be of maximum help.

The panel noted that there were some minor inconsistencies between her evidence and the evidence of others. However, due to the fact that these events took place 17 or 18 years ago, this was understandable. It noted that Patient A was able to recall, in detail, more emotive aspects of her evidence. This is what she found difficult to disclose but the panel found consistency here. It heard evidence that she has always found it difficult to disclose this information and only did so, in part, a significant period of time later to Patient B, Person A and then Dr A.

The panel concluded that Patient A was completely open with the panel, gave a credible account of herself and was wholly believable.

The panel noted that Dr A provided a professional opinion and stayed within the boundaries of what he knew. It noted his evidence was clear and if he was unsure about something he made this evident. The panel also noted some inconsistencies between Patient A's version of events and what Dr A stated Patient A disclosed to him. However,

the panel was of the view that Patient A may not have disclosed everything to Dr A and as a result, he interpreted it differently.

The panel concluded that the evidence of Dr A was credible and that he had done everything possible to facilitate Patient A to make disclosure which he suspected were serious.

The panel noted that Patient B was straightforward and wholly honest. It noted that Patient B only had the limited information disclosed to her by Patient A. It noted that she assisted the panel with what she knew and was clear in what she did not know. Further, she did not speculate and was clear when it was her opinion rather than fact. Patient B also provided that panel with a picture of how the ward operated. Patient B was able to describe what Patient A was like at the Hospital and what her needs were. The panel also noted that she stated that Patient A should report the incident when she disclosed to her in 2005 some details of what happened. This was consistent with the evidence of Patient A.

The panel concluded that the evidence of Patient B to be credible.

The panel considered the witness statement of Person A, the ex-husband of Patient A. It gave his evidence less weight as he was not in attendance and could not be cross examined, although he had a valid reason for not attending. It noted that his evidence appeared to support what Patient A had disclosed to him, particularly Patient A's reaction to encountering Mr Khek in Norwich in 2016. Person A gave sufficient information to corroborate that this event had taken place and of the impact of Patient A without embellishment.

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

Charge 1

- 1) On an unknown date in or around December 2003 & January 2004 in relation to Patient A, you:
 - a) Placed your hands on Patient A's breasts;
 - b) Touched Patients A's clitoris;
 - c) Put your fingers in Patient A's vagina;
 - d) Placed Patient A's hands on your trousers and/or crotch and/or erect penis;
 - e) Kissed Patient A:
 - i) On her mouth;
 - ii) On her face;
 - iii) On her neck.

These sub-charges are found proved.

The panel considered each of these sub-charges separately but as the evidence in relation to each is similar it has dealt with them under one heading. In reaching this decision, the panel took account of the written and oral evidence of Patient A, Patient B, Dr A and the written evidence of Mr Khek.

The panel noted that there are two conflicting accounts regarding this incident. It had the witness statement of Patient A, the statement she provided the police and her oral evidence. Regarding the evidence of Mr Khek, the panel noted that it had his response to the NMC and a summary of his interview with the police. The panel was of the view that where there were conflicting accounts, the panel had to decide whose account it was persuaded by.

The panel noted that Patient A in her witness statement stated:

“...The day I was abused by [Mr Khek] was around December 2003 or January 2004. I believe the rehab trip that day was to the pantomime and I chose not to go. All the members of staff and the patients left about 3pm. A member of staff, who was due to do the twilight shift, came in early to go to the pantomime as well. The way it worked out was that the only people left on the ward were myself and [Mr Khek]. I believe he viewed this as a window of opportunity to be alone with me...”

The panel noted that Patient A reiterated this in her oral evidence. It noted that while she was not able to specify an exact date, she had made attempts to do so by requesting her medical notes from the Priory but said that she had been told that they were missing. She was able to recall specific happenings during the day. She was able to specify that rehabilitation trips would occur on Wednesday evenings and that the trip was to a pantomime. This assisted her belief that the event was in December 2003 or January 2004. The panel bore in mind that the Wednesday evening rehabilitation trips were corroborated by Patient B in her oral evidence.

The panel also noted that Patient A was very specific in the words Mr Khek used when he entered her room. In her police interview, undertaken on 9 January 2018, her witness statement, dated 27 February 2020, and in her oral evidence she stated that Mr Khek stated “I can’t believe we’re alone’.

The panel also noted that she was very specific in describing the incident and what he was wearing down to the colour of his tie. She also recalls what she was wearing and noted her jeans at the time were baggy as she had not been eating. The panel also noted that she was able to describe the approximate length of time the sexual abuse incident occurred and described how Mr Khek touched her breast, disclosed to Dr A during her consultation on 14 December 2017, the kissing of her face, mouth and neck. Additionally, she described Mr Khek touching her clitoris, inserting his fingers in her vagina, and him placing her hand on his crotch area. This is also reiterated in her police interview. Patient

A described being frozen in shock and not moving or speaking. Patient A said that she felt relieved when she heard a staff member arrive on the ward. She was asked why she did not report the matter at the time or at a later date. She described being shocked, astounded, confused and frightened. She also described having no self-worth to tell anyone and did not think that she would be believed. The panel considered that her accounts were credible and consistent with each other, although it accepted that repetition of an allegation does not necessarily make an allegation more likely to be true.

The panel noted that Patient A disclosed part of this incident to Patient B. Patient B in her witness statement stated:

“...Following my discharge from The Priory, I kept in contact with Patient A and we met up about three times the following year.

One of the times we met up was on a sailing trip in the Norfolk Broads and at this time Patient A made a disclosure to me. I can't remember exactly how the conversation came about, but Patient A said that [Mr Khek] had assaulted her. She said it happened on a Wednesday when everyone, including me, was on a rehab trip...it certainly sounded like she had been sexually violated...”

Patient B reiterated this in her oral evidence stating that Patient A had told her that Mr Khek had touched her inner thigh and tried to kiss her. She said that Patient A seemed to want to know if it had happened to her as well. The panel also noted that Patient A had disclosed some of these events to Person A, but Person A supported Patient A's evidence that she found it difficult to discuss these matters fully with her then husband and that she would deflect his questions.

The panel noted that Dr A in his witness statement stated:

“...During her visit, she disclosed to me that she had been sexually assaulted by a Nurse called [Mr Khek]. This happened when she was resident at The Priory and

when she was about 15 or 16 years old...On December 2017, I again saw Patient A at my Surgery, on this visit, she disclosed more information about the sexual assault. She talked about [Mr Khek] putting his hand down her top...”

The panel noted that Dr A reiterated this in his oral evidence. He stated that when Patient A disclosed this to him, she was crying but her speech was articulate and clear. He also confirmed that she was not under the influence of drugs or alcohol. Dr A confirmed that there is no diagnosis of psychosis or record of hallucinations on the part of Patient A and that she had mental capacity. Dr A described Patient A as a strong, capable mother who appears honest and talks openly.

The panel bore in mind that Mr Khek has consistently denied the accusations of Patient A and stated that it did not happen. However, it noted that he has not expounded on this and has provided the panel with very little detail regarding the incident. Mr Khek mentioned his long nursing service and the fact that he had not faced similar charges before which was confirmed by Mr Badruddin.

The panel was mindful that the account of Mr Khek was hearsay. He had chosen not to attend to give evidence at this hearing and had not provided a formal witness statement to NMC. There was no way to test what he said and no corroborating evidence.

However, the panel was persuaded by the evidence of Patient A. It found her to be credible and wholly consistent throughout. It also noted that the evidence of Mr Khek did not undermine what Patient A told the panel. Further, her evidence is supported by Patient B and Dr A – all of whom attended, had their evidence examined and who the panel found to be credible witnesses.

The panel also noted that it could not see any motivation Patient A would have for disclosing this, after a significant period of time, when it caused her so much distress. It also noted that Patient A in her oral evidence stated that her coping strategy, in her younger years, was to figuratively “run away” from her problems and not disclosing what

had occurred. Patient A also described, feeling guilty for many years for not disclosing what had happened to her in case he had behaved in this way to others, that she had not been able to do so. It is apparent to the panel that seeing Mr Khek at the park, many years after the incident, triggered and set in motion her disclosing some of what happened to Person A and then subsequently to Dr A. Dr A gave evidence that he felt that Patient A had something she needed to disclose and which was troubling her, and he made an appointment to allow her the opportunity to begin to disclose matters, which was continued at subsequent appointments with Dr A, followed by a full disclosure to the police and the NMC.

In light of the above, the panel was of the view that, on the balance of probabilities, what the incident described in the sub-charges of charge 1 occurred.

The sub-charges of charge 1 are found proved.

Charge 2

2) Your actions in one or more of charges 1 a), 1 b), 1 c), 1 d) & 1 e) above, were sexually motivated in that you sought sexual gratification from such contact.

This charge is found proved.

In reaching its decision, the panel took account of the evidence of Patient A, Patient B, Dr A and the evidence of Mr Khek.

The panel had already determined that, on the balance of probabilities, charges 1a), 1b), 1c), 1d) and 1e) occurred.

The panel noted that Mr Khek accepted that he and Patient A were together frequently. It noted that in the summary of his police interview he stated that

“...she was very needy and attention seeking, lonely and needed someone to talk to. She would do things for attention and would self-harm. She would always single him out to talk to out of the staff members which was usual behaviour for the patients...”

In that way Mr Khek appeared to accept that he met with Patient A frequently for confidential talks, although he alleged that it was at Patient A's instigation.

The panel noted that Patient A denied this in her oral evidence. She stated that Mr Khek spent a lot of time with her in her first few weeks of her admittance to the Hospital. She also stated that she and Mr Khek had up to three to five one to one meetings per week. She also stated that Mr Khek was never allocated as her main nurse. The panel also noted that Patient B corroborated this and stated that Patient A had been close with another nurse, and that it was that nurse who Patient A singled out.

The panel bore in mind that Mr Khek was the ward manager at the Hospital. It also bore in mind that he was not Patient A's named nurse. This was reiterated by Patient A and Patient B in their oral evidence.

The panel considered that there was no good reason for Mr Khek, as the Ward Manager, to be having so many one to one meetings with Patient A. It was of the view that the role of the Ward Manager was to have an overview of what is happening on the ward, what is happening with each patient and managing staff. It noted that Mr Khek should not have got so deeply involved with the patient unless he had an ulterior motive.

The panel noted that Mr Khek raised the issue of fantasising on the part of Patient A. Patient A was asked by the case presenter if it was possible that she hallucinated the event. She was adamant in her response and said “No, absolutely not”. However, Dr A in his oral evidence stated that there was no medical evidence to suggest that Patient A suffered from hallucinations or psychosis. He also stated that he treated Patient A and her family for years. The panel was found the evidence of Patient A to be very clear and that

her experiences were not a hallucination or fantasy and the panel accepted this to be the case.

The panel determined that his involvement with Patient A was wholly inappropriate. It also noted that Patient A in her oral evidence stated she thought that he sought her out as she had arrived at the ward unaccompanied from Scotland and had no adults in her life at the time.

In reaching its conclusion, the panel bore in mind the findings it made in relation to the sub-charges of Charge 1 and the fact that Mr Khek has not provided the panel with much detail regarding the incident. The panel could draw no other conclusion than Mr Khek's actions in Charge 1 were sexually motivated in that he sought sexual gratification from such contact.

This charge is found proved.

Charge 3

3) On one or more occasions on unknown dates in or around September 2003 and July 2004, during one to one meetings you:

- a) Ran your finger down Patient A's cheek;
- b) Stroked Patient A's hair;
- c) Placed your hand high up on Patient A's thigh;
- d) Kissed Patient A on her head;

These sub-charges are found proved.

The panel considered each of these sub-charges separately but as the evidence in relation to each is similar it has dealt with them under one heading. In reaching its

decision, the panel took account of the evidence of Patient A, Patient B, Dr A and the written evidence of Mr Khek and Person A.

The panel noted that there are two conflicting accounts regarding this incident. It had the witness statement of Patient A, the statement she provided the police and her oral evidence, which were all consistent. Regarding the evidence of Mr Khek, the panel noted that it had his response to the NMC and a summary of his interview with the police. The panel was of the view that where there were conflicting accounts, the panel had to decide whose account it was persuaded by.

The panel noted that the date in this charge, September 2003, acts as a precursor to the incident described in charge 1. The panel noted that Patient A in her witness statement stated:

“...During my time at The Priory, I had numerous one-to-ones with [Mr Khek]. They would occur regularly and range between three to five days a week. It was only once a week with my allocated named nurse. I know he also carried out a lot of one-to-ones with some of the other female patients. During these one-to-ones with [Mr Khek], his behaviour included running a finger down my cheek, stroking my hair and placing his hand high up on my thigh.

The panel noted that in Patient A's oral evidence and her statement to the police, confirmed that Mr Khek's actions prior to the incident in Charge 1 were escalating. The panel also noted that these incidents occurred during her first admission, which ended in June 2004. She stated that Mr Khek spent a lot of time with her in her first few weeks of her admittance to the Hospital. She also stated that she and Mr Khek had up to three to five one to one meetings per week. She continued in her witness statement:

“...After he started leaving the doors open during meetings, he started to take more risks. He continued to put his hand inappropriately on my thigh, kiss me on my head and stroke his finger down my cheek.

I had some one-to-one meetings with [Mr Khek] in the sitting room. This was a communal area but if a patient and member of staff were having a meeting then nobody would come in. He carried on his usual behaviour but would always position himself so that he was sitting facing the open door and is if he was watching out for anyone passing by..." [sic]

The panel noted again, that this was reaffirmed in her oral evidence. She recalled multiple incidents of Mr Khek running his finger down her cheek, stroking her hair, kissing her on her head and placing his hand high upon her thigh, and said it was her inner thigh. This account was also provided to the police in her record of interview.

The panel also noted that it was consistent with Patient B's oral evidence when she confirmed that Patient A disclosed Mr Khek's inappropriate touching and specifically recounted Patient A stating that he touched her thigh.

Dr A also reiterated the allegation of inappropriate touching in his witness statement and his oral evidence.

The panel bore in mind that Mr Khek has consistently denied the accusations of Patient A and stated that it did not happen. However, it noted that he has not expounded on this and has provided the panel with very little detail regarding the incident.

The panel was mindful that the account of Mr Khek was hearsay. He had not attended to give evidence at this hearing and had not provided a formal witness statement. There was no way to test what he said and no corroborating evidence.

However, the panel was persuaded by the evidence of Patient A. It found her to be credible and wholly consistent throughout. It also noted that the evidence of Mr Khek did not undermine what Patient A told the panel. Further, her evidence is supported by Patient B and Dr A – all of whom attended, had their evidence examined and who the panel found

to be credible witnesses and their evidence showed Patient A was consistent in her account, and how she came to disclose matters, and that it took time for her to do so .

The panel also noted that it could not see any motivation Patient A would have for disclosing this, after a significant period of time, when it caused her so much distress. It also noted that Patient A in her oral evidence stated that her coping strategy, in her younger years, was to figuratively “run away” from her problems and not disclosing what had occurred. It is apparent to the panel that seeing Mr Khek at the park, many years after the incident, triggered and set in motion her disclosing some of what happened to Person A and then subsequently to Dr A. Person A, who was with Patient A in the park in Norwich in 2016, supported the evidence of Patient A that she had been shocked and shaken to encounter Mr Khek and wanted to leave the park immediately.

In light of the above, the panel was of the view that, on the balance of probabilities, what the incident described in the sub-charges 3a, 3b, 3c and 3d occurred.

These sub-charges are found proved.

Charge 3

3) On one or more occasion on unknown dates in or around September 2003 and July 2004, during one to one meetings you:

e) Made inappropriate comments to Patient A, in that you:

i) Told Patient A that you loved her;

ii) Told Patient A that you could be in a relationship with her, once she left the Hospital;

iii) Told Patient A that you could save her;

iv) Told Patient A that you would take her on a romantic trip to London.

These sub-charges are found proved.

The panel considered each of these sub-charges separately but as the evidence in relation to each is similar it has dealt with them under one heading. In reaching its decision, the panel took account of the evidence of Patient A and the evidence of Mr Khek.

The panel noted that there are two conflicting accounts regarding this incident. It had the witness statement of Patient A, the statement she provided the police and her oral evidence. Regarding the evidence of Mr Khek, the panel noted that it had his response to the NMC and a summary of his interview with the police. The panel was of the view that where there were conflicting accounts, the panel had to decide whose account it was persuaded by.

The panel noted that Patient A in her witness statement stated:

“...He also said during our conversations that he loved me and that we could be together once I left The Priory. He was like this from when I first met him although he was a bit more tentative at the start...

...He played into my vulnerabilities. He would imply that he was going to save me and said he would take me on a romantic trip to London. I believe he definitely knew what he was doing. I also believe that he took risks. Other nurses would maybe give you a hug if you were feeling upset but he would go beyond that. I believe that he pushed boundaries in respect of his behaviour and conduct...”

The panel noted that Patient A reiterated this in her oral evidence. She was clear that Mr Khek telling her he loved her occurred during September 2003. She stated that he told her “she was special” and that “there was something different to her than the other girls in the ward” Patient A also stated that he told her that he wanted to take her to London to “see a show”. The panel noted that Mr Badruddin referred Patient A to her police statement where she stated:

“...He led me to believe he wanted a relationship with me. When I got out we would be together. He would take me to London and I could stay with him...”

The panel noted that Patient A then expounded on this and stated that Mr Khek told her that they would go to London and stay overnight in a hotel.

The panel also noted that Patient A did not know what Mr Khek meant when he stated that he was going to “save her”. Patient A stated that he painted the picture that he was her saviour.

The panel bore in mind that Mr Khek has consistently denied the accusations of Patient A and stated that it did not happen. However, it noted that he has not expounded on this and has provided the panel with very little detail regarding the incident.

The panel was mindful that the account of Mr Khek was hearsay. He had not attended to give evidence at this hearing and had not provided a formal witness statement. There was no way to test what he said and no corroborating evidence.

However, the panel was persuaded by the evidence of Patient A. It found her to be credible and wholly consistent throughout. It also noted that the evidence of Mr Khek did not undermine what Patient A told the panel.

In light of the above, the panel was of the view that, on the balance of probabilities, what the actions described in charge 3e) occurred.

These sub-charges are found proved.

Charge 4

- 4) Your actions in one or more of charges 3 a), 3 b), 3 c) & 3 d) above were sexually motivated in that you sought sexual gratification from such contact.

This charge is found proved.

In reaching its decision, the panel took account of the evidence of Patient A, Patient B, Dr A and the evidence of Mr Khek.

The panel had already determined that, on the balance of probabilities, charges 3a), 3b), 3c), and 3d).

The panel concluded for the same reasons as charge 2, could draw no other conclusion than Mr Kheks actions in charges 3a), 3b), 3c), and 3d) were sexually motivated in that he sought sexual gratification from such contact. The panel also considered that its findings on the sexual assault in charge 1 are a further indication of Mr Khek's plans and motives.

This charge is found proved.

Charge 5

- 5) Your actions in charge 3 e) above were sexually motivated in that you intended to pursue a future sexual relationship with Patient A.

This charge is found proved.

In reaching its decision, the panel took account of the evidence of Patient A and the evidence of Mr Khek.

The panel had already determined that actions in charge 3 e) occurred. In light of this it could draw no other conclusion than Mr Khek's actions were sexually motivated in that in that he intended to pursue a future sexual relationship with Patient A.

This charge is found proved.

Fitness to practise

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

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

Submissions on misconduct and impairment

Mr Badruddin referred the panel to the case of *Roylance v GMC (No. 2) [2000] 1 AC 311* which defines misconduct as a '*word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.*'

Mr Badruddin invited the panel to take the view that the facts found proved amount to misconduct as Mr Khek's actions fell below the standards expected of a registered nurse. He directed the panel to specific paragraphs within 'The Code: Professional standards of practice and behaviour for nurses and midwives 2002' (the Code) and identified where, in the NMC's view, Mr Khek's actions amounted to misconduct.

Mr Badruddin submitted that Mr Khek's conduct falls significantly below that of a registered nurse. He further submitted that it would be considered deplorable by any standard let alone the standard of a registered nurse and directly calls into question Mr Khek's level of integrity and professionalism and overall amounts to a breach of trust.

Mr Badruddin moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin). He submitted that limbs a, b and c should be considered.

Mr Badruddin submitted that Mr Khek's actions have caused Patient A to suffer direct unwarranted harm. He reminded the panel of the evidence of Patient A where these incidents, although considered historic, have affected her throughout her life.

Mr Badruddin also submitted that Mr Khek's actions of sexual and other abuse of a vulnerable child patient, whilst being a senior clinician in a position of trust is a direct breach of the fundamental tenets of the nursing profession and his actions have brought the profession into disrepute.

Mr Badruddin submitted that there are public protection concerns. Although Mr Khek is retired, he is still maintained on the register. As a result, he is able to return to practice if he so chooses to. He submitted that considering the lack of remediation, remorse or insight into the regulatory concerns or their impact on Patient A means there is a risk of repetition.

When considering the public interest, Mr Badruddin invited the panel to consider the high position and level of trust the public places into the nursing profession and specifically registered nurses.

Mr Badruddin invited the panel to find that his fitness to practise is impaired on both public protection and public interest grounds.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included *Johnson and Maggs vs NMC [2013] EWHC 2140 Admin* and *Grant [2011]*.

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

Decision and reasons on misconduct

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

The panel was of the view that Mr Khek's actions did fall significantly short of the standards expected of a registered nurse, and that his actions amounted to a breach of the Code, namely the one relevant at the time of the incidents in 2003 to 2004.

Specifically:

1.2 As a registered nurse, midwife or specialist community public health nurse, you must:

- protect and support the health of individual patients and clients
- ...
- act in such a way that justifies the trust and confidence the public have in you
- uphold and enhance the good reputation of the professions.

1.4 You have a duty of care to your patients and clients, who are entitled to receive safe and competent care.

2. As a registered nurse, midwife or specialist community public health nurse, you must respect the patient or client as an individual

2.2 You are personally accountable for ensuring that you promote and protect the interests and dignity of patients and clients, irrespective of gender, age, race, ability, sexuality, economic status, lifestyle, culture and religious or political beliefs.

2.3 You must, at all times, maintain appropriate professional boundaries in the relationships you have with patients and clients. You must ensure that all aspects of the relationship focus exclusively upon the needs of the patient or client.

7. As a registered nurse, midwife or specialist community public health nurse, you must be trustworthy

7.1 You must behave in a way that upholds the reputation of the professions. Behaviour that compromises this reputation may call your registration into question even if is not directly connected to your professional practice.

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct or impairment. However, the panel was of the view that the charges found proved in this case did fall seriously short of the conduct and standards expected of a nurse. The charges found proved would be seen as deplorable by anyone, including nurses, and were sufficiently serious to amount to misconduct.

It had regard to its reasons at the fact-finding stage in considering whether Mr Khek's actions were sexually motivated in that he sought sexual gratification from such contact:

“...The panel considered that there was no good reason for Mr Khek, as the Ward Manager, to be having so many one to one meetings with Patient A. It was of the

view that the role of the Ward Manager was to have an overview of what is happening on the ward, what is happening with each patient and managing staff. It noted that Mr Khek should not have got so deeply involved with the patient unless he had an ulterior motive....”

The panel considered that this was a serious failing. It noted that Mr Khek was in a senior position and there was a significant abuse of trust. Additionally, this was a breach of trust of a very vulnerable individual. Patient A was a minor aged 15 to 16 years old who suffered from a mental health condition. In the panel’s view Mr Khek’s behaviour was unacceptable and should not have happened.

The panel found that Mr Khek repeatedly breached professional boundaries over a prolonged period of time, his actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

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

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

In paragraph 76 of *Grant [2011]*, Mrs Justice Cox referred to Dame Janet Smith’s “test” which reads as follows:

‘Do our findings of fact in respect of the doctor’s misconduct, deficient professional performance, adverse health, conviction, caution or

determination show that his/her fitness to practise is impaired in the sense that s/he:

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

The panel finds that limbs a, b and c are engaged in this case. The panel was of the view that Mr Khek acted in a way that fell significantly short of the expected standard of a nurse. Patient A was a vulnerable patient in a mental health ward. Mr Khek abused his senior position and subjected Patient A to unwarranted harm including mental and emotional abuse giving rise to harm. The panel was in no doubt that Mr Khek's conduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel then turned to the issue of whether Mr Khek was liable to repeat those failings in future. The panel had regard to the case of *Cohen v General Medical Council [2008] EWHC 581 (Admin)*, which was endorsed in the case of *Grant [2011]*, and considered whether the concerns identified in Mr Khek's are capable of remediation, whether they have been remedied, and whether there is a risk of repetition of similar concerns occurring at some point in the future. The panel noted that evidence of the particular misconduct and the evidence of insight, remorse or remediation are key to that exercise.

The panel also took account of all the documentary evidence before it and noted that there was an absence of evidence, in this case, of insight, remorse or remediation.

The panel bore in mind that it only had Mr Khek's limited response to the NMC charges and a summary of his police interview. It noted that Mr Khek had not acknowledged the charges, has not addressed or recognised the impact his behaviour had on Patient A and was consistent in his denial of what had occurred. He had shown no insight into his actions and offered little explanation into the concerns raised.

In relation to remorse the panel noted that Mr Khek did not express regret for his actions. Instead, it noted that he did not appear to recognise that his actions were inappropriate stating that Patient A had fantasised the incidents took place which the panel has not accepted.

Taking into account that evidence and the nature of the proven charges in this case, the panel was of the view that it would be difficult for Mr Khek to demonstrate remediation. However, in the absence of evidence of insight or remorse, there was no evidence that the concerns had been remedied. The panel noted that it had no evidence before it of any action taken by Mr Khek to acknowledge, address or remedy his behaviour.

The panel noted that Mr Khek has stated that he had retired from the nursing profession. However, there was nothing at the present time to prevent him from returning to a nursing role in the future. In the absence of evidence of remorse, insight and remediation, in the panel's judgment, the risk of repetition is significant. This potentially puts patients at risk of unwarranted physical, emotional and psychological harm. Additionally, there would be a risk of further damage to the reputation of the profession and further breaches of fundamental tenets of the profession.

The panel bore in mind that Mr Khek's abuse of a vulnerable patient in a mental health ward was not an isolated incident and continued for a prolonged period of 10 to 11

months. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

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

The panel was satisfied that having regard to the nature of the misconduct in this case, bearing in mind the vulnerability of the patient and the duration of the misconduct, "the need to uphold proper professional standards and public confidence in the profession would be undermined" if a finding of current impairment were not made. It was of the view that a reasonable, informed member of the public would be very concerned if Mr Khek's fitness to practise were not found to be impaired or if he were to be permitted to practise as a registered nurse in future without some form of restriction.

For all the above reasons the panel concluded that Mr Khek's fitness to practise is currently impaired by reason of misconduct on both public protection and public interest grounds.

Sanction

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

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

Submissions on sanction

Mr Badruddin informed the panel that in the Notice of Hearing, dated 1 April 2021, the NMC had advised Mr Khek that it would seek the imposition of a striking off order if it found Mr Khek's fitness to practise currently impaired.

Mr Badruddin took the panel through the aggravating and mitigating factors he considered to be engaged in this case.

Mr Badruddin submitted that taking no action would not be appropriate as there are public protection and public interest concerns which need to be addressed. He also submitted that the misconduct in this case is not at the lower end of the spectrum so therefore a caution order would not be an appropriate sanction.

Mr Badruddin submitted that a conditions of practice order would not be appropriate. He submitted that Mr Khek's clinical ability has not been raised as an issue. Therefore, there are no workable, measurable or appropriate conditions which could be put into place to address the concerns raised.

Mr Badruddin submitted that a suspension order would not be appropriate. He submitted that the NMC's position is that the seriousness of the regulatory concerns does warrant a removal from the register. However, he submitted that in light of the risk of repetition and

lack of insight which has been identified in this case, a suspension would not adequately address the concerns raised.

Mr Badruddin invited the panel to impose a striking off order. This is because there are fundamental concerns surrounding Mr Khek's professionalism and trust and ultimately his actions are incompatible with continued registration.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Sexual abuse of a vulnerable child patient on an adolescent mental health unit;
- The misconduct is directly linked to the Mr Khek's clinical practice as he used numerous one to one sessions to engage in sexual activity with Patient A;
- A pattern of misconduct across 10 to 11 months;
- Mr Khek caused Patient A long term harm to her physical, emotional and mental health;
- There was a breach of trust when he was in a senior position;
- Attitudinal and behavioural concerns were linked to his lack of integrity;
- A lack of insight, remorse and remediation into the regulatory concerns.

The panel also took into account the following mitigating features:

- Limited engagement with the NMC.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case and would not address the concerns identified. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

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

The panel next considered whether placing conditions of practice on Mr Khek's registration would be a sufficient and appropriate response. 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. The panel took into account the SG, which states that a conditions of practice order may be appropriate where:

- *identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining*
- *patients will not be put in danger either directly or indirectly as a result of the conditions*
- *the conditions will protect patients during the period they are in force*
- *conditions can be created that can be monitored and assessed.*

The panel bore in mind the misconduct is not clinical and is linked to deep seated attitudinal and behavioural problems. Furthermore, the panel concluded that the placing of

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

The panel then went on to consider whether a suspension order would be an appropriate sanction. The 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 not satisfied that these factors apply to Mr Khek except that the panel has no evidence of repetition since the lengthy period of misconduct. The panel considered that his actions were a significant departure from the standards expected of a registered nurse.

The panel also took account of the NMC guidance for "Considering sanctions for serious cases", specifically the section titled "Cases involving sexual misconduct" It stated:

"...The level of risk to patients will be an important factor, but the panel should also consider that generally, sexual misconduct will be likely to seriously undermine public trust in nurses, midwives and nursing associates..."

"...They will very often find that in cases of this kind, the only proportionate sanction will be to remove the nurse, midwife or nursing associate from the register. ..."

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel had regard to its reasons at the

impairment stage. The panel considered that the misconduct in this case would be very difficult to remediate. As a result, there would be a risk of Mr Khek returning to clinical practice and repeating the behaviour.

The panel considered that the very serious breach of the fundamental tenets of the profession evidenced by Mr Khek's misconduct is fundamentally incompatible with him remaining on the register. In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

Mr Khek's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with him remaining on the register. It also bore in mind that the aggravating features identified were strong and the mitigating features identified were hardly present. The panel was of the view that the findings in this particular case demonstrate that Mr Khek's actions were serious and to allow him to continue practising would not protect the public and would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Mr Khek's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse

should conduct himself, the panel has concluded that nothing short of this would be sufficient in this case.

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

This will be confirmed to Mr Khek in writing.

Interim order

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

Submissions on interim order

The panel took account of the submissions made by Mr Badruddin. He submitted that interim order should be made in order to allow for the possibility of an appeal to be made and determined. He submitted that an interim suspension order for a period of 18 months should be made on the grounds that it is necessary for the protection of the public and is otherwise in the public interest.

The panel accepted the advice of the legal assessor.

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months.

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

That concludes this determination.