Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Tuesday, 5 August 2025- Friday, 15 August 2025

Virtual Hearing

Name of Registrant:	**Aidan Wemyss Hindley**
NMC PIN:	82I0800E
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing (Level 1) – November 1984
Relevant Location:	Leeds
Type of case:	Misconduct
Panel members:	Rachel Forster (Chair, lay member) Deborah Bennion (Registrant member) Vanessa Rolfe (Lay member)
Legal Assessor:	Nigel Ingram
Hearings Coordinator:	Eidvile Banionyte
Nursing and Midwifery Council:	Represented by Stephen Earnshaw, Case Presenter
Mr Hindley:	Not present but represented by Jennifer McPhee of Anderson Strathern Solicitors, who was not present at the hearing
Facts proved by way of admission:	Charges 2a, 4a, 6a, 6c(i) and 8
Facts proved:	Charges 1a, 1b, 1c, 2b, 2c, 3, 4b, 5, 6b, 6c(ii), 7 and 9
Fitness to practise:	Impaired
Sanction:	**Striking-off order**

Interim order: **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 Hindley was not in attendance and that the Notice of Hearing letter had been sent to Mr Hindley's registered email address by secure email on 3 July 2025.

Further, the panel noted that the Notice of Hearing was also sent to Mr Hindley's representative at Anderson Strathern solicitors on 3 July 2025.

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

The panel accepted the advice of the legal assessor.

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

In the light of all of the information available, the panel was satisfied that Mr Hindley 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 Hindley

The panel next considered whether it should proceed in the absence of Mr Hindley. It had regard to Rule 21 and heard the submissions of Mr Earnshaw who invited the panel to continue in the absence of Mr Hindley. He submitted that Mr Hindley had voluntarily absented himself.

Mr Earnshaw referred the panel to the documentation from Mr Hindley representative's which included an email sent to the NMC on 5th August 2025, stating:

> *"Please note that application to procced in the absence of the registrant will have to be made. The registrant is fully aware that the hearing is proceeding today and is unable to attend due* [PRIVATE]*. The registrant wishes for the hearing to proceed in his absence and even if the hearing were to be adjourned, he would still not be able to participate.*
>
> *We are therefore tending papers to represent the registrant has much as possible and would therefore ask the panel to allow time between the hand down of the various stages to allow for anymore tending of documents in light of any determination."*

Mr Earnshaw submitted that there are a number of witnesses warned to attend the hearing, and any further delay would cause inconvenience to them. He further submitted that it is clear from the correspondence above that Mr Hindley and his representatives are aware of the hearing and that neither him nor his representatives would be attending. Mr Earnshaw added that it was also stated in the same email that an adjournment would not result in Mr Hindley attending the hearing and therefore he invited the panel to proceed in the absence of Mr Hindley.

The panel was told at the beginning of the hearing that Mr Earnshaw had been given the opportunity to speak to Mr Hindley's legal representative who confirmed that neither they nor Mr Hindley would be attending the hearing but that they would be sending additional written representations at various stages of the hearing.

The panel accepted the advice of the legal assessor who referred the panel to the cases of *General Medical Council v Adeogba* [2016] EWCA Civ 162 and *R* v *Jones (Anthony William)*(No.2) [2002] UKHL 5.

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).*

The panel has decided to proceed in the absence of Mr Hindley. In reaching this decision, the panel has considered the submissions of Mr Earnshaw, the written representations made on Mr Hindley's behalf, 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* and has 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 Hindley;
- Mr Hindley, through his representative, has informed the NMC that he has received the Notice of Hearing and is content for the hearing to proceed in his absence;
- There is no reason to suppose that adjourning this hearing would secure his attendance at some future date;
- A number of witnesses are due to attend to give live evidence at this hearing;
- 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 Hindley in proceeding in his absence. Although the evidence upon which the NMC relies will have been sent to him at his registered address, Mr Hindley 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 as well as Mr Earnshaw asking questions of his witnesses in relation to Mr Hindley's defence, the panel can, of its own volition, explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Mr Hindley's decision to absent himself from the hearing, waive his rights to attend, and/or be represented, and not to provide evidence or make submissions on his own behalf.

At the various stages of the hearing, the panel will hand down its determinations in order to give Mr Hindley an opportunity to make further written representations.

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

Details of charge

That you, a registered nurse:

1. In relation to Colleague A:

    a. On or around 15 December 2022, jabbed your fingers into either side of their ribs

    b. On or around 15 December 2022, tapped Colleague A's buttock

    c. On or around 15 August 2022, touched and/or stroked Colleague A's tattoo located on her arm

2. In relation to Colleague B on one or more occasions on dates unknown between February 2022 to April 2023:

    a. Jabbed your fingers into their ribs

    b. Stroked their back

    c. Pulled their hair

3. On dates unknown, on one or more occasion, with reference to your wallet design, said '*I'm just going to get my balls out*' and/or '*look at my balls'* or words to that effect

4. In relation to Colleague C, on one or more occasion on dates unknown, displayed inappropriate behaviour in that you:

    a. Grabbed and/or touched their waist

    b. Kissed them on the lips

5. Your conduct at any or all of charges 1- 4 breached professional boundaries.

6. Your conduct at charge 1 and/or 2 and/or 3 harassed Colleague A and/or B in that it:

    a. Was unwanted;

    b. Related to Colleague A and/or B's sex;

    c. Had the purpose or effect of:

        i. Violating Colleague A and/or B's dignity;

        ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague A and/or B

7. Your conduct at charge 1(b) and/or charge 4(b) was in sexual in nature.

8. On one or more occasion, said '*she's black, that's her work ethic',* or words to that effect about a colleague.

9. Your comment at charge 8 above was racially motivated.

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

Background

On 16 January 2023, Colleague A raised a Notification of Formal Grievance against Mr Hindley. The grievance highlighted two alleged incidents which occurred on 15 December

2022 at the mortuary at St James's University Hospital (SJUH) ('the Mortuary') which is part of Leeds Teaching Hospitals Trust ('the Trust'). Mr Hindley was a registered nurse in the Trust but was assisting in the role as a Mortuary Technician in the Mortuary on some days of the week due to a shortage of staff. Mr Hindley stated that this was an unfamiliar environment for him which he found to be a very relaxed atmosphere with "*different interactions with staff*".

Colleague A alleged that Mr Hindley approached her from behind and jabbed his fingers into either side of her rib cage. Colleague A further alleged that Mr Hindley tapped her buttock.

Throughout the grievance process, Colleague A highlighted other instances of inappropriate behaviour exhibited by Mr Hindley, most notably, physical touching of members of staff and inappropriate comments. Colleague A also highlighted other members of staff who had witnessed Mr Hindley's alleged inappropriate behaviour. During the NMC investigation, those individuals were approached, and some gave evidence supporting that they too had witnesses such behaviour from Mr Hindley. Concerns were also raised during the NMC investigation about inappropriate comments made by Mr Hindley.

Decision and reasons on facts

At the outset of the hearing, the panel had written submissions from Mr Hindley's representative, who did not attend, but was updated by the panel throughout the hearing. She informed the panel by email that Mr Hindley made full admissions to charges 2a, 4a, 6a, 6c(i) and 8.

The panel noted that some of the admissions made were contradicted by earlier denials or comments and so were equivocal. In the interest of fairness to Mr Hindley, the panel did not accept those admissions but decided to make a determination on those facts once it

had heard all the evidence and submissions from the parties. This related to charges 1a, 2b and 2c.

The panel therefore finds charges 2a, 4a, 6a, 6c(i) and 8 proved in their entirety, by way of Mr Hindley's admissions.

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 Earnshaw and by Mr Hindley's representatives.

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

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: Band 3 Mortuary Support Worker employed at the Trust at the time of the allegations

- Colleague B: Trainee Anatomical Pathology Technologist employed at the Trust at the time of the allegations

- Witness 1: Volunteer Band 2 Biomedical Support Worker employed at the Trust at the time of the allegations

- Witness 2: Trainee Anatomical Pathology Technologist employed at the Trust at the time of the allegations

- Witness 3: Service Lead for Blood Sciences at the Trust

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 Hindley's representatives.

The panel noted that Mr Hindley was drafted in to support the Mortuary within a very busy time when there were a lot of protocols changing as a consequence of the Covid-19 pandemic. Mr Hindley had access to both the mortuary sites at the Trust and would often come to the Mortuary on days when he was not rostered to work.

The panel also heard that there was a very small tearoom where staff would take their breaks. Witness 1 described it as the *"size of a cupboard with space for three people"*. Witness 1 stated that there was a distinct culture between the people who had worked there for many years and those who had recently joined. He described it as *"old school/new school"*.

Colleagues A and B said that there was a *"young and old"* divide, and culture where older members of staff were not concerned by the extremely informal and tactile way of behaving at work. The newer members of staff described feeling very uncomfortable with this culture.

Mr Hindley described this culture at the Mortuary as "*a family environment*".

The panel heard evidence that line managers in the Mortuary appeared not to discourage this culture and behaviour and were active participants. For example, the panel heard that there was physical touch between some staff, squeezing, cuddling, kissing, foot rubs in the small tearoom, and flirting between some senior staff members.

The panel noted that Colleagues A and B and Witnesses 1 and 2 were all in junior positions to Mr Hindley and they were seeking to progress in their careers.

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

The panel first considered Charge 1c as this was first in chronological order.

Charge 1c

> "That you, a registered nurse, in relation to Colleague A, on or around 15 August 2022, touched and/or stroked Colleague A's tattoo located on her arm"

This charge is found proved.

In reaching this decision, the panel took into account Mr Hindley's evidence and the evidence of Colleague A.

Colleague A stated: "*I mentioned an incident where Aidan touched and made a comment about the tattoo on my arm. It happened on 15 August 2022 at SJUH. I know this because I sent a text message to my boyfriend about the incident on the day it happened. I also sent a text message to my mum on 16 August 2022 and referenced the incident… Aidan touched the top of the back of my left arm where my tattoo begins and stroked down towards my elbow where it ends. I think he said something like, "That's a nice tattoo….. I do not think anyone else was around...He did not ask to touch me; he just came up behind*

me as I was walking into the changing room and started stroking my arm then made the comment. I did not say anything to him at the time. I remember feeling really uncomfortable, but it was really difficult to call it out as he had said something nice. I just kind of froze, it is really not nice having someone's hand touching your skin when you do not want them to touch you."

Colleague A was consistent in her oral evidence to the panel. She said that she was shocked about Mr Hindley's behaviour.

Mr Hindley denied this charge and stated: "*Regarding the tattoo, I would not touch or 'stroke' a tattoo on somebody but would comment verbally if I liked the design. I have tattoos myself and appreciate artistry".*

The panel preferred Colleague A's evidence in this regard in that it was detailed, consistent and the account of contacting her boyfriend and mother after the event supported the fact that Colleague A found this behaviour "*shocking*". The panel took account of the fact that Mr Hindley had accepted that he had noticed the tattoo and had commented on it but rejected his account that he had not touched it.

Therefore, the panel found this charge proved on a balance of probabilities.

Charge 1a

> "That you, a registered nurse, in relation to Colleague A, on or around 15 December 2022, jabbed your fingers into either side of their ribs.

This charge is found proved.

In reaching this decision, the panel took into account Mr Hindley's evidence and the evidence of Colleague A.

Colleague A demonstrated to the panel with her hands the way in which Mr Hindley had touched her. She held both hands out with open fingers and showed them grabbing both sides of her upper ribs. Colleague A was very clear that it was not a tickle and that she would not describe it as a tickle. She said that it made her feel "*uncomfortable"*.

The panel also had regard to Colleague A's witness statement: "*I was in the Mortuary office facing the desk with my back to the door. The office is tiny and you usually stand at the desk …so you are right by the door. Aidan came up behind me and jabbed his fingers into either side of my ribs which startled me and made me jump. He jabbed me high on my ribs, not as high as my armpits but just below where my breasts are. I would not describe Aidan's touch as a tickle, it was rough. … it was the force that made me jump. ….. Aidan did not say anything to me before jabbing me in the ribs and I did not know that he was in the room before he did this, he just snuck up behind me without saying anything. I felt a rush of intense panic. I was* [PRIVATE] *that day due to my interview.. I do not remember saying anything to Aidan. I may have yelped."*

The panel also noted Mr Hindley's evidence at the Formal Investigation meeting in which he confirmed: *"I went into the office where Colleague A worked. She was by the desk, and I approached from behind. I could tell she was* [PRIVATE] *about the interviews. I attempted to reduce her* [PRIVATE] *by 'tickling' her ribs on both sides. She jumped."*

The panel determined that this fitted with Colleague A's description about the background to this incident.

While Mr Hindley accepted poking Colleague A in the ribs at waist level, he denied that it was a jab and described it as a "*tickle*".

The panel further noted, that having decided that Mr Hindley had stroked Colleague A's arm on 15 August 2022, it considered that this was an indication of behaviour towards Colleague A, which made it more likely that on 15 December 2022 he had also jabbed her ribs.

The panel, on a balance of probabilities, preferred the evidence of Colleague A that this was not a tickle but was a jab in the ribs. The panel therefore found this charge proved.

Charge 1b

> "That you, a registered nurse, in relation to Colleague A, on or around 15 December 2022, tapped Colleague A's buttock

This charge is found proved

In reaching this decision, the panel took into account Mr Hindley's evidence and the evidence of Colleague A.

Colleague A confirmed that she was leaving the Mortuary through the main door to go to the canteen. Mr Hindley walked with her and as she pressed the button to buzz out of the door, he told her to go and get some lunch. She said *"As I walked through the door, he patted the top of my right buttock. I am pretty sure he used his left hand and it felt like he had used an open palm. I am 100 percent certain that it was my buttock that Aidan tapped. I remember it very clearly. He was on my right, very pushed up against the wall and his face was very rigid staring down at me…. It happened so fast; he tapped my buttock and then I was out the door. I was so shocked I did not say anything to him… I remember ..thinking to myself "did he just do that?" I walked to the canteen and saw Quality Manager ... I* [PRIVATE] *when I saw* [them]*… I was shocked, angry and violated"*.

Mr Hindley denied this charge saying: *"I have never touched her on her buttock or other part of her body except as stated once on her ribs. This is something I would never do or have ever done either at work or outside"*.

Mr Hindley has asserted that no complaint was made by Colleague A at the time of the incident. However, the panel heard from Colleague A that she was aware that other people had made complaints against him and that nothing had been done about it. She said that Mr Hindley's manager was defensive of him. Colleague A told the panel that she felt powerless to speak up and that when she did, she was not listened to. Thereafter, the panel noted that Colleague A spoke to her Union and Freedom to Speak guardian on 23 December 2022, just a few days after the incident.

With regards to the written submission from Mr Hindley's representative that there was no corroborative evidence in this regard, the panel noted that there were no other witnesses to this event. It happened by the door out of the Mortuary on the way to the canteen when only Mr Hindley and Colleague A were present. There were no other witnesses present.

The panel found Colleague A's description of what happened to be credible and consistent and again, taking account of the fact that the panel has found the earlier charges of Mr Hindley touching Colleague A proved, it found on this charge, it was more likely than not that he had touched Colleague A's buttock.

On a balance of probabilities, the panel found this charge proved.

Charge 2b

> "That you, a registered nurse, in relation to Colleague B on one or more occasions on dates unknown between February 2022 to April 2023, stroked their back"

This charge is found proved.

In reaching this decision, the panel took into account Mr Hindley's evidence and the evidence of Colleague B as well as its earlier findings.

Colleague B stated that: "*Aidan has run his fingers up and down my spine on one or two occasions"* and *"He did not ask my permission to stroke my back. I did not verbally tell him to stop, but my body language was not welcoming of it. I think on one occasion, I visibly shuddered and recoiled away. I do not think I said anything to Aidan after he did this. It made me feel uncomfortable, kind of like he felt I was his property"*.

The panel also heard from Colleague A that Colleague B was not a confrontational person which the panel found to corroborate Colleague B's explanation as to why they did not say anything to Mr Hindley at the time.

The panel noted that Colleague B was consistent in their oral evidence at the hearing and stated that this made them feel "*very uncomfortable and unsafe"* and that there was *"no respect for me as a person"*.

The panel noted that Mr Hindley denied ever stroking Colleague B's back in his written evidence.

The panel preferred the evidence of Colleague B, as well as its determination in respect of the earlier charges, in this regard and on a balance of probabilities found this charge proved.

Charge 2c

> "That you, a registered nurse, in relation to Colleague B on one or more occasions on dates unknown between February 2022 to April 2023, pulled their hair"

This charge is found proved.

In reaching this decision, the panel took into account Mr Hindley's evidence and the evidence of Colleague B.

Colleague B stated: *"Aidan used to pull my hair a lot… He would not say anything to me before doing this, it was just a general greeting. If I had my hair in a ponytail, as he was approaching me from behind, he would give it a yank. It was quite a yank and was a bit painful, but the pain did not last. It made me feel uncomfortable and like I was a toy for him to mess with, like he did not have any respect for me at all"*.

In their oral evidence, Colleague B stated that this behaviour from Mr Hindley was unwanted and that it made them feel uncomfortable.

The panel noted that Mr Hindley denied pulling Colleague B's hair in his written evidence.

The panel noted that Colleague B remained consistent in their written and oral evidence and preferred it over Mr Hindley's evidence. On a balance of probabilities, the panel found this charge proved.

Charge 3

> "That you, a registered nurse, on dates unknown, on one or more occasion, with reference to your wallet design, said 'I'm just going to get my balls out' and/or 'look at my balls' or words to that effect."

This charge is found proved.

The panel heard live evidence from a number of witnesses who all confirmed that they were aware of this kangaroo scrotum pouch and confirmed that the comments in the

charge are the sort of comments that Mr Hindley would have said and are consistent with the panel's earlier findings.

Colleague B stated that *"…he did every now and then make jokes about testicles in relation to it"* and *"His comments made me feel uncomfortable, it was just a bit creepy"*.

Colleague A stated: *"Aidan would sit on the sofa in the tearoom and spread his legs wide. He has a wallet which is a kangaroo scrotum, and he would say, 'I'm just going to get my balls out' and then he'd take the wallet out. It made me feel horrible. It is really grotesque and makes my skin crawl. It is not funny; it is really creepy."*

Witness 2 stated: *"Aidan had a souvenir that was a pouch of kangaroo testicles. When in the tearoom at SJUH, he would get it out and jingle it saying something along the lines of, "Look at my balls". I think it was one of his jokes. I cannot recall any dates when he did this. He did it on one occasion and maybe more. Colleague B and* Witness 1 *were present when he made the comment as I remember us discussing it."*

Witness 1, in his statement stated: *"Aidan had a wallet which was a set of kangaroo testicles that he would keep his change in."*

The panel considered Mr Hindley's evidence in his statement prepared for this hearing in which he stated: *"I was asked about my unusual coin purse and said it was a present from a friend was made from a Kangaroos scrotum, his* (sic) *has been a joke among the regular Mortuary staff for years. I do not recall making the comment that I am alleged to have made. It is not something I would do"*.

The panel noted that all the witnesses had referred to Mr Hindley's pouch and two of the witnesses (Colleague A and Witness 2) could recall the specific comments in the charge that he made about it.

The panel, on a balance of probabilities, found this charge proved.

Charge 4b

> "That you, a registered nurse, in relation to Colleague C, on one or more occasion on dates unknown, displayed inappropriate behaviour in that you kissed them on the lips"

This charge is found proved.

Colleague A confirmed that she had witnessed Mr Hindley kiss Colleague C on the lips. She said "*I remember being in the tearoom when Colleague C was at the door and Aidan came in, grabbed her by the waist or hips, then kissed her on the lips. Colleague C did not seem uncomfortable, it seemed welcome, like it was not a big deal. I was shocked and it made me feel uncomfortable. I think it made me question whether I had seen it properly*."

The panel also had regard to Colleague A's oral evidence in which she confirmed that she noticed Mr Hindley's body language early on in her time at the Mortuary together with the culture of the environment at work in general. She realised that she did not want to be around Mr Hindley.

The panel noted that other colleagues all talked about inappropriate and overly familiar touching by some colleagues which made them feel "*creeped out*", "*awkward"* and "*uncomfortable*." Witness 1 said that he would sit in his car to take a break or eat lunch rather than go to the tearoom as he felt so uncomfortable.

The panel also heard evidence that there were instances when people were asking for foot rubs in tearoom area. Colleague A confirmed in her evidence that there were a lot of blurred boundaries at work.

Mr Hindley denied this allegation. He said: *"We have always had a tactile relationship which has included kissing each other on the cheeks as a greeting but never on the lips, we are both* [PRIVATE] *and this would not be appropriate even in a social setting."*

The panel, taking into account its findings regarding the culture and the environment at work, as well as the evidence regarding this charge, on a balance of probabilities, found this charge proved.

Charge 5

> "That your conduct at any or all of charges 1- 4 breached professional boundaries."

This charge is found proved.

In considering this charge, the panel reminded itself of the NMC Code of Conduct (The Code), and particularly article 20 (Uphold the reputation of your profession at all times).

The panel determined that touching colleagues inappropriately from behind, touching their buttock, tattoo, jabbing fingers into their ribs, stroking their back and pulling their hair were all physical contact at work which was unwanted and breached professional boundaries.

With regard to kissing Colleague C on the lips, although the panel heard that this may have been consensual, it determined that such behaviour was inappropriate in a work setting and breached professional boundaries.

With regards to Charge 3, the panel determined that making of such inappropriate comments at work also breached professional boundaries.

The panel found this charge proved.

Charge 6b

> "That your conduct at charge 1 and/or 2 and/or 3 harassed Colleague A and/or B in that it: Related to Colleague A and/or B's sex."

This charge is found proved.

The panel noted the written submission of Mr Hindley's representative that there was no cogent evidence in relation to this charge. However, the panel also noted that the conduct in these charges was related exclusively to female staff and determined that this was confirmation in itself that Mr Hindley's conduct related to Colleague A and/or B's sex.

The panel noted Witness 1's evidence in which he confirmed that Mr Hindley never grabbed male colleagues, only women. The panel also noted Witness 2's evidence in which she confirmed that his physical conduct was directed toward female staff members only.

Witness 1 confirmed that his physical conduct was directed toward female staff members only. Further, many of the charges related to inappropriate touching female colleagues.

The panel, on a balance of probabilities, found this charge proved.

Charge 6c(ii)

> "That your conduct at charge 1 and/or 2 and/or 3 harassed Colleague A and/or B in that it: Had the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague A and/or B."

This charge is found proved.

The panel had regard to Colleague B's evidence in which they confirmed that they felt uncomfortable and unsafe. They said that they felt like Mr Hindley had power over them, spoke about feeling shocked and uncomfortable, wanting to leave the room and to not engage.

The panel also had regard to Colleague A's evidence in which she stated that she felt shocked, angry and violated.

The panel heard further evidence from witnesses not wanting to work on the same shift as Mr Hindley.

The panel also had regard to Mr Hindley's reflective statement prepared for this hearing: *"I realise now as part of my reflection, that while what I saw as humorous or light hearted behaviour did cause significant distress, particularly within the workplace environment where professional boundaries and power dynamics are present and must be maintained at all times as they are on a ward or other health care area."*

"I acknowledge I would have inadvertently created an atmosphere which could have had other repercussions in that the junior staff would have been deterred from bringing any issues or problems to my attention or being comfortable with asking my questions which as new starters in such an area would have been detrimental to them and have possibly more serious repercussions."

Mr Hindley said in his reflection that he was operating in what he determined to be a family atmosphere, amongst people some of whom he had known for a long time. Furthermore, he said that he was not practising clinically in that setting. However, the panel could not accept that Mr Hindley, as a senior and experienced registered nurse, would not have noticed the impact of his behaviour, particularly on his junior colleagues.

However, the panel determined both in light of Mr Hindley's reflection and the evidence of the witnesses and his unwanted behaviour over an extended period of time involving

multiple colleagues could only be explained by Mr Hindley deliberately creating an atmosphere of an intimidating, hostile, degrading, humiliating or offensive environment for Colleague A and/or B. The panel found that some of Mr Hindley's actions were deliberately designed to be provocative while others appeared to have been intended to intimidate and exert power over junior colleagues.

The panel therefore found this charge proved in its entirety.

Charge 7

"That your conduct at charge 1(b) and/or charge 4(b) was in sexual in nature.

This charge is found proved.

The panel considered the charges separately.

With regards to Charge 1b, the panel determined that by virtue of Mr Hindley touching Colleague A's buttock when alone in the corridor, his conduct was sexual in nature. The panel heard that Colleague A was very upset following Mr Hindley's conduct and that she [PRIVATE] when she saw her manager. She stated that "*he slapped like he wanted to do it quickly"* and that "*he was pushed up against the wall*", did not have a lot of distance, that they were all alone in the corridor. Colleague A said: *"I felt surprised, I walked out the door and just stood still. I asked myself what had just happened? Did that really just happen? I was shocked, angry and violated."*

With regards to Charge 4b, the panel determined that objectively, this was sexual in nature. The panel took into account the context that Mr Hindley and Colleague C were old friends, who had known each other since school. However, notwithstanding this, the panel determined that kissing a colleague on the lips could only be interpreted as sexual in nature.

Mr Hindley denied that his conduct was sexual in nature.

The panel found this charged proved in its entirety.

Charge 9

"That your comment at charge 8 above was racially motivated.

This charge is found proved.

Witness 1 stated that he heard the comments twice – once in the tearoom, which was small like a cupboard and again in the fridge room. He said that he was not part of either conversation but as the room was so small and he was "shoulder to shoulder" with Mr Hindley, he could hear clearly what the conversation was about. He said it was a conversation about staff in charge not pulling their weight. He said that it was not a positive conversation celebrating the knowledge of black nurses but was more berating them. He said that he left the room after hearing what he described as an *"archaic opinion"* as he didn't know what to do and was so shocked that he immediately messaged his wife. He said that the conversation in the fridge room was a continuation of the same conversation but on a different day. He told the panel that there was *"no positive message"* and that the comments were a*" derogatory and racist stereotype".*

The panel was of the view that Witness 1 was very clear in his evidence and his response and explanation was credible. The panel found that Witness 1 had no motive to misrepresent what he heard and what had taken place.

Mr Hindley has admitted saying the words in question, however, denied that this was racially motived and says that his comments were taken out of context. Mr Hindley stated in his reflection: *"I agree with what I said but this has been reported out of context and was in no way a racial slur or comment."* He also said: *"I was discussing her as I had been asked about the new member of my team. My reply was that, "Yes she was black and*

from Africa. That her knowledge, skill and work ethic is typical of people from Africa in that she was very hard working, highly qualified, great with patients and a joy to work with, a statement I have repeated about her before when asked. She has a vast knowledge from working in Africa especially with community HIV/ AIDS sufferers...It is now 2 years since we worked together but we are still in touch and on good terms...I have several friends who are black and the claim I am a racist is deeply upsetting"."

The panel preferred the account of Witness 1, as opposed to the explanation given by Mr Hindley in his reflective statement. The panel took particular account of Witness 1's behaviour following this conversation, namely absenting himself from the room and contacting his wife. The panel could not accept Mr Hindley's explanation which was put to Witness 1 which he firmly rejected during the course of his evidence.

On a balance of probabilities, the panel therefore found this charge 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 Hindley's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

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

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the

circumstances, Mr Hindley's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council (No. 2)* [2000] 1 AC 311 which defines misconduct as a *'word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.'*

Mr Earnshaw invited the panel to take the view that the facts found proved amount to misconduct. He submitted that the charges are serious, two at Charge 8 and 9 particularly so. He submitted that Mr Hindley's misconduct is "serious professional misconduct" and would be "regarded as deplorable by fellow practitioners" and in fact was regarded that way by the witnesses who worked with him.

Mr Hindley accepted that his actions amounted to misconduct.

Submissions on impairment

Mr Earnshaw 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 uphold 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)*, Cheatle v General Medical Council* [2009] EWHC 645 (Admin) and *Cohen* v *General Medical Council* [2008] EWHC 581 (Admin).

Mr Earnshaw submitted:

"There is no statutory definition for impairment. The panel has to look forward and consider, in light of what has happened, whether the Registrant's current fitness to practice is impaired (Cheatle v General Medical Council [2009]. The panel is obliged to consider the Registrant's misconduct in light of all the relevant factors known to the panel and whether the conduct is 'easily remediable' (Cohen v General Medical Council [2008]). The Panel will also need to consider whether or not there is a risk of the Registrant behaving in a similar way in the future. You will be aware of the Registrant's previous work record and character. In making that assessment about future behaviour, the Panel may wish to consider any remorse/ insight, any training taken to remediate areas of professional deficiencies; and reflection on the harm to the nursing profession. Has there been any? It is more difficult where some of the charges were denied and proved. There is guidance on the NMC library in relation to sexual and racial discrimination neither of which is easy to remediate.

In the Fifth Shipman Inquiry Report 2004 (paragraph 25.50), Dame Janet Smith identified the appropriate test for health care regulators considering fitness to practice. A medical professional's fitness to practice will be impaired where he or she:

a) Presents a risk to patients;
b) Has brought the profession into disrepute;
c) Has breached one of the fundamental tenets of the profession;
d) Has acted in such a way that his integrity can no longer be relied upon.

You may take the view that b-d) have all been engaged. The charges admitted and proved cover those points. Bear in mind the NMC Code: 1: treat people with dignity; 4-act in the best interests of people at all times;; 20-uphold the reputation of the profession at all times. It is submitted that these charges go to the root of the reputation of the profession.

Mr Hindley's representative submitted the following in written submissions:

> *"The incidents in question occurred in a unique, non-patient-facing environment, namely the hospital mortuary. The panel heard, and witnesses confirmed, that the workplace culture was fragmented and dysfunctional, with no effective managerial oversight. While this does not excuse the misconduct, it is relevant context in assessing whether the same risk arises in Mr Hindley's current and future professional practice.*
>
> *This misconduct represents an isolated departure from an otherwise unblemished nursing career spanning many years. There is no history of similar allegations before or since this period, and the panel is entitled to view the behaviour as situational rather than indicative of ingrained attitudes."*

She referred the panel to Mr Hindley's updated written reflections and submitted that it evidences: *"Sincere and repeated apologies to affected colleagues, the wider profession, and the public…Identification of personal failings, contributing factors, and their impact…A comprehensive set of strategies to prevent recurrence, including structured communication techniques, sensitivity to non-verbal cues, awareness of power dynamics, and strict adherence to policies."* She also referred the panel to Mr Hindley's training certificates and learning.

With regards to Mr Hindley's current practice, his representative made the following written submissions:

> *"Since leaving the mortuary role, Mr Hindley has been employed in another professional healthcare setting without any concerns arising. His work is monitored and feedback has been consistently positive. This is compelling evidence that the behaviour found proved was linked to a particular environment and is not indicative of a continuing risk.*

The absence of repetition over a sustained period in a role requiring collaboration and interpersonal interaction supports the Cohen conclusion that the risk of recurrence is highly unlikely."

With regards to the risk of repetition, Mr Hindley's representative submitted the below in her written submissions:

"Easily remediable: Boundary breaches are capable of remediation through targeted training and reflective practice.
Remedied: Mr Hindley has demonstrated concrete, ongoing changes in behaviour.
Highly unlikely to be repeated: No repetition in subsequent employment; detailed preventative strategies in place.
In PSA v HCPC & Ghaffar [2014] EWHC 2723 (Admin), it was recognised that where misconduct has been addressed comprehensively, a finding of no current impairment is consistent with the regulatory objective.

The public interest is engaged in three respects: protection of the public, maintaining confidence in the profession, and declaring and upholding proper standards (Grant).
Protection of the public does not require a finding of impairment here because:
There is no ongoing risk to patients or colleagues.
Remediation is complete and credible.
There is evidence of safe and respectful practice in a new setting.
Confidence in the profession is maintained where the regulator recognises rehabilitation. In CHRE v NMC & Paula Grant, the court acknowledged that upholding standards includes acknowledging when a practitioner has genuinely learned from their failings.
Proper standards are upheld here by the fact of the finding of misconduct itself, combined with Mr Hindley's remediation and reflection."

Mr Hindley's representative invited the panel to find that Mr Hindley's practice is not currently impaired.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), *General Medical Council v Meadow* [2007] QB 462 (Admin) and *Spencer v GOC* [2012] EWHC 3147 Admin.

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 determined that Mr Hindley's actions did fall significantly short of the standards expected of a registered nurse, and that Mr Hindley's actions amounted to a breach of the Code. Specifically:

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

To achieve this, you must:

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

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

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

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

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

20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to

20.10 use all forms of spoken, written and digital communication (including social media and networking sites) responsibly, respecting the right to privacy of others at all times

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that touching female colleagues inappropriately, pulling their hair, kissing them and making inappropriate jokes in front of them were all significant actions that crossed professional boundaries and had a negative impact on those colleagues and on others who were present at the time. The panel determined that Mr Hindley's misconduct as per the charges, when taken both separately and cumulatively, amounted to serious professional misconduct.

With regards to the racially motivated comments in Charges 8 and 9, the panel determined that this was serious misconduct, which falls significantly below the standard expected of registered nurses and which fellow practitioners did in fact find to be deplorable.

Therefore, the panel found that all of Mr Hindley's actions fell 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 Hindley's fitness to practise is currently impaired.

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

'The question that will help decide whether a professional's fitness to practise is impaired is:
"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"

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

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

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

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

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

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

a) *has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*

b) *has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*

c) *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*

d) *…*

The panel had no evidence that patients were put at risk or were caused physical harm as a result of Mr Hindley's misconduct. Mr Hindley's misconduct did not relate to his clinical practice and was not directed towards his patients. However, his conduct had a clear impact on his colleagues and on the atmosphere and culture of the working environment in the Mortuary and caused distress, intimidation, humiliation and offense to colleagues with whom he came into contact.

The panel determined that Mr Hindley's misconduct had in the past breached fundamental tenets of the nursing profession and had brought its reputation into disrepute.

The panel then went on to consider whether Mr Hindley is likely to breach fundamental tenets of the nursing profession and to bring its reputation into disrepute in the future.

The panel determined that Mr Hindley has made some early admissions and has apologised many times for his behaviour in the reflections which were before the panel. The panel noted that Mr Hindley referred to him having had "*a wake up call*" and how he now acknowledges that "*what he saw as humorous or light hearted behaviour did cause significant distress*" and had other repercussions on junior staff and the work environment.

The panel also noted that Mr Hindley has subsequently accepted that his behaviour is "*inexcusable*" and that he realises that his actions "*have massive repercussions not just in nursing but in healthcare in general*." The panel noted that Mr Hindley says that he has learnt an important lesson and that he is "*upset, embarrassed about* [his] *conduct, how* [he

was] *perceived as well as the distress* [he] *caused to others*." The panel also noted that Mr Hindley has said that he is "*much more aware of not just my behaviour towards other people I come into contact with but also behaviour I witness between others. I feel I am much more aware generally but also specifically now about my all round behaviour*." Mr Hindley also explains that he realises how badly he behaved in the Mortuary towards staff and how he had let his professional standards drop. He says "*It was never my intention to cause any offence, upset, distress but I fully acknowledge that this is what I did.*"

However, the panel had regard to Mr Hindley's most recent reflective piece and was of the view that it appeared to be generic and was somewhat theoretical. Mr Hindley spoke about understanding how his actions had affected female colleagues and how he would act differently towards them in the future. However, the panel was not convinced that Mr Hindley had properly appreciated that his misconduct impacted not only the female colleagues with whom he had interacted inappropriately but also colleagues around him and the workplace environment that was created as a result of his behaviour. Mr Hindley referred often in this reflection to how he would treat and consider female colleagues differently going forward but the panel had heard from a male colleague who was so impacted by Mr Hindley's misconduct that he regularly sat in his car in his breaks rather than be in the same tearoom as Mr Hindley. This aspect is not addressed sufficiently in Mr Hindley's reflections.

With regards to his reflections on the racially motivated comments found proved, the panel was conscious that throughout, Mr Hindley has denied the allegation in respect of racially motivated comments. It was difficult therefore to determine what, if any, insight Mr Hindley has at this stage into what the panel has now found.

The panel determined that Mr Hindley's insight was currently insufficient to fully address the misconduct found proved.

With regard to the misconduct relating to Charges 1-7 (regarding inappropriate physical touching and comments), the panel was satisfied that this is capable of being addressed.

Therefore, the panel carefully considered the evidence before it in determining whether or not Mr Hindley has taken sufficient steps to strengthen his practice. The panel took into account all of the reflective pieces Mr Hindley has submitted for this hearing together with the training certificates and testimonials that he provided.

It is clear that Mr Hindley has undertaken many online courses to further his professional development since these events. The panel noted that Mr Hindley has also completed several courses, with some reflection, addressing equality, diversity and inclusion. However, the panel felt that most of these were standard certifications subject to annual CPD. The panel has not seen any evidence of any face-to-face learning or feedback from supervisors or assessors of the courses he attended to demonstrate how and if Mr Hindley has remediated this part of his misconduct.

Whilst not making any adverse findings from Mr Hindley's non-attendance at this hearing, the panel was limited by not being able to question Mr Hindley under oath to assess whether his reflections were properly embedded and genuine. Nor could it ask any questions of Mr Hindley in relation to his current work situation and his behaviour in a work environment since the incidents.

The panel acknowledges that Mr Hindley has had [PRIVATE] to deal with since the time of the incidents and has needed [PRIVATE]. However, despite submissions from his legal representative that he has been employed in another healthcare setting without any concerns arising since these events, and that his work had been monitored and positive feedback given, very limited objective evidence was provided to the panel regarding this. There were no testimonials from any person involved with Mr Hindley in whatever setting since April 2024 to demonstrate to the panel that Mr Hindley has embedded his learning and changed his behaviour and attitudes.

With regards to the racially motivated comments made by Mr Hindley, the panel was of the view that this misconduct is much more difficult to remediate as it is suggestive of an attitudinal issue. Mr Hindley stated that he is still on good terms with black colleagues with

whom he has worked, but, with the exception of one testimonial from a black British colleague of Jamaican descent who has worked with Mr Hindley in the past, the panel had no other independent evidence to assess how and if Mr Hindley has remediated or attempted to remediate this part of misconduct.

Therefore, the panel decided that there is a risk of repetition based on Mr Hindley's insufficient current insight and the lack of evidence to demonstrate that he has implemented and embedded the strategies he says that he has put in place to prevent any future repetition of his misconduct. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that a finding of impairment on public interest grounds is required in this case because public confidence in the profession would be seriously undermined if a finding of impairment were not made in this case. There were incidents of harassment of junior female colleagues over several months, a hostile and offensive workplace environment for other colleagues resulted and there was another incident of racially motivated and derogatory comments made publicly on two separate occasions in the workplace. The public expects nurses to treat everyone with dignity and respect regardless of their race or sex. The panel determined that a member of the public, knowing that such racially motivated comments were said by a nurse in the workplace, would expect a finding of impairment to be made. Therefore, the panel also finds Mr Hindley's fitness to practise impaired on the grounds of public interest.
Having regard to all of the above, the panel was satisfied that Mr Hindley's fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Mr Hindley off the register. The effect of this order is that the NMC register will show that Mr Hindley 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 Earnshaw submitted below in his written submissions:

> *"It is submitted that this is one of the more serious cases to come before a Panel. As it states: 'Some concerns that come before a panel are particularly serious and are likely to attract the most serious sanction. Concerns that someone has displayed discriminatory views and behaviours and/or engaged in sexual misconduct could have a particularly negative impact on public safety, public confidence or professional standards. The guide continues: Sexual misconduct is unwelcome behaviour of a sexual nature, or behaviour that can reasonably be interpreted as sexual, which degrades, harms, humiliates or intimidates another. It includes sexual harassment and will be regarded as extremely serious whether or not it occurs in the workplace.*
> *As far as discrimination is concerned, the guide comments: 'If a nurse, midwife or nursing associate denies the problem or fails to engage with the fitness to practise process, it's more likely that a significant sanction, such as removal from the register, will be necessary to maintain public trust and confidence.' The lack if insight is considered in the decision.*

San 1 considers the factors required to be considered with the overarching objective to be public protection staring with proportionality. There are aggravating features: a position of seniority amongst the staff; a pattern of misconduct over a period of time; lack of insight. There are mitigating factors and no doubt you will be addressed on those.

The NMC in its original view considered that only a striking off order was appropriate. The NMC guidance at SAN-3e sets out 3 key points for the panel to consider before imposing a striking off order• Do the regulatory concerns about the registrant raise fundamental questions about their professionalism? ; Can public confidence be maintained if the registrant 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?"

The panel also bore in mind the written submissions made on Mr Hindley's behalf by his legal representative:

"We respectfully submit that this is not a case where the sanction of strike-off is necessary, proportionate, or consistent with the regulatory objectives.
Instead, we submit that either:

- *A Conditions of Practice Order, tailored to address the panel's findings on insight and remediation, or*
- *A short period of suspension to mark the seriousness of the misconduct and allow further remediation, would adequately protect the public, maintain confidence in the profession, and uphold proper professional standards.*

Aggravating Factors (acknowledged)

- *Misconduct involved both sexual and racial elements.*
- *Conduct persisted over a period of months in a workplace environment.*

- *Impact on multiple colleagues, including distress, humiliation, and creation of a hostile environment.*
- *Limited insight into the full scope of impact, particularly on male colleagues.*

Mitigating Factors

- *Misconduct occurred in an isolated, dysfunctional mortuary environment with poor managerial oversight.*
- *No clinical concerns or risk to patients.*
- *No previous regulatory findings in a long nursing career.*
- *Early admissions to a number of the charges and acceptance of misconduct.*
- *Updated reflective statement showing remorse, apology, and identification of preventative strategies.*
- *Evidence (albeit limited) of safe practice in a subsequent healthcare setting without repetition of the behaviour.*
- [PRIVATE]

…

In my respectful submission the panel cannot simply arrive at the conclusion that because the registrant did not admit to the racially aggravated misconduct that he has no insight nor would having a willingness to do so. The registrant has whole heartedly accepted the findings of the panel which extend to these and understands wholeheartedly the unacceptability of the behaviour, implications and impact and that there has been no repeated misconduct.

The lack of additional information before this panel is squarely down to [PRIVATE]."

Mr Hindley's representative in her written submissions proposed a number of potential conditions of practice order. She further concluded:

"This is not a case of dishonesty, exploitation of patients, or repeated misconduct across multiple roles. The behaviour, while serious, arose in a specific, dysfunctional environment and has not been repeated in other healthcare settings. We respectfully submit that:

- *Strike-off would be disproportionate and unnecessary to protect the public.*
- *A Conditions of Practice Order would directly address the panel's identified concerns and provide safeguards.*
- *Alternatively, a short suspension would satisfy the public interest without permanently ending a career that is otherwise unblemished.*

We invite the panel to select the least restrictive sanction consistent with the statutory objective."

Decision and reasons on sanction

Having found Mr Hindley'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:

- Abuse of a position of trust by a senior registered nurse
- A pattern of misconduct over a period of time
- Conduct which impacted on multiple colleagues, including junior colleagues
- Limited insight into the full scope of the misconduct

The panel also took into account the following mitigating features:

- Some early admissions

- Some insight and apologies
- Some remediation

Before going to consider the sanction, the panel had regard to the NMC Guidance on Sanctions SAN-2 “Sanctions for particularly serious cases”.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mr Hindley’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 Hindley’s misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mr Hindley’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 is not something that can be addressed through conditions as it relates to both racial and sexual misconduct over an extended period of time impacting on numerous colleagues. Furthermore, the panel concluded that the placing of conditions on Mr Hindley’s registration would not adequately address the seriousness of this case, would not protect the public nor address public confidence in the profession and the regulator.

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:

- *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 nurse has insight and does not pose a significant risk of repeating the behaviour.*

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel was of the view that these were very serious charges of harassment and discrimination towards colleagues and relating to their protected characteristics, namely sex and race. The panel determined that this was not an isolated incident and that Mr Hindley demonstrated attitudinal behaviours including an element of powerplay towards junior colleagues, who were made to feel uncomfortable, disrespected, violated, treated like "*a toy for him to mess with"* and like they were "*his property".* Further, Mr Hindley actively participated in a culture which made other colleagues in the Mortuary, including male colleagues, also feel uncomfortable.

Although Mr Hindley has shown some insight, especially with regard to the way that he treated junior female staff, the panel had found that it was restricted in its assessment of how genuinely Mr Hindley had embedded the changes that he claims to have made, due to his limited engagement with the regulatory process. Therefore, the panel could not say that Mr Hindley has full insight and does not pose a significant risk of repeating the behaviour found proved.

Mr Hindley's making of racially motivated derogatory comments about another colleague is totally unacceptable in any context but especially so in a work environment by a senior registered nurse. Therefore, the panel found that the impact of the behaviour was not such that a suspension would sufficiently protect the public or address the public interest that

these issues engage. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mr Hindley's actions is fundamentally incompatible with Mr Hindley remaining on the register.

The panel determined that the allegations found proved in this case relate to a fundamental disrespect and disregard by Mr Hindley of colleagues on both a sexual and racial basis which had a far-reaching impact – on colleagues, on the culture of the Mortuary, on the work environment for other colleagues and on the confidence that the public has in the profession. As such they are individually and in totality incompatible with Mr Hindley remaining on the register.

Therefore, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction in this case.

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 Hindley's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with him remaining on the register. Mr Hindley's actions were serious with far-reaching impacts on colleagues and on public confidence. Therefore, the panel determined that to allow him to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the only appropriate and proportionate sanction is that

of a striking-off order. Having regard to the effect of Mr Hindley'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 a striking-off order would be sufficient in this case.

The panel decided that this is also necessary to uphold proper standards, to be clear about standards of behaviour expected of a registered nurse and to send a message to the public and the profession that racial and sexual harassment towards colleagues will not be tolerated.

This will be confirmed to Mr Hindley 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 Hindley's own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Submissions on interim order

The panel took account of the submissions made by Mr Earnshaw. He invited the panel to take into account the same factors it took into account in its determination for imposing the substantive order. Mr Earnshaw invited the panel to impose an interim suspension order for a period of 18 months to cover any appeal period.

Decision and reasons on interim order

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

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

The panel determined that not imposing an interim order would be inconsistent with its earlier findings.

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

That concludes this determination.