Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Monday, 7 April 2025 – Friday, 11 April 2025
Monday, 14 April 2025 - Thursday, 17 April 2025
Monday, 10 November 2025 – Friday, 14 November 2025
Monday, 17 November 2025 – Thursday, 20 November 2025

Nursing and Midwifery Council
2 Stratford Place, Montfichet Road, London, E20 1EJ (7 – 17 April 2025)

Virtual Hearing (10 - 20 November 2025)

Name of Registrant:	**Andrew Jonathan Davies**
NMC PIN:	83Y2152E
Part(s) of the register:	RN1: Registered Nurse, Adult – May 1986 P219: Orthopaedic Nurse – April 1988
Relevant Location:	Caerphilly
Type of case:	Misconduct
Panel members:	Rachel Onikosi (Chair, Lay member) Shorai Dzirambe (Registrant member) David Anderson (Lay member)
Legal Assessor:	Charlotte Mitchell-Dunn (7 - 17 April 2025) Robin Ince (10 – 20 November 2025) Richard Tyson (13 November 2025)
Hearings Coordinator:	Clara Federizo (7 – 8 April 2025) Rebecca Wagner (9 - 17 April 2025) Bethany Seed (10 – 20 November 2025)
Nursing and Midwifery Council:	Represented by Bibi Ihuomah, Case Presenter (7 – 17 April 2025) Represented by Giedrius Kabasinskas, Case Presenter (10 – 20 November 2025)

Mr Davies:	Present and unrepresented, with Mary-Teresa Deignan as Special Counsel for the cross-examination of Patient A (7 - 8 April 2025)
Facts proved:	All charges
Fitness to practise:	Impaired
Sanction:	**Striking off order**
Interim order:	**Interim suspension order (18 months)**

Decision and reasons on application to amend the charge

The panel heard an application made by Ms Ihuomah, on behalf of the Nursing and Midwifery Council (NMC), to amend the wording of charges 6, 7 and 8.

The proposed amendment was to introduce additional wording to provide clarity and more accurately reflect the evidence. The charges with proposed amendments are as follows:

"That you, a registered nurse, between around 5 May 2021 and 27 June 2021:

1. *…*
2. *…*
3. *…*
4. *…*
5. *…*
6. *On **one** or more occasion, when providing personal care, without clinical justification squeezed Patient A's penis.*
7. *On **one** or more occasion, when providing personal care to Patient A, pulled back Patient A's foreskin with unnecessary force.*
8. ***On** one or more occasion, used a product other than soap and water **and/or sterile cleansing pack** to clean Patient A's penis which was not clinically justified.*
9. *…*

AND, in light of the above your fitness to practice is impaired by reason of your misconduct"

The panel heard from Dr Deignan, who has been instructed as special counsel to cross-examine Patient A on your behalf, that you did not oppose the amendments for charges 6, 7 and the addition of the word *"on"* in charge 8.

However, Dr Deignan further submitted that you did oppose the proposed amendment to charge 8 that extended the charge to include '*and/or sterile cleansing pack*' because whilst it was accepted that a cleaning pack is used to clean a wound, it was not sufficiently clear what a sterile cleansing pack was and the NMC had not provided any justification based upon the evidence presented in this case as to why such an amendment was sought. It was submitted that such an amendment would introduce a failure into the charge which would be unfair and prejudicial to you.

In response, Ms Ihuomah took the panel to paragraph 11 of Patient A's statement submitting that the proposed amendment reflected Patient A's complaint and that no unfairness would be caused to you because you are aware of the evidence provided by Patient A.

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

The panel was of the view that the typographical amendments to charges 6, 7 and 8 were minor in nature and the panel considered that such amendments were in the interest of justice and would provide clarity to the charges. In respect of the amendment to Charge 8, which added the words '*and/or sterile cleansing pack*' the panel noted that reference to the sterile cleansing pack was contained within Witness 3's supplementary statement in which she noted such a pack could be used for aseptic cleaning. The panel considered on the

basis of Witness 3's statement that such a method of cleansing was permissible. It therefore considered that there was no injustice to including the words '*and/or sterile cleansing pack*' to the allegation. The panel did not agree that the addition of the words would add a further failure on your part as the allegation remains that the method used was not clinically justified.

The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed on the basis that it is your case that you did not use any impermissible cleansing techniques. The panel therefore considered it was appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

Details of charge (as amended)

That you, a registered nurse, between around 5 May 2021 and 27 June 2021:

1. Said to Patient A words to the effect of:

    a. *"you look like a right prick in the sunglasses"*

    b. *"don't fucking roll your eyes at me"*

    c. *"I told you, you have to sit in the chair, you've got to do it"*

2. On one or more occasion, failed to inform and/or obtain consent from Patient A for one or more of the following:

    a. Lifting one or both of Patient A's legs

    b. Replacing the electrodes on Patient A's chest

3. On one or more occasion, ripped the electrodes from Patient A's chest without warning.

4. Continued to move Patient A's head and/or neck despite Patient A communicating they were in pain by moving their head side to side and/or straining their eyes.

5. On one or more occasion, ignored Patient A when they indicated they needed assistance by shaking and/or rocking their head.

6. On one or more occasion, when providing personal care, without clinical justification squeezed Patient A's penis.

7. On one or more occasion, when providing personal care to Patient A, pulled back Patient A's foreskin with unnecessary force.

8. On one or more occasion, used a product other than soap and water and/or sterile cleansing pack to clean Patient A's penis which was not clinically justified.

9. Your actions at one or more of charges at 1-8 above were intended to and/or had the effect of:

    a. Intimidating Patient A

    b. Humiliating Patient A

    c. Causing fear to Patient A

    d. Causing physical and/or psychological harm to Patient A

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

Background

The charges brought against you arose while you were working as an agency nurse at the Prince Charles Hospital ('the Hospital') in the Intensive Care Unit ('ITU'). You were registered with Richmond Nursing Agency Ltd ('the Agency').

You began working for the Agency on 4 July 2016 and between 18 August 2020 and 3 July 2021, you worked regularly at the Hospital's ITU.

Patient A

On 3 April 2021, Patient A was admitted to ITU at the Hospital presenting with abdominal pain, possible sepsis and peri-arrest. Upon arrival at the ITU, Patient A was sedated and ventilated until 22 April 2022. He was later diagnosed with Guillain-Barre syndrome (GBS), which is an auto-immune disease which affects the peripheral nervous system and can lead to weakness and paralysis. As a result of GBS, Patient A was paralysed, placed on a ventilator and sedated. He could not close his eyes and had no movement.

Patient A was in ITU for 143 days until he was moved to another ward at the Hospital. Patient A was taken off sedation on 05 May 2021. You provided care to Patient A whilst he was not sedated. These dates included:

- 5 May 2021
- 8 May 2021
- 12 May 2021
- 13 May 2021
- 22 May 2021

- 23 May 2021
- 24 May 2021
- 5 June 2021
- 23 June 2021
- 24 June 2021
- 27 June 2021

The Verbal Incidents

Patient A alleged that during his stay at the ICU you made inappropriate comments. On one occasion, Patient A states that he was outside with you, another nurse, his wife and daughter. Patient A was wearing sunglasses, to which you allegedly stated "*you look like a right prick in the sunglasses".*

Patient A also alleges that while you were providing his care, he attempted to communicate with you via eye movement or nodding his head, you stated "*don't fucking roll your eyes at me*."

Person B, who attended as Witness 2 during these proceedings, would visit Patient A, and at times would be present for Patient A's rehabilitation sessions. Person B alleges that you spoke unprofessionally to Patient A regarding Patient A's requirement to sit in a chair for 1-2 hours a day for his rehabilitation. On this occasion, Person B recalls you stating "*I told you, you have to sit in the chair, you have to do it*."

On 27 June 2021, Patient A informed Colleague A, a senior staff nurse, that you did not discuss his care with him and did not include him in decision-making.

The Physical Incidents

Patient A alleges that, on a number of occasions, you were rough in your handling of him and that on occasions you would physically move him without informing him or seeking

consent. Patient A told Person B that you had pulled his foreskin back resulting in pain. He stated that you had squeezed his penis and put a solution on his penis which burned him. Patient A was unable to detail the dates of these occurrences.

On 3 July 2021, Person B informed a senior staff nurse of the allegations Patient A explained to her. A Datix was submitted following these concerns with Patient A being raised. An investigation into the allegations began on 3 July 2021 and a safeguarding referral was received by the Merthyr Tydfil County Borough Council (the Council) on 4 July 2021.

On 5 July 2021, a meeting was held between the staff at the Hospital and Patient A's family.

On 7 July 2021, the Council held a strategy meeting discussion whereby it decided to launch an investigation under Section 5 of the Wales Safeguarding Procedure.

On 20 July 2021, an investigatory meeting was held with you and the Agency. You denied the allegations. On 27 July 2021, at a disciplinary meeting you were dismissed by the Agency.

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

During the course of the hearing, Ms Ihuomah made a request that this case be held in private on the basis that proper exploration of your case involves reference to matters of mental health in relation to Patient A. The application was made pursuant to Rule 19 of the Rules.

Dr Deignan did not oppose the application.

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

The panel determined to go into private session when matters relating to Patient A's mental health are raised.

Decision and reasons on application to adduce evidence

During the course of the hearing, the panel became aware that documents pertaining to Witness 3's evidence were incomplete. Witness 3's statement provides the dates that Mr Davies cared for Patient A as follows:

- 05 May 2021
- 08 May 2021
- 12 May 2021
- 13 May 2021
- 22 May 2021
- 23 May 2021
- 24 May 2021
- 05 June 2021
- 23 June 2021
- 24 June 2021
- 27 June 2021

Witness 3 states:

> *'A copy of Patient A's clinical records for the dates on which Mr Davies cared for him appear as [Exhibit 3]. These records are the nursing records and this is the section where all nurses would document the care they have provided.*

The records provided are for the dates on which Mr Davies cared for Patient A when Patient A was conscious. It is clear from the records when Mr Davies was looking after Patient A as there is a digital note made in the records at [Exhibit 3] where Mr Davies logged on to care view using his access. I have highlighted Mr Davies' name in yellow on these records to make it easier to see the dates on which he cared for Patient A.'

The '*Exhibit 3'* contains some documents relating to the care and medical notes of Patient A. However, the document before the panel did not include any records pertaining to any dates in May 2021 and only reflected care provided in June 2021.

The panel requested confirmation from Ms Ihuomah as to whether the care and medical notes recorded for May 2021 ('May Records') would be provided by the NMC.

Ms Ihuomah confirmed that the NMC would obtain and adduce the May Records.

You indicated that your only objection to the May Records being obtained and provided was that it would cause undue delay in your hearing. You specified that you had no objection to the panel seeing content of the May Records.

In relation to June 2021 records ('June Records'), you indicated to the panel that the records were incomplete. The panel therefore made enquiries requesting the June Records to be supplied in full.

The NMC confirmed that before the hearing resumed, all parties to this hearing would receive the missing May Records and June Records. A Preliminary Meeting was held on 11 September 2025, where it was noted that you and the panel members were still missing the full June Records. The panel chair directed that the full June Records be disclosed to you and the panel by 1 October 2025, that the records be checked for completeness and if any documents remain outstanding by 1 October 2025, a further case management meeting be organised for no later than 13 October 2025.

Decision and reasons on facts

The hearing resumed on 10 November 2025. The panel and you had received the May and June 2021 care records for Patient A prior to the hearing.

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

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: Referrer;
- Witness 2/Person B: Wife of Referrer;
- Witness 3: Senior Nurse in the ITU at the Hospital;
- Witness 4: Director of the Agency;
- Witness 5: Senior Staff Nurse in the ITU at the Hospital;
- Witness 6: Safeguarding Principle Manager for the Council.

The panel also heard evidence from you under affirmation.

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

Before considering the individual charges, the panel considered your submission that Patient A did have potential motives for making the allegations about you. The panel noted that it is your position that Patient A has associated false memories given his type of illness and the time period he was in ITU. The panel also noted that you propose that a possible motive for making the allegations was that you refused to allow Patient A to have a drink of squash due to the potential risk of aspiration and infection. The panel considered whether these propositions could explain why Patient A has made these allegations against you.

In relation to the false memories, the panel noted that there is no medical evidence, or any other supporting information that this is the case. The panel noted that Patient A's memory of the alleged incidents was tested in cross examination, and he was able to recall, with apparent clarity, the alleged incidents. Given the lack of supporting evidence and the speculative nature of the suggestion, the panel could not be satisfied that this was a plausible motive for Patient A making the allegations against you.

The panel also noted your assertion that Patient A has made the allegations due to your refusal to provide him with squash. The panel considered that Patient A has not, in his documentary evidence or oral evidence, referred to being denied a drink of squash or made any compliant of something similar. The panel considered that if this had been the case, it is likely that Patient A would have made some reference to this in his evidence. The panel considered that during the local investigation, you speculated that this could be a reason for the allegations being made, and the NMC has relied on this information in its submissions. The panel also noted that you did not raise the matter in cross examination of any of the witnesses and have only responded to this proposition in the NMC's cross examination of you.

The panel appreciated that you have speculated that these could be reasons for why Patient A has made the allegations against you, as you maintain that these incidents did not happen. However, the panel noted that this is purely speculation, and it has not seen any evidence in support of this position. In light of this, the panel determined that it could not be satisfied that this was a plausible motive for Patient A making the allegations against you.

The panel noted that it's decisions on the facts of this case are made on the basis of the evidence provided by the NMC. The panel determined that it would consider the evidence of the NMC, your evidence and would determine whether it is more likely than not that the alleged incidents happened, and it would not consider any motive Patient A may have for fabricating allegations unless there was some cogent evidence in respect of this.

Prior to considering the charges, as advised by the legal assessor, the panel made assessments regarding the credibility of each witness, including yourself, which it has incorporated into its reasonings in relation to each of the charges.

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

Charge 1a)

"That you, a registered nurse, between around 5 May 2021 and 27 June 2021:

1. Said to Patient A words to the effect of:

    a. *"you look like a right prick in the sunglasses""*

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Patient A, Witness 2 and Witness 5. The panel also considered your oral evidence.

In particular, the panel noted that Patient A gave what the panel considered to be a clear and credible account of this alleged incident. The panel further noted that this was supported by the oral evidence of Witness 2. The panel considered that both Patient A and Witness 2 recalled the incident consistently, and they were both able to explain why they did not report this incident at the time. In Patient A's witness statement, he describes that you allegedly said *"you look like a right prick in the sunglasses"* loud enough to hear.

The panel bore in mind that Witness 5 stated that he did not hear you say words to the effect of *"you look like a right prick in the sunglasses."* The panel had no reason to suppose that Witness 5 fabricated his evidence, however it considered that at the time, all parties were outside in a potentially loud environment, and Patient A has described the phrase as being said loud enough for his wife and daughter to hear. The panel also noted that Witness 5 did not state that these words were not said, only that he did not hear them.

The panel also noted that you deny the allegation completely and have done so since the allegation was put to you in the local investigation. In cross examination, you were asked whether there was a difference between not saying the phrase, and Witness 5 not hearing the phrase being said and you said that there was not.

The panel considered that Patient A and Witness 2 have provided consistent and credible evidence. The panel determined that it preferred this evidence over the evidence of yourself and of Witness 5 who, it observed, struggled to recall the incident due to the passage of time. Therefore, on balance it determined that this charge is found proved.

Charge 1b)

"That you, a registered nurse, between around 5 May 2021 and 27 June 2021:

1. Said to Patient A words to the effect of:

    b. *“don’t fucking roll your eyes at me””*

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Patient A and you.

In particular, the panel considered that Patient A gave clear evidence that whilst he was unable to talk, he rolled his eyes to indicate that he was in pain. He was consistent in his account that on at least one occasion, you stated “*don’t fucking roll your eyes at me.”* The panel also considered that Patient A explained that this occurred whilst you were removing electrodes from his chest. The panel bore in mind that Patient A explained that the only way he could communicate at this time was by rolling his eyes or moving his head from side to side, and that you allegedly ignored his indications on several occasions.

This is consistent with the account that Patient A gave in his witness statement to the NMC, dated 23 May 2022 which states:

> *“The only way I could try and communicate the pain I was in was through my eyes or by nodding my head side to side and when I did this, Mr Davies would come up to the side of my head and say “don’t fucking roll your eyes at me.””*

The panel bore in mind your oral evidence. You stated that this could not have happened because other staff would have overheard you saying this in the ITU. You told the panel that you do not swear in your personal life, and that you would never have sworn in a professional setting.

The panel noted that there is no independent corroborative evidence regarding this allegation; however, the panel considered the reliability and credibility of both Patient A

and you. The panel considered that Patient A gave credible and consistent evidence throughout the hearing. The panel considered that you also gave consistent evidence, however it determined that your evidence that this could not have happened because other people would have heard was less credible.

The panel was of the view that regardless of the number of staff in the ITU, it would still have been possible for the alleged incidents to have occurred. The panel noted that you referred to privacy screens being utilised in the ITU, and the panel considered that these screens may have made it possible for the alleged incidents to occur in practice.
The panel also considered that other nurses in the ITU may not have been allocated to Patient A and were not always with him and therefore would not have necessarily been cognisant of your alleged actions in respect of Patient A. The panel considered that this undermined the credibility of your evidence. The panel also considered that there is evidence from other witnesses that there were occasions where nurses may be left on their own with a patient (for instance Witness 5, who indicated in his oral evidence that "*there's normally at least two to three patients in each bay, so you're rarely left alone with the patient. There's nearly always another nurse with you*" (the panel's emphasis)) and therefore it considered that your insistence that it was impossible was disingenuous and evasive. The panel concluded it was implausible that these alleged incidents could not have occurred because you were never alone with Patient A. The panel therefore determined that your evidence in respect of this particular point is less credible.

In light of this, the panel determined that it preferred the evidence of Patient A, and it found this charge proved.

Charge 1c)

"That you, a registered nurse, between around 5 May 2021 and 27 June 2021:

1. Said to Patient A words to the effect of:

c. *“I told you, you have to sit in the chair, you’ve got to do it””*

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Patient A, Witness 2 and you. The panel considered that Patient A stated that you would put him in the chair, without him agreeing to sit in the chair. Patient A also told the panel that you did not explain why he had to sit in the chair, or how it would support his rehabilitation.

The panel considered that this is supported by the evidence of Witness 2, who explained that she challenged you at the time after saying words to the effect of “*I told you, you have to sit in the chair, you’ve got to do it*.” The panel considered that Witness 2 was able to recall the specific incident that is charged, and she explained that she was uncomfortable with speaking up, but that she felt she had to after you had said this. The panel accepted Witness 2’s evidence that Patient A was visibly in pain and discomfort whilst sitting in the chair, and that they understood it was part of the rehabilitation but that they were uncomfortable with your tone and manner. The panel considered that she was clear, compelling and consistent in her evidence, and it had no reason to suppose that this evidence was fabricated.

The panel also bore in mind that you have denied that you said these words, especially that you said them in an aggressive tone. You stated that you would have explained that sitting in the chair was part of Patient A’s ongoing rehabilitation. You also stated that you would have respected his wishes if he did not want to sit in the chair at any point. You drew the panel’s attention to Patient A’s care plan and described that sitting in the chair was a key component of Patient A’s rehabilitation. However, the panel was not satisfied that this evidence supported your denial of the charge.

The panel considered that Patient A’s account of this incident is supported by the evidence of Witness 2. It therefore determined that it preferred Patient A’s and Witness 2’s accounts of the incident and it found this charge proved.

Charge 2a)

"That you, a registered nurse, between around 5 May 2021 and 27 June 2021:

2. On one or more occasion, failed to inform and/or obtain consent from Patient A for one or more of the following:

    a. Lifting one or both of Patient A's legs

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Patient A. In particular, it noted that Patient A described that on more than one occasion, you lifted and moved his legs without his consent. Patient A described that when you were responsible for his care, you would not tell him what you were going to do and would lift his legs up without informing him or obtaining consent to do so. Patient A accepted in evidence that he had to undergo physiotherapy, but that you would move his legs whilst he was crying and in pain. Patient A also described that this happened on every, or almost every, shift where you were responsible for his care. Patient A further described that other nurses would ask before moving his legs.

You stated in evidence that this never happened and that you would have obtained implied consent before touching a patient and you would have explained what you were doing to Patient A. You explained that any care you provided to Patient A would have been done gently. The panel saw no supporting evidence of you documenting in the care records the passive movement care you provided to Patient A. You stated that it was impossible to make notes of everything that happens on a ward whilst you are working, and that despite it not being recorded, you had implied consent to deliver care. In

response to panel questions, you accepted that it was more important to record implied consent than express consent.

The panel considered that every nurse has a duty to inform a patient what they are about to do and to obtain consent before delivering care (which duties you accepted that you had). The panel was not satisfied that you informed Patient A of the care you were delivering, or that you obtained consent for lifting one or both of Patient A's legs. The panel noted that you have consistently denied this charge, but it did not accept your evidence that you obtained or had implied consent because Patient A's evidence was clear and consistent, particularly during cross examination, about your actions as set out in the charge. Therefore, on balance the panel determined that this charge is found proved.

Charge 2b)

"That you, a registered nurse, between around 5 May 2021 and 27 June 2021:

2. On one or more occasion, failed to inform and/or obtain consent from Patient A for one or more of the following:

    b. Replacing the electrodes on Patient A's chest"

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Patient A and you.

In particular, the panel had regard to Patient A's witness statement, which states:

"For example, when the electrodes did not have good contact on my chest, they would have to be replaced and other nurses would tell me that they were going to

change them and when they were about to rip them off so I was prepared however, Mr Davies would not do this, he would just rip them off without warning when I was not prepared."

The panel noted that this was supported in Patient A's evidence, which was consistent, credible and compelling. The panel did not feel as though this account was embellished in any way.

The panel took into account your evidence, that you would always obtain consent before delivering any care and you would inform patients of any interventions you made. The panel noted that you referred to having implied consent to deliver care throughout your evidence, however it bore in mind that Patient A could communicate non-verbally and therefore could have provided consent. It therefore did not accept your evidence that you had always obtained implied consent.

The panel therefore accepted the evidence of Patient A, and determined that you did not inform, and did not obtain consent from Patient A to replace the electrodes on Patient A's chest.

Charge 3)

"That you, a registered nurse, between around 5 May 2021 and 27 June 2021:

3. On one or more occasion, ripped the electrodes from Patient A's chest without warning."

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Patient A, Witness 5 and you.

The panel noted that Patient A was able to vividly recall occasions where this had occurred, which resulted in pain because of his hairy chest. The panel considered that Patient A's evidence was clear and consistent throughout.

The panel considered the evidence of Witness 5, who described that the electrodes were low adhesive, and removal should not have caused pain. However, Witness 5 also confirmed in oral evidence that a patient who had a hairy chest may experience an "*uncomfortable waxing*" feeling.

You stated that you communicated with Patient A and that you peeled them off with the electrode stickers being a low adhesive so there was no need for ripping them off. You told the panel in evidence that you placed the electrodes on Patient A's shoulders to avoid his chest hair, and that this was your usual procedure but not a mandatory requirement. You also told the panel that it would have been impossible for you to rip the electrodes off in a busy ITU ward without other members of staff noticing.

The panel considered its findings at charge 2b, that you had failed to inform or obtain consent from Patient A when removing the electrodes. The panel also did not accept your evidence that it could not have happened on a busy ITU ward without other members of staff noticing. In light of this, the panel determined that it preferred the evidence of Patient A, that the electrodes were ripped from his chest area and that it was painful. The panel therefore found this charge proved.

Charge 4)

"That you, a registered nurse, between around 5 May 2021 and 27 June 2021:

4. Continued to move Patient A's head and/or neck despite Patient A communicating they were in pain by moving their head side to side and/or straining their eyes."

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Patient A and you.

In particular, the panel considered Patient A's witness statement, in which he states:

> *"On every shift that Mr Davies was my allocated nurse, he would push my head and neck too far when repositioning me and it really hurt. I tried to make him aware that I was in pain by moving my head from side to side and straining my eyes and he saw me doing this, however, he still carried on doing [sic] pushing my head and neck too far, causing me pain on every shift."*

The panel noted that this was an early complaint made by Patient A to Colleague A (who was a Senior Staff Nurse at the Trust), and that Colleague A's statement makes reference to this. Whilst the panel acknowledged that the hearsay evidence of Colleague A has not been tested in examination during this hearing, it was not disputed by you, and it considered that the evidence of Patient A has been clear and credible.

The panel also considered that Patient A has described communicating with his eyes and moving his head side to side whilst he was unable to verbally communicate. Specifically, that other nurses acknowledged his non-verbal communication and would stop, whereas you would ignore him and continue. Patient A further gave evidence that on occasions you provided him with 1:1 care.

You explained in your evidence that this did not happen and could not have happened without it being observed because you were working on a busy ITU ward. You also denied giving 1:1 care to Patient A at any time.

The panel considered that there is no independent corroborative evidence and therefore looked at which account it preferred. You gave evidence that you followed the 'Airway,

Breathing and Circulation' (ABC) procedure whilst delivering care to ITU patients, and that there would have been another nurse with you to support Patient A, in particular holding Patient A's head. However, the panel considered that there is a lack of evidence surrounding the context of when this allegedly occurred. The panel considered that it had no evidence before it of whether the allegation arose whilst you were delivering care that would have required more than one nurse to deliver.

The panel accepted Patient A's evidence that there were several occasions where you provided 1:1 care, and therefore made a reasonable inference that this could have occurred on an occasion where you delivered care on your own to Patient A. For the same reasons given above, the panel did not accept that this could not have happened because you were working on a busy ITU ward.

In light of the above, the panel determined that this charge is found proved.

Charge 5)

"That you, a registered nurse, between around 5 May 2021 and 27 June 2021:

5. On one or more occasion, ignored Patient A when they indicated they needed assistance by shaking and/or rocking their head."

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Patient A, Witness 3 and you.

In particular, the panel had regard to Patient A's evidence about how he communicated non-verbally and how you allegedly ignored him on multiple occasions. Patient A told the panel that on occasions, he would get a build up of phlegm that would need to be

suctioned, and he would communicate this to staff by shaking and rocking his head. Patient A also described that you made *"no effort at all to try and figure out what [he] was trying to communicate to [you]."*

You stated that you never ignored Patient A's non-verbal communication, and that you would have been in the room with at least one other nurse who would have seen his distress. You said that nurses are acutely aware of all patients in an area. You referred the panel to the ABC procedure, and that you would have been able to spot a blocked airway and would have taken action to ensure that his airway was clear. You also stated that another nurse would have seen this airway is blocked and would have taken action.

The panel had regard to Witness 3's evidence, that nurses should check for nonverbal communication cues. The panel was satisfied that Patient A communicated non-verbally and that you should have responded to that communication.

The panel considered that it has found Patient A's evidence clear and credible throughout. It therefore concluded that on one or more occasion you ignored Patient A when he indicated that he needed assistance by shaking or rocking his head.

Charge 6)

"That you, a registered nurse, between around 5 May 2021 and 27 June 2021:

6. On one or more occasion, when providing personal care, without clinical justification squeezed Patient A's penis."

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Patient A, Colleague A, Witness 2 and you.

In particular, the panel had regard to Patient A's witness statement, which states:

> *"On a number of occasions (I cannot recall the specific dates but it was every time Mr Davies was my allocated nurse), Mr Davies would squeeze my penis, pull back my foreskin and look at me and pull a face which indicated to me that he knew what he was doing to me was painful and say "oooh it's got to be done.""*

The panel considered that Patient A's recall of the alleged incident was clear, consistent and credible. The panel was satisfied that Patient A was not embellishing this account. The panel also considered that Patient A made an early complaint to Colleague A about this alleged incident.

The panel considered Witness 2's evidence, that Patient A had stated that he did not want you to look after him and that you had squeezed his penis and caused him pain.

The panel bore in mind your evidence that this did not happen and could not have happened on a busy ITU ward. You stated that you always had a chaperone when delivering personal care to patients. However, for the same reasons as given above, the panel did not consider this to be a credible suggestion. The panel considered that Patient A also gave evidence that this happened whilst you were giving 1:1 care. You accepted in evidence that there is no clinical justification for squeezing Patient A's penis.

In light of the above, the panel determined that this charge is found proved.

Charge 7)

"That you, a registered nurse, between around 5 May 2021 and 27 June 2021:

7. On one or more occasion, when providing personal care to Patient A, pulled back Patient A's foreskin with unnecessary force."

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Patient A, Witness 5, Witness 3 and you.

Witness 5 gave evidence that it was clinically justified to gently pull back a patient's foreskin when delivering personal care to ensure cleanliness and to assist with positioning the catheter. Witness 3 also gave evidence that it would be appropriate for a nurse delivering personal care to pull back a patient's foreskin, but it would not be appropriate to pull it back with force.

The panel considered Patient A's evidence that on a number of occasions, you pulled his foreskin back and caused pain. The panel considered that when it was put to Patient A in cross examination that you only pulled his foreskin back as much as was necessary, he responded by saying that was *"Totally, completely utter lies; totally utter lies."* He also stated that you pulled a face that indicated you were aware of the pain you were causing. He also gave evidence that other nurses were gentle when delivering personal care. He described that other nurses used a careful, soft touch, and did not grab his penis or cause pain to his penis. He also said in evidence: *"He used to pull my foreskin back, hold my penis, and used to squirt it inside."*

You gave evidence that you would have pulled back Patient A's foreskin to deliver personal care, but you would have done so gently. You accepted that it would not have been clinically justified to pull back Patient A's foreskin with unnecessary force.

The panel considered that Patient A's evidence focused on pain being caused by his penis being squeezed, and by an unidentified liquid being used to clean his penis. The panel was of the view that there was limited evidence in respect of the level of "*force*" used to

pull back his foreskin. The panel considered that from Patient A's description that other nurses could provide personal care without causing pain, it could reasonably infer that you used more force than was necessary.

The panel was therefore satisfied that it was more likely than not that whilst providing personal care to Patient A, you pulled back his foreskin with unnecessary force. Therefore, the panel determined that this charge is found proved.

Charge 8)

"That you, a registered nurse, between around 5 May 2021 and 27 June 2021:

8. On one or more occasion, used a product other than soap and water and/or sterile cleansing pack to clean Patient A's penis which was not clinically justified."

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 3, Colleague A, Patient A and you.

Witness 3 clarified in evidence that nothing other than soap and water should be used to deliver personal care to a patient's penis, and therefore no other substance would be clinically justified. Witness 3 also clarified that if a patient has an infection, a sterile cleansing pack could be used to deliver personal care, but that neither of these should cause a burning sensation.

The panel considered that this was an early complaint from Patient A to Colleague A, who contemporaneously recorded the complaint in their local statement. The panel also considered that Patient A gave evidence that whatever was used to clean his penis

caused significant burning and pain. Patient A could not describe what substance was used to clean his penis; however, he gave evidence that the pain only occurred when you were delivering personal care and that he did not have this issue with other nurses delivering personal care.

The panel considered that Patient A was clear and credible in his evidence and described the substance as being "*like acid.*" The panel considered that Patient A made an early complaint about this to Colleague A, which supports his account. The panel noted that Patient A described that this happened on every occasion that you were responsible for his care, and on one occasion two other members of staff were present and one person passed you the cleaning solution.

The panel noted that you deny this allegation. It considered that you mentioned that Patient A may be referring to an instance where you asked another member of staff for an alcohol wipe, for a different reason entirely. You have also suggested that this allegation may have arisen out of Patient A suffering with false memories stemming from his stay in the ITU. However, the panel has already considered this suggestion and determined that it has little credence as an explanation.

In light of the above, the panel was satisfied that on the balance of probabilities, it is more likely than not that this charge occurred, and therefore it determined that this charge is proved.

Charge 9a) – d)

"That you, a registered nurse, between around 5 May 2021 and 27 June 2021:

9. Your actions at one or more of charges at 1-8 above were intended to and/or had the effect of:

    a. Intimidating Patient A

b. Humiliating Patient A
c. Causing fear to Patient A
d. Causing physical and/or psychological harm to Patient A"

This charge is found proved.

In reaching this decision, the panel took into account its findings at charges 1 – 8 in the context of charge 9 overall. As suggested by Mr Kabasinskas, it gave the words itemised in sub-paragraphs a to d their natural and ordinary meaning.

Charge 1a

The panel considered that you saying, *"you look like a right prick in the sunglasses,"* or words to that effect, was intended (the panel's emphasis) to intimidate and humiliate Patient A. In the context of Patient A's vulnerability due to his GBS, and as it was said in front of his family members, the panel concluded that these words would also have had the effect of intimidating, humiliating, and causing psychological harm to Patient A. The panel determined that charges 9a, 9b and 9d are proved in respect of charge 1a.

Charge 1b

The panel considered that you saying, *"don't fucking roll your eyes at me"* or words to that effect was aggressive, and was intended to intimidate, humiliate and cause fear to Patient A. The panel considered the context of the charge, that Patient A had no ability to speak or move, and was entirely dependent on nurses for his care. The panel noted that Patient A described [PRIVATE]. It considered that any aggressive conduct towards him by a nurse would therefore also have had the effect of intimidating and humiliating him, as well as causing fear and psychological harm to him. Therefore, the panel was satisfied that charges 9a - d are proved in respect of charge 1b.

Charge 1c

The panel considered the nature and tone of the words *"I told you, you have to sit in the chair, you've got to do it"* or words to that effect and determined that you intended to intimidate, humiliate and cause psychological harm to Patient A to get him to comply with his physiotherapy care. The panel considered that this conduct also had the effect of intimidating, humiliating, causing fear and psychological harm to Patient A. The panel therefore finds charges 9a – d are proved in respect of charge 1c.

Charge 2a

The panel considered that Patient A was particularly vulnerable due to his GBS. It noted that Patient A was very clear [PRIVATE] when you were on shift and responsible for his care. Patient A was also very clear that this happened on more than one occasion, and that sometimes he would be crying and clearly in pain. The panel determined that your actions at charge 2a had the intention of intimidating, humiliating, causing fear and harm to Patient A, and also had the effect of intimidating, humiliating, causing fear and harm to Patient A. Therefore, the panel finds that charges 9a – d are proved in respect of charge 2a.

Charge 2b

The panel accepted your evidence that you replaced the electrodes because it needed to be done to ensure accurate readings. The panel was therefore satisfied that you did not intend to engage any of the limbs of charge 9. The panel noted the evidence of Patient A who stated that he laid in bed wondering who would support him in the morning and [PRIVATE]. Given Patient A's vulnerable state, the panel considered that your failure to inform Patient A and obtain consent to remove and replace the electrodes would have had the effect of intimidating, causing fear and causing psychological harm to Patient A.

Therefore, the panel determined that charges 9a, 9c and 9d are proved in respect of charge 2b.

Charge 3

The panel considered that by ripping the electrodes from Patient A's chest, you intended to intimidate, humiliate, cause fear and psychological harm to Patient A. The panel also considered that these actions had the effect of intimidating, humiliating, causing fear and causing psychological and physical harm to Patient A. Therefore, the panel determined that charges 9a – d are proved in respect of charge 3.

Charge 4

The panel considered that there is a lack of evidence about the type of care being delivered in respect of this charge and the panel was not satisfied that it could find that you intended to engage any of the limbs at charge 9. However, the panel concluded that your actions had the effect of intimidating, humiliating, causing fear and harm to Patient A. Therefore, the panel determined that charges 9a – d are proved in respect of charge 4.

Charge 5

The panel considered that there is a lack of evidence about the type of care being delivered in respect of this charge and the panel was not satisfied that it could find that you intended to engage any of the limbs at charge 9. However, the panel considered that ignoring a vulnerable patient who is communicating that they require assistance would have had the effect of intimidating, humiliating, causing fear and harm to Patient A. Therefore, the panel determined that charges 9a – d are proved in respect of charge 5.

Charge 6

The panel considered Patient A's evidence that you pulled a face as if you knew what you were doing was causing him pain, and also that there was no clinical justification to squeeze his penis. The panel considered that the limbs of charges 9a – d were engaged for both intent and effect in respect of charge 6.

Charge 7

The panel considered Patient A's evidence that you pulled his foreskin back with unnecessary force, and that other nurses had been able to deliver personal care without causing pain. The panel considered that the limbs of charges 9a – d were engaged for both intent and effect in respect of charge 7.

Charge 8

The panel considered Patient A's evidence that on every occasion that you delivered personal care to him, he suffered from pain in his penis. The panel considered that this is evidence of your intention to intimidate, humiliate, cause fear and harm to Patient A. The panel considered that this also had the effect of intimidating, humiliating, causing fear and harm to Patient A. Therefore, the panel concluded that charges 9a – d are proved in respect of charge 8.

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 your 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, your 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 Kabasinskas invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code) in making its decision.

Mr Kabasinskas identified the specific, relevant standards where your actions amounted to misconduct. He submitted that the charges found proved, considered both individually and in the round, amount to misconduct as the conduct falls far short of the standards expected of a registered nurse. He referred the panel to NMC Guidance FTP-2a *Misconduct* (last updated: 6 May 2025).

Submissions on impairment

Mr Kabasinskas 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) (*"Grant").*

Mr Kabasinskas submitted that the first three limbs of *Grant* are engaged. He submitted that Patient A was extremely vulnerable, and the panel has heard evidence that you caused physical and emotional harm to Patient A. He further submitted that Patient A gave evidence that your conduct has had lasting consequences for him. He submitted that whilst the panel has not made a finding of abuse of vulnerable patients, it can be inferred by the wording of the charges. He submitted that the physical and emotional abuse of vulnerable patients would put patients at risk of physical and psychological harm if the conduct was repeated.

Mr Kabasinskas submitted that your misconduct is so serious that you have brought the profession into disrepute. He further submitted that you have breached the fundamental tenets of the nursing profession, such as treating people with kindness, respect and compassion, delivering the fundamentals of care effectively and safeguarding patients.

Mr Kabasinskas submitted that the misconduct found proved may be so serious that it is not capable of being remediable. He further submitted that although the panel has not made such a finding, the wording of the charges meets the criteria to suggest abuse and neglect of patients, and therefore there are concerns of an attitudinal issue that would be difficult to put right. He submitted that there is very limited evidence of your insight into the misconduct. He acknowledged that you have apologised to Patient A, but you have not yet fully reflected on what you could do differently in the future. Mr Kabasinskas submitted that there is no evidence before this panel in respect of steps you have taken to address the concerns or to strengthen your practice. He submitted that there is some evidence from

Witness 5 about your past practice that the panel can assess and consider in its deliberations.

Mr Kabasinskas submitted that you have demonstrated negligible insight into your misconduct, you have not demonstrated steps taken to strengthen your practice and there were no unique circumstances that could explain the misconduct. He submitted that in light of the above there is a real risk of repetition of your misconduct and, accordingly, that there is a risk of harm to the public, and therefore a finding of current impairment on the ground of public protection is necessary.

Mr Kabasinskas submitted that the nature of the charges found proved raise serious concerns about your ability to uphold proper professional standards. He submitted that the charges are so serious that public confidence in the profession would be undermined, and the reputation of the nursing profession would be seriously damaged if this panel did not find you currently impaired. He therefore submitted that a finding of current impairment on the ground of public interest was also required.

You gave evidence at this stage under affirmation. You stated that the charges found proved are reprehensible and an abomination and if you had seen another nurse, as you termed, "*assaulting"* a vulnerable patient, you would have reported them immediately.

You stated that it is wrong of the NMC to state that you have no insight, as when the allegations were made against you, you allowed your NMC registration to lapse and removed yourself from practice. You stated that you have not worked as a nurse for four years and four months and no longer work within the healthcare sector. You stated that you have remained on the NMC register without restriction since the allegations were made. The panel has heard evidence from Witness 5 about your previous practice, and from Witness 3 that no other complaints were made against you. You stated that you have full insight, and you still deny that you did what you have been accused of. You stated you had been unable to strengthen your practice as you no longer work as a nurse. When

asked whether you had anything to add to the reflective statement you prepared in 2021, you stated that you had nothing to add.

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) [2000] 1 A.C. 311 and *Nandi v General Medical Council* [2004] EWHC 2317 (Admin). The legal assessor also referred to the case of *General Medical Council v Sawati* [2022] EWHC 283 (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 was of the view that your actions did fall significantly short of the standards expected of a registered nurse, and that your actions amounted to a breach of the Code. Specifically:

> *'**1 Treat people as individuals and uphold their dignity***
> *To achieve this, you must:*
> ***1.1** treat people with kindness, respect and compassion*
> ***1.2** make sure you deliver the fundamentals of care effectively*
> ***1.3** avoid making assumptions and recognise diversity and individual choice*
> ***1.4** make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay*
> ***1.5** respect and uphold people's human rights*
>
> ***2 Listen to people and respond to their preferences and concerns***
> *To achieve this, you must:*
> ***2.1** work in partnership with people to make sure you deliver care effectively*

***2.2** recognise and respect the contribution that people can make to their own health and wellbeing*

***2.3** encourage and empower people to share decisions about their treatment and care*

***2.4** respect the level to which people receiving care want to be involved in decisions about their own health, wellbeing and care*

***2.5** respect, support and document a person's right to accept or refuse care and treatment*

***2.6** recognise when people are anxious or in distress and respond compassionately and politely*

3 Make sure that people's physical, social and psychological needs are assessed and responded to

To achieve this, you must:

***3.1** pay special attention to promoting wellbeing, preventing ill health and meeting the changing health and care needs of people during all life stages*

4 Act in the best interests of people at all times

To achieve this, you must:

***4.1** balance the need to act in the best interests of people at all times with the requirement to respect a person's right to accept or refuse treatment*

***4.2** make sure that you get properly informed consent and document it before carrying out any action*

7 Communicate clearly

To achieve this, you must:

…

***7.2** take reasonable steps to meet people's language and communication needs, providing, wherever possible, assistance to those who need help to communicate their own or other people's needs*

7.3 *use a range of verbal and non-verbal communication methods, and consider cultural sensitivities, to better understand and respond to people's personal and health needs*

7.4 *check people's understanding from time to time to keep misunderstanding or mistakes to a minimum*

13 Recognise and work within the limits of your competence

To achieve this, you must, as appropriate:

13.1 *accurately identify, observe and assess signs of normal or worsening physical and mental health in the person receiving care*

14 Be open and candid with all service users about all aspects of care and treatment, including when any mistakes or harm have taken place

To achieve this, you must:

14.1 *act immediately to put right the situation if someone has suffered actual harm for any reason or an incident has happened which had the potential for harm*

17 Raise concerns immediately if you believe a person is vulnerable or at risk and needs extra support and protection

To achieve this, you must:

17.1 *take all reasonable steps to protect people who are vulnerable or at risk from harm, neglect or abuse*

19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice

To achieve this, you must:

19.1 *take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place*

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*

…

20.3 *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'*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. The panel considered each charge found proved individually, and whether the conduct alleged amounts to misconduct.

Charge 1a

The panel considered that the conduct at charge 1a is serious, given the context of Patient A's health at the time. The panel considered the evidence of Witness 5 that Patient A did not want to be seen and wanted to be taken outside to a quieter area. The panel bore in mind its finding that you intended, and had the effect of, humiliating Patient A by saying these words. The panel also considered that Patient A was particularly vulnerable, given that at the time, he could not move or talk. Therefore, the panel was satisfied that this charge met the threshold of seriousness so as to amount to misconduct.

Charge 1b

The panel considered that the conduct at charge 1b is serious, given the use of foul language and in the context of Patient A's inability to verbally communicate. The panel bore in mind that Patient A described that one of the only ways he could communicate was by rolling his eyes. The panel also considered its findings that you intended to, and your words had the effect of, intimidating Patient A. In light of this, the panel determined that this meets the threshold of seriousness to amount to misconduct.

Charge 1c

The panel considered that the conduct at 1c is serious. The panel noted that patients have the right to refuse treatment, and that any pressure put on a patient to accept treatment undermines that choice. The panel considered your evidence, that you were attempting to encourage or empower Patient A to comply with rehabilitation in his own interest. However, the panel also considered its findings at charge 9 that you intended, and your words had the effect of, intimidating, humiliating and causing fear to Patient A. Therefore, the panel determined that this meets the threshold of seriousness to amount to misconduct.

Charge 2a

The panel considered that the action of lifting Patient A's leg(s) without notification and/or consent, on its own may not meet the threshold of seriousness required for a finding of misconduct. However, the panel considered this within the context of its findings at charge 9. The panel bore in mind that it found that you did not obtain consent on more than one occasion and your actions had the effect of causing fear and harm to Patient A. For these reasons, the panel considered that it did meet the threshold of seriousness to amount to misconduct.

Charge 2b

The panel considered that it found that you did not obtain consent and did not communicate this intervention with Patient A. The panel also considered its findings at charge 9, that this had the effect of causing harm to Patient A. For these reasons, the panel determined that it did meet the threshold of seriousness to amount to misconduct.

Charge 3

The panel considered charge 3 in the context of its findings in respect of charge 9, that you failed to obtain consent and that this happened on more than one occasion. The panel noted that it found that you intended, and had the effect of, causing psychological harm to Patient A. The panel considered that intending to cause harm to a vulnerable patient falls significantly short of the standards expected of nurses and therefore meets the threshold of seriousness to amount to misconduct.

Charge 4

The panel considered that this charge relates to your repositioning of Patient A on multiple occasions, despite his non-verbal communication that he was in pain. The panel considered that you ignored a vulnerable patient who was trying to communicate pain, and that this had the effect of causing fear and physical pain to Patient A. The panel considered that this falls short of the standards expected of a nurse and therefore meets the threshold of seriousness to amount to misconduct.

Charge 5

The panel considered that charge 5 relates to you ignoring Patient A's attempts to communicate that he needed assistance on multiple occasions. The panel noted that Patient A was particularly vulnerable and had limited means of communication. The panel bore in mind its findings at charge 9, that you did not intend, but your actions had the effect of, intimidating, humiliating and causing fear to Patient A. The panel considered that this falls short of the standards expected of a nurse and therefore meets the threshold of seriousness to amount to misconduct.

Charge 6, 7 and 8

The panel initially considered these charges individually and noted that the charges and its findings in respect of misconduct were all closely interlinked. The panel considered that there was no clinical justification for you to squeeze Patient A's penis in the context of

providing personal care, and that Patient A described that it happened on more than one occasion. The panel also noted that you pulled back Patient A's foreskin back with unnecessary force, which other nurses did not do. The panel further noted that you used a product not provided for personal care without clinical justification which caused harm to Patient A [PRIVATE]. The panel also considered its findings at charge 9 in respect of charges 6, 7 and 8, that you intended to, and that these actions had the effect of intimidating, humiliating, causing fear and harm to Patient A. The panel considered that this falls significantly short of the standards expected of a nurse and therefore meets the threshold of seriousness to amount to misconduct.

Charge 9

The panel considered that there are some examples of where you did not intend to intimidate, humiliate, cause fear or harm to Patient A. Nonetheless, the panel considered that your actions at charges 1 – 8 had the collective effect of intimidating, humiliating, causing fear and harm. The panel considered that this is particularly serious and falls far short of the standard expected of nurses. Therefore, the panel determined that your actions at charge 9 are serious and amounted to misconduct.

In light of the above, the panel concluded that your 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, your fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the NMC Guidance DMA-1*'Impairment'* (last updated: 3 May 2025) in which the following is stated:

‘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. 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 finds that Patient A was put at risk and was caused physical and emotional harm as a result of your misconduct. In particular, the panel noted its findings at charge 9 that Patient A was intimidated, humiliated, caused fear and caused physical and psychological pain. The panel therefore considered that your misconduct had also breached the fundamental tenets of the nursing profession, to treat people with kindness, deliver safe and effective care and to safeguard vulnerable patients, and therefore brought its reputation into disrepute.

The panel was not satisfied that the misconduct in this case is easy to address. The panel acknowledged that some of the charges, in particular those relating to communication and failure to obtain consent, is misconduct that is more easily remediable. However, the panel also noted that the charges relate to the intention to intimidate, humiliate, cause fear and harm, which is evidence of an attitudinal concern that is more difficult to put right. The panel acknowledged your right to deny the charges against you; however, it considered that charges of the kind found proved are particularly serious and raise questions about a registrant's ability to practise kindly, safely and professionally.

The panel considered that it has limited evidence of insight from you at this stage. Regarding insight, the panel considered that you have demonstrated understanding of the seriousness of the misconduct and have made some apologies to Patient A for his experience. However, the panel considered that whilst you maintain that none of this ever happened, you have not addressed what you could do differently in the future to ensure that patients do not feel threatened by you, or fully acknowledged the impact that your actions have had on Patient A. The panel also bore in mind that you have not provided the panel with an updated reflective statement. It acknowledges that your reflective statement from 2021 did address, for instance some of the concerns such as informing patients and obtaining their consent; however, this written reflective piece is from over four years ago.

The panel considered your evidence at this stage, that it was "*wrong*" to say you had no insight because when, the allegations were raised, you ceased working as a nurse. However, the panel considered that this could have been accompanied by an acknowledgement of how the facts found proved could impact public confidence in the profession, your colleagues and the wider profession. The panel considered that it did not receive sufficient evidence in respect of your reasons for leaving the profession, and therefore it could not make any reasoned judgement that this demonstrated insight into the misconduct. The panel also considered that your choice to leave the profession was not commensurate with someone who has insight, who in its view, would have continued working in order to demonstrate the unlikelihood of the allegations having occurred through strengthened practice and continued professional development. The panel was also not satisfied that you have demonstrated remorse by leaving the profession.

The panel also considered that, particularly as you have not worked as a nurse since the allegations were made, you have not demonstrated any steps you have taken to address the concerns or to maintain or strengthen your practice outside of a clinical setting. The panel considered that the evidence from Witness 5 about your previous practice, and the evidence of Witness 3 that there are no other complaints about your practice, only related to a very short period of your 40-year practice. Therefore, the panel was of the view that that there is a real risk of repetition. Given the ongoing risk of repetition, and the current

lack of insight or strengthened practice, the panel considered that there remains a risk of harm.

The panel bore in mind the case of *Sawati,* and specifically that a denial of the allegations does not mean that a registrant cannot demonstrate insight and that concerns have been addressed. However, the panel did not consider that you have yet appropriately reflected on the charges found proved. The panel was not satisfied that you had demonstrated a level of insight that assures this panel that the risk of repetition, and subsequent risk of harm, is mitigated. The panel therefore decided that a finding of impairment is necessary on the ground of public protection.

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

The panel considered that the misconduct identified in this case is very serious, and that a member of the public, with all of the information that this panel has received, would be seriously concerned if you were permitted to practise without restriction given the public protection concerns identified. The panel concluded that public confidence in the profession would be undermined, and the reputation of the profession would be seriously damaged if a finding of impairment was not made in this case. The panel therefore also finds your fitness to practise impaired on the ground of public interest in order to mark the seriousness of the misconduct, to maintain public confidence in the profession and the NMC as its regulator, and to uphold proper professional standards.

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

Sanction

Having found your fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike you off the register. The effect of this order is that the NMC register will show that your name 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 Kabasinskas submitted that a striking off order is the only proportionate sanction to protect the public and mark the public interest in this case. He submitted that taking no further action or imposing a caution order would not be appropriate given the seriousness of the case. He submitted that a conditions of practice order would not be appropriate because there are no workable or practicable conditions that could be imposed to mitigate the risk of harm to the public. He further submitted that a conditions of practice order would not address the public interest concerns given the seriousness of the case.

Mr Kabasinskas submitted that a suspension order is not the appropriate or proportionate sanction in this case. He submitted that you caused physical and psychological harm to Patient A, who was highly vulnerable at the time. He submitted that Patient A relied completely on you and other nurses for his care, and you abused this position. He submitted that this was not a single instance of misconduct, and there is some evidence of you having a deep-seated attitudinal issue in this case. He submitted that such behaviour is incompatible with you remaining on the NMC register.

Mr Kabasinskas submitted that the misconduct in this case raises questions about your professionalism, and public confidence in the profession could not be maintained if you remain on the NMC register. He submitted that a striking off order is the only sanction which will be sufficient to protect patients, members of the public and maintain professional standards.

Mr Kabasinskas acknowledged that you have had no other regulatory findings made against you and have a previously unblemished career. However, he submitted that the seriousness of the misconduct outweighs any mitigation. He submitted that it was a matter for the panel to determine whether the fact you have not been subject to an interim order is a mitigating factor in this case.

The panel also bore in mind your submissions that you still deny these charges vehemently. You told the panel that you have removed yourself from practice, and do not intend to return to practice. You invited the panel to make no order as you have remained on the NMC register without restriction and without incident since December 2021, when an Investigating Committee did not impose an interim order. You told the panel that you are never going to work as a nurse again.

Decision and reasons on sanction

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, and subsequent power imbalance between you and Patient A during his stay in ITU where he was particularly vulnerable since he was unable to move or communicate without assistance;
- A pattern of misconduct over time, in that the panel has found that on more than one occasion you intended to intimidate, humiliate, cause fear and cause harm to Patient A;
- Physical and psychological harm was caused to Patient A;
- Limited insight into failings – no recognition or appreciation of the effect of the misconduct on the wider profession, colleagues and members of the public and in particular, no attempt by you to articulate what, if anything, you could have done differently with Patient A to counter any impression he had that you were behaving in a manner which he perceived as threatening, or how you would avoid giving such an impression in the future.

The panel considered the following mitigating factors:

- An apology was made to Patient A during the early stages of the investigation and in these proceedings;
- Your previous good character and unblemished regulatory history; notwithstanding that this carried little weight given the seriousness of these concerns. The panel had taken your previous good character into account in deciding the facts, but found that this was outweighed by the evidence of Patient A and Witness 2.

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

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of*

impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.' The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the 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 your 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 panel was of the view that, having found that, on more than one occasion, you intended to intimidate, humiliate and cause fear to Patient A and that you also caused him both physical and psychological harm, there is evidence of deep-seated attitudinal issues in this case, which could not be addressed by any conditions. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case, protect the public or meet the public interest.

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;*

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction. The panel considered that this was not a single instance of misconduct. The panel accepted that there is no evidence of repetition

since the allegations were made, however it also noted that you have not worked as a nurse since 2021 and that there is no evidence before it that the risks have been addressed through training or strengthened practice. The panel considered that there is evidence of a deep-seated attitudinal problem, and that your lack of insight (for the reasons stated above) poses a significant risk of repeating your behaviour. The panel also considered that a suspension order would not protect the public, nor sufficiently address the public interest in this case, given the seriousness of the misconduct.

In any event, the panel determined that any period of suspension (which could be imposed to allow time for you to develop your insight or strengthen your practice) would likely be futile, given your submission of your apparent intention to leave the profession and also given the panel's earlier finding that, notwithstanding you had over four years (since the incidents found proved occurred) to develop meaningful insight, it was still significantly limited.

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?*

The panel considered that the conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse The panel noted that the serious breach of the fundamental tenets of the profession evidenced by your actions is fundamentally incompatible with you remaining on the register. The panel was of the view that the findings in this particular case demonstrate that your actions were serious and to allow you to continue practising would undermine public confidence in the

profession and in the NMC as a regulatory body. The panel also considered that a striking off order is the only proportionate sanction that would protect the public.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the necessary and proportionate sanction is that of a striking-off order. Having regard to the effect of your 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 you in writing.

Decision and reasons on proceeding in the absence of Mr Davies

The panel next considered whether it should proceed in the absence of Mr Davies. It had regard to Rule 21 and heard the submissions of Mr Kabasinskas who invited the panel to continue in the absence of Mr Davies. He submitted that Mr Davies had voluntarily absented himself. Mr Kabasinskas submitted that Mr Davies, on the last day of this hearing, informed the Hearings Coordinator that he would not be attending due to work commitments. Mr Davies confirmed in an email that he was content to receive the determination via email. Mr Kabasinskas submitted that the public interest outweighs Mr Davies' interest in light of the panel's decision to impose a striking-off order.

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 Davies. In reaching this decision, the panel has considered the submissions of Mr Kabasinskas 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 Davies;
- Mr Davies has voluntarily absented himself and has confirmed that he is content to receive the determination via email;
- The panel has imposed a striking-off order, and therefore the NMC will make an application for an interim order to be imposed; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mr Davies in proceeding in his absence. However, the disadvantage is the consequence of Mr Davies'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 to proceed in the absence of Mr Davies. The panel will draw no adverse inference from Mr Davies's absence in its findings on the interim order application.

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 Davies'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 Kabasinskas. He submitted that an interim order is necessary to protect the public and mark the public interest during any potential appeal period.

Mr Kabasinskas submitted that an interim suspension order is the only proportionate order in light of the panel's imposition of the striking-off order. He submitted that an interim order is necessary for 18 months in order to protect the public during any period of appeal by Mr Davies.

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 protect the public and mark the public

interest for the period before the substantive order comes into effect and any subsequent appeal period.

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

That concludes this determination.

This will be confirmed to Mr Davies in writing.