

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

**Substantive Hearing**

**Tuesday, 28 May 2024 – Friday, 31 May 2024  
Wednesday, 5 June 2024  
Friday, 7 June 2024 – Tuesday, 11 June 2024  
Monday, 19 May 2025 – Thursday, 22 May 2025  
Friday, 6 June 2025 – Thursday, 12 June 2025  
Monday, 8 September 2025 (in camera)  
Monday, 27 October 2025  
Monday 24 November 2025 – Thursday 27 November 2025**

Virtual Hearing

<b>Name of Registrant:</b>	<b>Syam Teeluck</b>
<b>NMC PIN:</b>	89K0554E
<b>Part(s) of the register:</b>	Registered Nurse - Sub part 1 Learning Disabilities - (Level 1) - (23 March 1993)
<b>Relevant Location:</b>	Wales
<b>Type of case:</b>	Misconduct
<b>Panel members:</b>	Richard Youds (Chair, Lay member) Dr Katharine Martyn (Registrant member) Rachel Barber (Lay member)
<b>Legal Assessor(s):</b>	Penny Howe KC (28 May 2024 – 31 May 2024) Charlotte Mitchell-Dunn (5 June 2024, 7 June 2024, 10 June 2024) Andrew Young (11 June 2024) Michael Hosford-Tanner (19 May 2025 – 22 May 2025) Attracta Wilson (6 June 2025) Suzanne Palmer (9 June 2025 – 12 June 2025, 8 September 2025, Monday 27 October 2025, 24 November 2025 – 27 November 2025)
<b>Hearings Coordinator(s):</b>	Yewande Oluwalana (28 May 2024 – 11 June 2024) Hamizah Sukiman (19 May 2025 – 22 May 2025) Sharmilla Nanan (6 June 2025 – 12 June 2025)

Khatra Ibrahim (8 September 2025, Monday 27 October 2025, 24 November 2025 – 27 November 2025)

**Nursing and Midwifery Council:**

Represented by Omar Sabbagh, Case Presenter (Tuesday, 28 May 2024 – Friday, 31 May 2024 Wednesday, 5 June 2024, Friday, 7 June 2024 – Tuesday, 11 June 2024, Monday, 19 May 2025 – Thursday, 22 May 2025, Friday, 6 June 2025 – Thursday, 12 June 2025)

Represented by Giedrius Kabasinskas, Case Presenter (Monday 27 October 2025, 24 November 2025 – 27 November 2025)

**Mr Teeluck:**

Present and unrepresented  
Natalie Bird, Special Counsel (7 June 2024 – 11 June 2024)

**No case to answer application:**

Rejected in respect of Charge 1(a) and Charge 4 (in relation to charge 1(a) only)

**Facts proved:**

Charges 1a(i), 1a(ii), 1b, 1c, 1e, 1j, 1k, 1l & 2a (stem only), 4a and 4b (in relation to 1a (i), 1a(ii), 1b, 1c, 1e, 1j, 1k, 1l and 2a (stem only))

**Facts not proved:**

Charges 1d, 1f, 1g, 1h(i) ,1h(ii), 1i, 2a(i), 2a ii), 2a(iii), 3

**Fitness to practise:**

**Impaired**

**Sanction:**

**Striking off order**

**Interim order:**

**Interim suspension order (18 months)**

## Details of charge (as amended)

'That you, a registered nurse:

1. Between October 2019 and February 2020:
  - a. on one or more occasion sent unwanted sexual inappropriate messages to Colleague A via:
    - i. Facebook
    - ii. WhatsApp
  - b. Pulled Colleague A into the kitchen cold room and attempted to kiss her.
  - c. On one or more occasion put your hand down Colleague A's trousers.
  - d. Stood behind Colleague A and pressed your genitals grinded into her buttocks.
  - e. Pulled Colleague A into the medication room and attempted to kiss her.
  - f. Attempted to kiss Colleague A in the presence of Patient A.
  - g. Said to Colleague A Patient A is "deaf and dumb" or words to that effect.
  - h. Asked Colleague A to purchase:
    - i. Condoms
    - ii. Lubricant
  - i. Asked Colleague A when would they be using the condoms.
  - j. On one or more occasion told Colleague A that you had ejaculated in your pants underwear.
  - k. Pulled Colleague A's hand to a wet patch in your groin area.
  - l. Said "see that is your fault" or words to that effect.
2. On 26 December 2019:
  - a. Laid on top of Colleague A:
    - i. with your penis out.
    - ii. and placed your penis between Colleague A's buttocks.
    - iii. and made thrusting motions.

3. On or around January 2020, whilst Colleague A was asleep, lay next to her.
4. Your conduct at charges 1a(i) and/or 1a(ii) and/or 1b and/or 1c and/or 1d and/or 1e and/or 1f and/or 1g and/or 1h(i) and/or 1h(ii) and/or 1i and/or 1j and/or 1k and/or 1l and/or 2a(i) and/or 2a(ii) and/or 2a(iii) and/or 3 was:
  - a. sexually motivated in that you intended to pursue sexual relationship with Colleague A for sexual gratification.
  - b. Sexual harassment in that your conduct towards Colleague A was unwanted.

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

## **Background**

The NMC received a referral on 28 February 2020 from Hywel DDA Health Board (the Board). The allegations related to inappropriate text messaging, as well as incidents which occurred in work between 31 October 2019 and January 2020.

It is alleged that you obtained Colleague A's number from the work diary and started to send them inappropriate Facebook messages, telling them you loved them and [PRIVATE]. Over this period of three months, you allegedly sent sexual and inappropriate messages to Colleague A, often saying that you fancied them and wanted to have sex with them.

It is further alleged that during this period of time, you sexually assaulted Colleague A on several occasions. The first main physical incident was that in October 2019, you allegedly pulled Colleague A into the kitchen cold room with force then tried to kiss Colleague A. Colleague A left the room crying and showed a colleague Ms 1 the red mark on their arm.

Thereafter, it is alleged you continued to sexually assault and harass Colleague A at work. There were further occasions where it is alleged you forcefully pulled Colleague A into a room and tried to kiss them, on one occasion in the presence of a patient. Colleague A did not consent to any of these actions.

You allegedly also put your hands down Colleague A's trousers into their pants on several occasions, in particular when they were walking in the corridors and no one else was around. On one occasion you allegedly stood behind them and pressed your genitals into their buttocks, 'grinding' on them.

On several occasions it is alleged you would tell Colleague A that you had ejaculated whilst at work and tell them that it was their fault. On one of these occasions, you forcefully placed their hand on your groin stating they made you ejaculate.

It is alleged you asked Colleague A to purchase condoms and lubricant for you, which they understood to be a favour for you in a separate personal relationship. You later asked them when they were going to use the condoms together.

On 26 December 2019, there was an incident when Colleague A had been [PRIVATE]. [PRIVATE]. It is alleged they heard you say 'hold on a second'. The next thing they knew you were laying on top of them, thrusting yourself, and you had pulled your penis out of your trousers and placed it between their bum cheeks. Colleague A managed to turn around, causing you to fall to the floor.

In January 2020, it is alleged that there was an incident where you found Colleague A laying down on the sofa. They were afraid of you and pretended to be asleep. You allegedly lay down next to them, put your arm around them, and kissed the hood of their jumper. Eventually, they were able to pretend to roll over, and you fell off the sofa, and left.

### **Decision and reasons on application to admit hearsay evidence**

The panel heard an application made by Mr Sabbagh, on behalf of the Nursing and Midwifery Council (NMC), under Rule 31(1) of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 to allow the entirety of exhibit GM/3 to be admitted into evidence. Exhibit GM/3 includes a report and appendices of transcripts which were the product of interviews conducted with a range of members of staff who were asked to contribute to the Health Board's formal investigation process, which was conducted by an independent Investigating Officer.

Mr Sabbagh submitted that those aspects of Exhibit GM/3 that represented content obtained from you and Colleague A did not fall into the category of hearsay evidence and therefore were not subject of this application.

Mr Sabbagh further submitted that the NMC did not seek admission of the evidence in Exhibit GM/3 that represented the opinion of the independent Investigating Officer, which should properly be excluded.

With reference to the admissibility of the balance of Exhibit GM/3, Mr Sabbagh referred the panel to the case of *Thorneycroft v NMC* [2014] EWHC 1565 (Admin). Mr Sabbagh made the following submissions:

11. **Relevance.** *Plainly, the accounts of the witnesses are relevant. They primarily deal with the issue of [Colleague A's] credibility, and whether or not she made disclosures of what had taken place to others. The main question to be addressed is whether or not it is fair to admit the evidence.*
12. **A balanced picture.** *Some of the accounts provided are potentially damaging [Colleague A's] credibility, but they have been included in the application nevertheless. The NMC have not picked and chosen which accounts to rely upon, and which to exclude, but have instead made an application which places before the panel the full picture.*
13. **Lack of good and cogent reason.** *Unfortunately, no efforts were made to contact the witnesses referenced in the report or [Mr 1], and the NMC is unable to provide any good and cogent reason for this. However, the absence of a good reason does not automatically result in the exclusion of the evidence.*
14. **The hearsay evidence referenced within the Investigation Report is not the sole and decisive evidence in the case.** *In fact, the evidence primarily goes to [Colleague A's] credibility. [Colleague A] will provide live evidence and can therefore be challenged and scrutinised on Mr Teeluck's behalf.*

15. ***The absence of the witnesses can be reflected in the weight to be attached to their evidence. The admission into evidence of the hearsay in question does not mean that the evidence must be accepted. The Panel will no doubt receive robust legal advice on how to treat hearsay evidence and the attachment of weight to such evidence.'***

Mr Sabbagh invited the panel to admit the hearsay evidence.

You were asked to indicate your view to the panel. You submitted that you were happy for the evidence to be admitted without the witnesses being called. You were reminded that some of the evidence might have the potential to harm your case, while some of the evidence may have the potential to support your case. You repeated your view that you were content for the evidence to be in front of the panel.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules) provides that, subject only to the requirements of relevance and fairness, a panel may accept oral or documentary evidence, whether or not such evidence would be admissible in civil proceedings. However, Rule 31 is subject to the requirements of fairness and an opportunity to test the evidence. The legal assessor also referred the panel to the case of *Thorneycroft* and the following essential considerations for the panel to take into account in reaching its decision:

- (i) Whether the statements (or here, transcripts of interviews) were the sole or decisive evidence in support of the charges;
- (ii) The nature and extent of the challenge to the contents of the statements;
- (iii) Whether there was any suggestion that the witnesses had reasons to fabricate their allegations;
- (iv) The seriousness of the charge, taking into account the impact that adverse findings might have on the Registrant's career (and wider life);
- (v) Whether there was a good reason for the non-attendance of the witnesses;
- (vi) Whether the NMC had taken reasonable steps to secure their attendance;

The legal assessor reminded the panel of the distinction between the question of admissibility of the evidence, and the question of weight that should attach to any evidence it determined should be admitted, which would be addressed at a later stage.

The panel gave the application in regard to Exhibit GM/3 in its entirety serious consideration. The panel took into account that those parts of Exhibit GM/3 that represented evidence emanating from Colleague A or you were admissible in any event and were not therefore the subject of the application. It further noted that there was no application to admit the findings or opinions of the Investigating Officer, and therefore any such evidence shall be excluded from its consideration.

The panel noted that the balance of Exhibit GM/3 contained accounts and interview transcripts from a range of members of staff interviewed in the course of the Health Board's internal investigation, who were asked about their knowledge or awareness of any relationship between you and Colleague A, and how they had come about that knowledge.

The panel noted that these accounts are not the sole or decisive evidence in support of the allegations against you. The key evidence for its consideration will be that of Colleague A and yourself, should you choose to give evidence in due course.

The panel considered the nature and extent of the challenge to the contents of the evidence. It took into account that you dispute all of the allegations of unwanted sexual contact; and that you may wish to refer to the timing and manner of Colleague A giving their accounts to others as a matter of relevance to your case.

The panel determined that there is no suggestion that the accounts provided by the third parties are fabricated or exaggerated; albeit if admitted in evidence, the panel would take into account the passage of time between the alleged events and the interviews being conducted in weighing the cogency and reliability of the evidence. The panel was satisfied that the accounts given were recorded by the independent Investigating Officer, and that the answers were provided during the course of a formal interview. Although the evidence of each member of staff was not in the form



of a witness statement it was recorded in a transcript containing all the interview questions and answers given.

The panel considered that the allegations faced by you are extremely serious, being of a course of unwanted sexual harassment including allegations of sexual assault. It bore in mind that adverse findings could have an extremely serious impact on you and on your career.

The panel was struck that, as had been fairly submitted by Mr Sabbagh, there was no clear or cogent reason as to why the NMC had not contacted the relevant staff members to ask them to provide witness statements and/or to give live evidence. The panel considered this to be a significant omission on the part of the NMC and one which weighed heavily upon it. However, it noted that this factor did not necessarily mean the evidence should automatically be excluded.

The panel considered that the content of Exhibit GM/3 that was subject of this application provided context to the alleged events and what the third parties may have been told by Colleague A. It was satisfied that the material subject of the application was relevant and might contribute to a balanced picture as to the allegations faced by you. The panel noted that the NMC had not cherry-picked which elements of Exhibit GM/3 it sought to rely upon, but instead sought to admit evidence that might assist your case, because it might have a bearing on the credibility of Colleague A, as well as evidence that might undermine it. This was important in terms of the fairness of the application to you.

The panel recognised there was also a public interest in the evidence relating to the allegations being explored fully which supported the admission of this evidence into the proceedings.

It was satisfied you would have the opportunity to give evidence and also challenge any evidence given by Colleague A which would be the primary evidence that the panel would have to consider in determining the allegations.

The panel reminded itself that if it determined to admit the evidence, then as a separate exercise, it would be required to weigh carefully the cogency and reliability of each part of that evidence. It considered that as an experienced panel it could do so in due course, alongside the other evidence before it.

In these circumstances, the panel came to the view that it would be fair and relevant to admit into evidence the hearsay evidence contained in Exhibit GM/3, but would give what it deemed appropriate weight to that evidence once the panel had heard and evaluated all the evidence before it.

### **Decision and reasons on application to amend the charge**

The panel heard an application made by Mr Sabbagh to amend the wording of charge 4.

The proposed amendment was to remove the typographical errors within this charge and to reflect the correct sub charges accurately. It was submitted by Mr Sabbagh that the proposed amendment would provide clarity and the substance of the charge will not change.

The proposed amendment:

4. Your conduct at charges 1a(i) and/or **1a(ii)** and/or 1b~~ii~~ and/or 1c and/or 1d and/or 1e and/or 1f and/or 1g and/or 1h(i) and/or **1h(ii)** and/or 1i and/or 1j and/or 1k and/or 1l ~~and/or 1m~~ and/or 2a(i) and/or 2a(ii) and/or 2a(iii) and/or 3 was:
  - a. sexually motivated in that you intended to pursue sexual relationship with Colleague A for sexual gratification.
  - b. Sexual harassment in that your conduct towards Colleague A was unwanted.

The panel heard from you, and you said you had no objections to the amendment.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of the Rules.

The panel was of the view that such an amendment, as applied for, was in the interest of justice. 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. The proposed amendment is an administrative one and there is no change to the substance of the charge. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy in the charges.

### **Decisions and reasons on application for special measures**

During the course of the hearing, the panel of its own volition identified that it had not been made aware of any special measures being in place for Colleague A when they were due to start giving their evidence on Monday 10 June 2024.

Mr Sabbagh informed the panel that a case conference was held between the NMC's reviewing lawyer and your previous representative, however there was no formal decision on special measures to be imposed.

Mr Sabbagh therefore made an application that special measures be applied where Colleague A will join the video link and you would disconnect and join via the telephone. In order to allow Colleague A to give their best evidence during the hearing.

Ms Bird who was appointed as special counsel for cross examination of Colleague A, submitted that she agreed with the proposal. You also indicated that you had no objection to the proposed special measures.

The panel accepted the advice of the legal assessor.

The panel determined that the allegations are of sexual misconduct and both parties are known to each other, which may potentially cause distress to the witness, Colleague A. The panel concluded that the proposed special measures of having

Colleague A appear on camera, whilst you join by telephone was the best course of action. This would enable Colleague A to give their best evidence during the hearing.

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

During Colleague A's evidence, reference was made to [PRIVATE] which ought to be heard in private. Mr Sabbagh made an application that parts of Colleague A's evidence should be held in private in order to prevent [PRIVATE] matters being in the public domain if and when those matters arise. The application was made pursuant to Rule 19 of the Rules.

Ms Bird, on your behalf as special counsel, indicated that she did not object to the application.

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

The panel determined to go into private session if and when matters relating to [PRIVATE] arose during their evidence in order to protect their privacy during the course of the hearing.

### **Decisions and reasons to adjourn the hearing**

Whilst Colleague A was being cross examined by Special Counsel Ms Bird, who is instructed on your behalf for this element of the hearing only, on 11 June 2024, Colleague A mentioned other messages that they had on their phone and that this was their old phone that had previously been in the possession of the police. Colleague A held up the phone to show that it was now in their possession.

Colleague A's evidence was put on hold as a matter of law had arisen in that the phone may hold relevant evidence in relation to this hearing that may need to be disclosed to the parties.

Mr Sabbagh submitted that it would not be fair to proceed with Colleague A's evidence if there is material that needs to be reviewed. He said that the evidence will need to be explored, and the reviewing lawyer would need to be contacted as to how the NMC proceeds in obtaining the evidence and serving on all parties.

Mr Sabbagh invited the panel to adjourn today's proceedings on this basis and asked the panel to provide clear directions for the NMC before the hearing resumes at a later date.

Ms Bird on your behalf submitted that it would be prudent for the NMC reviewing lawyer to sit with Colleague A and ascertain what this evidence might be and its significance. Whether the NMC wishes to rely upon this evidence and if not, this should be provided to you as it may have a bearing on your case. Ms Bird agreed that the hearing be adjourned to clarify the relevance of Colleague A's evidence.

You also agreed with the application to adjourn the hearing.

The panel accepted the advice of the legal assessor.

The panel considered the application for an adjournment carefully. It was aware that there is a strong public interest in the expeditious disposal of this case. This case has been ongoing for four and a half years and involves serious allegations of misconduct. The panel noted that substantial inconvenience will be caused to Colleague A who was part way through their evidence and also to you in bringing this case to a conclusion. However, this is outweighed by fairness to all parties and in the interest of justice.

During the hearing, the panel were made aware of evidence that is not currently available to all parties. In fairness to all the parties, this evidence needs to be

properly obtained and reviewed by the NMC and then served to all parties. This would not be possible today, as this is the last day of the listed dates for this hearing.

The panel determined that in the interest of fairness and justice this evidence will need to be obtained securely and provided to all parties before this hearing can continue. The panel therefore concluded that this hearing is adjourned.

In light of the panel's decision to adjourn the hearing, it makes the following directions:

- The NMC are to obtain and review evidence contained within the mobile phone in the possession of Colleague A, which was previously seized and returned by the police, and all relevant material consistent with the normal rules of disclosure to be served on all parties within two months of today's date (namely 11 August 2024).
- Colleague A to be provided with any new material and to be supported in reviewing this before the resumption of the hearing.
- The NMC to provide a statement to the panel upon resumption of the hearing, as to whether the NMC were aware of the existence of this material before today and what, if any attempts were made previously to obtain this evidence before the panel sat on 28 May 2024.
- The hearing to be relisted for resumption for a period of 10 days. Ensuring that special counsel remains available whilst Colleague A continues to provide live evidence.

**The hearing adjourned on 11 June 2024 and resumed in May 2025.**

### **Preliminary Matters on Day 1 of the Resuming Hearing in May 2025**

On the first day of the resuming hearing in May 2025, Mr Sabbagh and Ms Bird updated the panel in relation to the following preliminary matters:

- There is a new disclosure document containing messages from various social media platforms between you and Colleague A, which will need to be introduced formally into the hearing (Exhibit 13);

- Ms Bird has prepared a “recap” document, which was designed to encapsulate Colleague A’s evidence given under cross-examination thus far, which was proposed to be circulated to all parties, including Colleague A, prior to resuming her evidence; and
- You have not been able to access any of the transcripts from the last sitting, and you wished for the transcripts to be printed off and posted to your registered address via First Class Post.

The panel considered the following points in turn.

#### New Disclosure Bundle

Mr Sabbagh informed the panel that he and Ms Bird are agreed that, in the interest of time, this new material should be incorporated into Ms Bird’s cross-examination and any subsequent re-examination from Mr Sabbagh, as these are messages which both you and Colleague A would have had access to and been aware of. He told the panel that the NMC are working on producing an exhibiting witness statement from a member of staff to allow this material to be formally introduced into these proceedings.

The panel accepted the advice of the legal assessor.

The panel considered that the new bundle contained messages between you and Colleague A, and that there is an agreed solution between Mr Sabbagh and Ms Bird in relation to introducing this material without delaying the hearing. The panel accepted the proposed solution.

#### Ms Bird’s “recap” Document

Ms Bird informed the panel that she has produced a Word document which encapsulates Colleague A’s evidence under cross-examination. Upon discussion with Mr Sabbagh, Ms Bird invited all hearing parties to have sight of this document prior to the commencement of Colleague A’s cross-examination.

Mr Sabbagh confirmed Ms Bird's submissions.

The panel accepted the advice of the legal assessor.

The panel considered that, in any event, the transcripts from the last sitting has been made available to it. Consequently, it was able to refresh itself of Colleague A's evidence from these transcripts.

The panel considered that, given that Ms Bird has already produced this document, it may be useful for the panel to have sight of it. This document may speed up the panel's navigation or cross-referencing of the transcripts. The panel determined that this document should be circulated to the panel.

However, the panel determined that Colleague A should not be given a copy of this document. The panel was of the view that this document may be helpful for the panel or counsel, but there is no necessity for Colleague A to have sight of this document.

### Transcripts

The panel heard that you have not been able to access the transcripts from the last sitting via Egress. The panel also heard, from the Hearings Coordinator, that a physical copy of the transcripts will be sent out via First Class Post to your registered address, and that a password-protected, electronic version of the transcripts have been sent to you. You confirmed receipt of the electronic version of the transcripts.

Ms Bird submitted that the proceedings could commence, as you indicated that you were content to not read the transcripts today.

Mr Sabbagh submitted that the NMC is neutral on the matter.

When asked by the panel, you indicated that you wished to read the transcripts prior to the commencement of proceedings.

The panel accepted the advice of the legal assessor.



In reaching its decision, the panel took into account submissions from both Mr Sabbagh and Ms Bird. The panel considered that Colleague A was warned to attend today and is ready to give evidence.

However, the panel was of the view that, in any event, you would need some time during these proceedings to read the transcripts sent to you. The panel considered that you expressed a wish to read the transcripts prior to commencing, and it would be in the interest of fairness to you to allow you time to do so. The panel considered that there are four days scheduled for this sitting, and it determined to allow you time on Day 1 to read the transcripts prior to commencing with the hearing.

Accordingly, the panel adjourned the hearing until 09:30 on Day 2 to allow you to read the transcripts.

### **Decision and reasons on the re-examination of Colleague A**

Prior to Mr Sabbagh's re-examination of Colleague A, he drew the panel's attention to the nature of some of the questions he plans on asking. He told the panel that these questions are of a sensitive nature, involving descriptions of her tattoos or otherwise distinctive features. He submitted that he wishes to give Colleague A the choice of answering these questions, considering these are being asked in your presence (albeit you appeared via telephone, pursuant to the special measures agreed). He submitted that these questions are being asked given the evidence you gave in relation to Colleague A's distinguishing marks at the local investigation.

Upon exploring the possibility of you being absent for these parts of the proceedings, both Mr Sabbagh and Ms Bird agreed that this would not be the appropriate course of action. Ms Bird further reminded the panel that she is only representing you as Special Counsel for the duration of Colleague A's evidence, and that you are otherwise unrepresented. She submitted that it is therefore essential that you hear the case being made against you.

The legal assessor endorsed this view, insofar as there should not be "*secret evidence*", and that you should be present for your own proceedings.

On whether it is possible for you to confirm your position on this topic prior to Colleague A's re-examination, both Mr Sabbagh and Mr Bird agreed that this, too, would not be the appropriate course of action, as you may choose to give evidence when your case begins.

The panel accepted the advice of the legal assessor.

Taking into account all the information before it, the panel determined that it is in the interest of justice for you to remain in the hearing whilst these personal questions are being asked. The panel considered that you are not represented in these proceedings, and it is important for you to be aware of the case made against you by the NMC.

Further, the panel determined not to ask you to confirm your position in relation to this topic at this stage. The panel considered that it has your evidence from the local investigation in any event, and that you may choose to give evidence in relation to this at a future point in these proceedings. The panel bore in mind that, by the time your case in these proceedings begins, you will no longer be represented.

Bearing in mind the nature of the allegations, the special measures in place as well as the overall interest of justice, the panel determined to allow Mr Sabbagh to ask these questions to Colleague A, but to give Colleague A the freedom to not answer them if she wishes. The panel decided that you must remain in these proceedings whilst this happened, and that you do not have to confirm your position in respect of this topic until your case in these proceedings begin.

**Decision and reasons on the NMC offering no evidence or no case to answer in relation to Charge 1(a) and the associated elements within Charge 4**

Following the conclusion of Colleague A's evidence, Mr Sabbagh submitted that the NMC wishes to offer no evidence in relation to charge 1(a)(i), charge 1(a)(ii) as well as the associated elements of these charges within charge 4.

Mr Sabbagh submitted that, following the receipt of the messages between you and Colleague A, and Colleague A's concession in their oral evidence that some of the messages were flirtatious, the NMC no longer wishes to pursue these charges. He submitted that it is clear, from Colleague A's evidence, that these messages were not unwanted, pursuant to the wording in charge 1(a). Consequently, he submitted that those elements within charge 4 also necessarily falls.

Mr Sabbagh submitted that this does not undermine the remainder of the NMC's case against you. He submitted that, whilst the messages may have been flirtatious, Colleague A remained clear that they did not wish to [PRIVATE] or a sexual relationship with you. Accordingly, the remainder of the charges remain.

You reiterated your innocence, and you submitted that you supported the application.

The panel accepted the advice of the legal assessor. He drew the panel's attention to the NMC guidance, '*Offering no evidence*' (DMA-3) as well as the decision in, and principles derived from, the case of *Professional Standards Authority v Nursing and Midwifery Council & X* [2018] EWHC 70 (Admin). He advised the panel that, whilst it is a matter for the panel's professional judgement, some evidence has been put forward by the NMC in relation to these charges. He reminded the panel of the evidence before it from both the messages as well as Colleague A's oral evidence, including their concession that they were engaging in flirtation or "*banter*", on some occasions, with you, but that on other occasions, the messages were unwanted.

In light of this, the legal assessor advised that the panel may wish to instead find that there is no case for you to answer in relation to these charges, pursuant to Rule 24(7) of the Rules. He reminded the panel of the decision in, and principles derived from, the case of *R v Galbraith* (1981) 73 Cr App R 124. He advised the panel that, in this matter, there is evidently some evidence before it supporting these charges. The question before this panel is whether this evidence presented, taken at its highest, is sufficient to find the facts proved.

Following the legal advice, Mr Sabbagh acknowledged that some evidence has been put forward by the NMC in relation to charge 1(a), and that an application for no case to answer, pursuant to Rule 24(7), may be more appropriate at this stage, seeing as the NMC case is closing. He submitted that, pragmatically, he makes a dual application for these charges to not proceed, via either route. He accepted that, based on the legal advice, his primary application is therefore one in relation to a no case to answer in respect of these charges.

You indicated that you supported Mr Sabbagh's application, either way.

In reaching its decision, the panel took a two-step approach. Firstly, the panel considers the NMC's application to offer no evidence in relation to these charges, in light of the legal advice it received. Secondly, and only if it determined that evidence has been offered by the NMC, the panel considers whether there is no case for you to answer in respect of these charges.

#### No Evidence Offered

In reaching its decision, the panel took into account Mr Sabbagh's submissions, your support of the application, the legal advice it received as well as the evidence before it.

The panel was of the view that, in relation to this charge, some evidence has been offered by the NMC. The panel considered all the information before it at this stage, including the messages between you and Colleague A, as well as Colleague A's oral evidence under affirmation, which indicated that they did not want to receive the sexual inappropriate messages from you.

Accordingly, the panel rejected Mr Sabbagh's application to offer no evidence.

#### No Case to Answer

In respect of the no case to answer application, the panel took into account Mr Sabbagh's submissions, your support of the application, the legal advice it received, including the reference to *Galbraith*, as well as the evidence before it.

The panel took into account that, based on the messages and the oral evidence from Colleague A, some of the messages were initiated and wanted by Colleague A. However, the panel heard that, in relation to the sexual messages, Colleague A did not want to receive these messages. The panel heard that they only remained in contact with you to maintain a good working relationship with you, and to prevent any situation in which you would mistreat them in the workplace. Notwithstanding this, the panel heard that Colleague A did not wish to receive some of these messages, and they told the panel that they informed you as such at the time.

The panel also considered that Colleague A, in their oral evidence, indicated that they did not remember when your messages began to take a more sexual tone. The panel had sight of the messages, and it noted that the first sexualised message appeared on a Facebook Messenger message on 27 November 2019. Therefore, whilst there appears to be some evidence supporting the charge that you sent unwanted sexual inappropriate messages, the panel noted that the earliest of these messages were dated at a time after the relevant time period in this charge (namely, in or around October 2019). The panel therefore formed a provisional view that there would be a case to answer in relation to the mischief of the charge, but the date of the charge frustrates this.

The panel noted that the dates of the charge could be amended at this stage to reflect the correct time period.

Having reached a provisional view that there is a case to answer in respect of you sending unwanted sexual inappropriate messages to Colleague A albeit not in or around October 2019, the panel therefore announced its provisional view, which is as follows:

1. The NMC has offered some evidence in respect of charge 1(a) and the associated elements within charge 4, namely within the messages between you and Colleague A, as well as Colleague A's oral evidence;
2. There is a case to answer in respect of you sending Colleague A unwanted sexual inappropriate messages. However, these messages began at the end of November 2019;
3. Accordingly, there would be no case to answer if the NMC kept charge 1(a) as it is presently (namely, "*in or around October 2019*"), as this time period pre-dates the unwanted sexual inappropriate messages in November 2019;
4. However, there would be a case to answer if the NMC amended the wording of charge 1(a) to reflect the time period from November 2019 onwards.

The panel acknowledged that this is not its final decision in relation to Mr Sabbagh's application, and that decision would be subject to any further application made by Mr Sabbagh in relation to amending the stem of charge 1(a). The hearing adjourned on 22 May 2025.

On Day 1 of the resuming hearing in June 2025, Mr Sabbagh addressed the panel on an application to amend the wording of charge 1(a). This is detailed below.

Following the application to amend the charge, the panel was therefore able to consider this application for no case to answer.

Having amended the stem of charge 1(a), the panel considered whether there is a case for you to answer in relation to this charge.

The panel took into account the text messages between you and Colleague A, as well as the evidence it heard from Colleague A in relation to how they entertained you in these messages to prevent you from treating them badly at work. The panel considered that, by November 2019, the messages began to become more sexual in nature, and the panel heard that Colleague A did not want to engage in a romantic and/[PRIVATE]. Accordingly, the panel was satisfied that there is a case for you to answer in relation to charge 1(a), in light of the stem of charge 1(a) now encompassing this time period.

The panel determined that, as charge 4 is an associated charge, its decision on charge 1(a) is therefore reflected in charge 4.

Accordingly, the panel determined that there is a case for you to answer in respect of charge 1(a) and charge 4. The panel rejected Mr Sabbagh's application.

### **Decision and reasons on application to amend Charge 1(a)**

At the conclusion of the May 2025 sitting, the panel gave its provisional view on Mr Sabbagh's application to offer no evidence and, in the alternative, submissions in relation to no case for you to answer in respect of charge 1(a) and the associated elements within charge 4. The panel adjourned on 22 May 2025, having indicated its provisional view that there is a case for you to answer for the mischief of charge 1(a). However, it also noted that the evidence before it – both in the text messages and from Colleague A – indicated that these messages occurred after October 2019, which is the stem of the charge.

Mr Sabbagh indicated that he would seek further instructions, prior to this matter resuming on 5 June 2025, on amending charge 1(a), in light of the panel's provisional view.

### **Decision and reasons on application to amend the charge**

The panel heard an application made by Mr Sabbagh, on behalf of the NMC, to amend the wording of charge 1.

The proposed amendment was to widen the date range. It was submitted by Mr Sabbagh that prior to the panel's decision regarding the NMC's application on no case to answer, the panel sought clarification if charge 1 would be amended. He submitted that the proposed amendment would provide clarity and more accurately reflect the evidence. He submitted that once the panel makes a decision on the application to amend the charge it can then decide whether it will accept or reject the NMC's application for no case to answer. He submitted that the panel may wish to

consider that it is unfair to extend the date range of charge 1 as you are unrepresented.

Original wording of charge 1

“That you, a registered nurse:

1. In or around October 2019:
  - a. on one or more occasion sent unwanted sexual inappropriate messages to Colleague A via...”

Proposed wording to charge 1

“That you, a registered nurse:

1. ~~In or around~~ **Between** October 2019 **and February 2020:**
  - a. on one or more occasion sent unwanted sexual inappropriate messages to Colleague A via...”

You stated that you did not have anything to add in relation to the changes to charge 1.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of the Rules.

The panel was of the view that such an amendment, as applied for, was in the interest of justice. The panel took into consideration that Colleague A’s phone with the messages had been downloaded following the first listing of this hearing in June 2024. The panel concluded that in order to properly consider the charges the date range of charge 1 needs to be widened. It noted that by widening the date range of the charges this would also support your case and assist the panel with establishing your relationship with Colleague A. 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. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.



## **Decision and reasons on facts**

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Sabbagh 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:

- Witness 1: At the material time was employed as a Manager who worked with you and Colleague A.
- Witness 2: Health care support worker who worked with you and Colleague A.
- Colleague A: Health care support worker who you worked with at the Board.

The panel heard live evidence from the following witness called on your behalf:

- Witness 4: Health care support worker who worked with you and Colleague A.

The panel also heard evidence from you under oath.

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.

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

### **Charge 1a(i)**

“That you, a registered nurse:

1. Between October 2019 and February 2020:
  - a. on one or more occasion sent unwanted sexual inappropriate messages to Colleague A via:
    - i. Facebook”

**This charge is found proved.**

In reaching this decision, the panel took into account the Facebook messages between you and Colleague A, the evidence of Colleague A and Witness 2 and your evidence.

The panel considered the Facebook messages between you and Colleague A. It noted that up until 27 November 2019, the messages between you and Colleague A matched in the level of banter that you reciprocated towards one another. However, the panel noted that the nature of the messages from Colleague A changed, as they started to deflect your messages, for example, in a message dated 7 December 2019, Colleague A stated:

*“Inreally codnt cheat on [Mr 2]. He and the are my world”. [sic]*

Over the course of December 2019, you sent a number of sexually explicit messages to Colleague A and you tried to arrange meeting with Colleague A. The panel was of the view that Colleague A continued to deflect these sexually explicit messages, for example

*“[Colleague A]: Ho my most people would be put right for betig told about being constipated. For weeks. Mmm well 2 months to be exact x  
[You]: ... if I put my cock inside yr ass u will shit then  
[Colleague A]: Hahaah I’ve had one or two rabbit dropping if I’m lucky but as for a proper bowel movement really its been over 2 months. That’s why I don’t want to eat I feel so full. Nothing goes up my ars hahha x” [sic]*

The panel considered Colleague A’s evidence. In their NMC witness statement she stated:

*‘I began to notice a change in Syam’s behaviour in October 2019 when he started telling me that he had always had a, ‘thing’ for me and that he found me attractive, this later leading to him asking for [PRIVATE]. This was in person and via Facebook messenger. When Syam said these things, at first, I sort of just brushed it off and said, ‘no, you don’t’. I would tell Syam that I am not interested [PRIVATE]. However, it didn’t matter how many times I told him no or tried to ignore his advances, he just kept pushing and making these comments and advancements towards me then things escalated further.’*

In Colleague A’s oral evidence, they said that [PRIVATE] they have learned to be passive when saying ‘no’ to a request, so as not to upset the other party. The panel noted that they said this consistently throughout their oral evidence.

The panel considered the evidence of Witness 2. Witness 2 stated in his NMC statement:

*“[Colleague A] asked me to speak with Syam to get him to stop sending messages. I went and spoke with Syam and told him to stop texting [Colleague A]. Syam seem surprised that I knew that something was going on. We then had a long conversation about what had been going on. Syam outlined it and also showed me the messages that had been going on back and forth between them. At this point Syam told me he had already stopped messaging her and wanted to break it off with [Colleague A].”*

The panel considered your evidence. You accepted that Witness 2 came to speak to you and told you to stop messaging Colleague A.

The panel considered the evidence before it and that there were extensive messages between you and Colleague A. The panel was unable to tell if there were any messages that had been deleted between you and Colleague A. The panel noted that whilst Colleague A called you '*sticky dicky*' and described their underwear, they said to you in the messages that [PRIVATE] and did not want to [PRIVATE]. The panel took into consideration that you sent Colleague A numerous sexually explicit messages. The panel accepted that Colleague A attempted to deflect from these messages in their responses to you. The panel was of the view that when Colleague A stated in the messages that they did not want to have an [PRIVATE], they were also indicating that they did not want to receive sexually explicit messages. The messages you subsequently sent to Colleague A were unwanted and inappropriate. The panel concluded that between October 2019 and February 2020, on one or more occasion you sent unwanted sexual inappropriate messages to Colleague A via Facebook.

The panel therefore found charge 1a(i) proved.

### **Charge 1a(ii)**

- “1. Between October 2019 and February 2020:
- a. on one or more occasion sent unwanted sexual inappropriate messages to Colleague A via:
    - ii. WhatsApp”

**This charge is found proved.**

In reaching this decision, the panel took into account the WhatsApp messages between you and Colleague A, as well as Colleague A's and Witness 2's evidence outlined at charge 1a(i).

The panel considered the WhatsApp messages between you and Colleague A. It was unclear what dates these messages were sent on and the panel inferred that the messages had been sent on or around 13 February 2020 from the screenshots provided. The panel noted that you messaged Colleague A:

*‘CAN WE spend a nite together’, “Do you want sex with me”, “But I want to sleep with u”, “If u dnt know to have sex with me please tell me no”, “But I haven’t had sex for a long time n fancy u” and “It is best cox I want u”. [sic]*

The panel considered the evidence before it and noted that you had sent a number of sexually inappropriate messages to Colleague A in a short space of time between 18:59 and 19:37. The panel noted that Colleague A rebuffed your WhatsApp messages in their responses to you and explained that they wanted to be your friend. The panel was of the view that these sexually explicit messages were clearly unwanted by Colleague A given their responses and explanations to you. The panel was of the view that your responses to Colleague A’s explanation to you, when you replied: *‘oh dnt care bye I got no friend bye’* appears to be punishing them. The panel was of the view that these messages were inappropriate due to the content and volume that had been sent to Colleague A during the timeframe outlined. The panel accepted Colleague A’s evidence that they did not want to say no to you due to concerns about how you would treat them at work and that they are passive when someone requests something of them. They therefore spoke to Witness 2 about how the messages from you made them uncomfortable. The panel determined that between October 2019 and February 2020, on one or more occasions, you sent unwanted sexually inappropriate messages to Colleague A via WhatsApp.

The panel therefore found charge 1a(ii) proved.

### **Charge 1b**

- “1. Between October 2019 and February 2020:
  - b. Pulled Colleague A into the kitchen cold room and attempted to kiss her.”

**This charge is found proved.**

In reaching this decision, the panel took into account Colleague A's evidence, your evidence and the local investigation completed by Mr 1.

The panel considered Colleague A's evidence. In her NMC witness statement she stated:

*'The first main incident I recall was when Syam pulled me by the arm into the kitchen cold room with force then tried to kiss me. ... Syam followed me into the kitchen and before I could say anything to him, he grabbed me by the arm and pulled me into the cold room. Whilst he was pulling me, I was trying to pull away from him, but he was stronger than me and he managed to pull me all the way into the cold room. Once inside, he then pushed me against a unit and tried to kiss me. As he was trying to kiss me, I was turning my head away and trying to push him off me whilst telling him no. He didn't listen and kept trying to kiss me, but I eventually managed to get away from him and got out the cold room and kitchen area. I immediately went into another room where I found [Ms 1]. I instantly started to cry, and I told her what had happened and showed her a mark I had on my arm from where Syam had pulled me.'*

And,

In an achieving best evidence interview conducted by Dyfed-Powys Police on 20 March 2020, Colleague A stated:

*'He pulled me into a cold room by my left wrist, and I had a mark going down my arm, a red mark, and he was trying to kiss me, and he pushed me up against the stainless steel worktops and cupboards, and he was trying to kiss me, and I was moving my head around trying to stop him, and I pushed him away and I just said to him, 'Syam, no. We're in work', and I told him to stop. And that was when I pushed him away. I went out to the kitchen and I saw another member of staff, and she could see I was quite flustered and a bit*

*upset, and she asked me if I was okay, and I told her what had happened.'*  
[sic]

The panel noted that Colleague A repeated this account in their oral evidence.

The panel considered the local investigation completed by Mr 1. Mr 1 interviewed Ms 1 on 10 September 2020. In the record of this meeting Ms 1 stated:

*'Yes, I had gone into our kitchen and [Colleague A] was there and there's a cool room at the back of the kitchen and she said "Syam's just pulled me into the cool room and tried to kiss me" and she showed me her wrist which had a red mark on it. But it looked a bit like Chinese burn type of mark you know, it wasn't a bruise. So I was concerned for her then and I said "well I think you need to report it" and basically that was it.'*

Ms 1 confirmed in the interview that she did not witness this incident.

The panel considered your evidence. You said in your oral evidence that this incident did not happen, and that Colleague A is lying.

The panel considered the evidence before it and noted that the date of the incident was unclear. It bore in mind that Ms 1 did not attend the hearing to provide live evidence in relation to this incident. The panel took into account that Ms 1 provided this account during a local investigation and that there is nothing to suggest that she fabricated her account. The panel noted that Ms 1's account corroborated Colleague A's account of an injury to their wrist. It noted that Colleague A's account remained consistent throughout the three occasions when they gave it. The panel determined that on an occasion between October 2019 and February 2020, you pulled Colleague A into the kitchen cold room and attempted to kiss them.

The panel therefore found charge 1b proved.

### **Charge 1c**

“1. Between October 2019 and February 2020:

- c. On one or more occasion put your hand down Colleague A’s trousers.”

**This charge is found proved.**

In reaching this decision, the panel took into account Colleague A’s evidence and your evidence.

The panel considered Colleague A’s evidence. In her NMC statement they stated:

*‘There were times when Syam put his hands down my trousers when I was walking in the corridor. This happened on several occasions and each time I told him to stop, but he would still do it again. Always when there was no one around and mostly in the corridor. The first time it happened, I had a pair of jeans on that were slightly too big around my waist (we don’t wear uniform on the ward). Syam came up from behind me as I was walking down the corridor and put his hand back then down my trousers and grabbed my bum cheek. As soon as he did this, I pulled away forcing his hand out my trousers. I told him not to do it again, but he did. I don’t know how many times it happened as there were many. I eventually stopped wearing jeans to work and tried to wear something he couldn’t put his hands down.’*

The panel considered the local investigation completed by Mr 1. Mr 1 interviewed Colleague A on 25 September 2020. The record of this meeting states

*“[Mr 1]: And I notice from the documentation I have that the incidents that are alleged against Syam took place during night shifts, so predominantly did you work night shifts with the same people?*

*[Colleague A]: Some incidents did happen during the day, like when he was trying to touch me. It was always when the corridor was clear and he’d either put his hands down the back of my trousers...”*



The panel considered Colleague A's account that they provided in the police interview on 20 March 2020. Colleague A stated during the interview:

*'I think I had a thong on that day, and when he pulled his hands out of the back of my trousers as I was walking away from him, he turned around and told me that I had a sticky bum and he – I think he even messaged me asking me why was my bum sticky, and I think I messaged him back saying like, 'I'm not sticky. I've had a shower'. I think I messaged something like that.'*

The panel noted that Colleague A repeated this account in her NMC oral evidence.

The panel noted that Colleague A referred to one incident in their police interview and oral evidence of you touching their bottom but in the local investigation and their NMC statement they indicated that this happened on more than one occasion.

The panel considered the transcript of your interview with the Police on 24 February 2020. During the interview when asked "Are you sexually aroused by [Colleague A]'s figure?", you said "No".

The panel considered the Facebook messages between you and Colleague A. In these messages, you stated to Colleague A "*Show me a picture of Yr sexy bare ass instead ha ha*". It noted that there were several messages of a similar nature to this one, that you had sent to Colleague A. The panel was of the view that your answer in the police interview contradicted the messages that you sent Colleague A.

The panel considered your oral evidence and that you denied this allegation.

The panel considered the evidence before it and noted that there was no corroborating evidence for either your account or Colleague A's account. The panel determined that it preferred Colleague A's evidence in relation to this charge as they had been consistent in all of their accounts that you had, on at least one occasion, put your hands down their trousers. The panel concluded that on a balance of probabilities, between October 2019 and February 2020, on one or more occasion

you put your hand down Colleague A's trousers. The panel therefore found charge 1c proved.

### **Charge 1d**

"1. Between October 2019 and February 2020:

- d. Stood behind Colleague A and pressed your genitals grinded into her buttocks."

**This charge is found NOT proved.**

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

The panel considered the evidence of Colleague A. In the Witness Interview Planning Booklet (contact date 24 February 2020) provided by the police it states:

*"This then escalated further in work where on one occasion he stood behind me and grinded on my buttocks fully clothed for a short moment."*

The panel took into consideration that Colleague A repeated this in their oral evidence when they were specifically asked about it. It noted that Colleague A was vague in their responses. The panel was of the view that this incident was not explored in detail during Colleague A's live evidence.

The panel noted that Colleague A did not reference this incident in their NMC witness statement, in the local investigation completed by Mr 1 or during the police interview.

The panel considered your evidence. You denied this allegation.

The panel considered the evidence before it and concluded that it was not satisfied that the NMC had sufficiently discharged its burden of proof in relation to this charge.

The panel determined that between October 2019 and February 2020, you did not stand behind Colleague A and press your genitals grinding into their buttocks.

The panel therefore found charge 1d not proved.

### **Charge 1e**

“1. Between October 2019 and February 2020:

- e. Pulled Colleague A into the medication room and attempted to kiss her.”

**This charge is found proved.**

In reaching this decision, the panel took into account Colleague A’s evidence and your evidence.

The panel considered the evidence of Colleague A. In her NMC statement they stated:

*“There was a second occasion when Syam pulled me with force, this time into the medication room. As I was walking down the corridor near the medication room, Syam caught me off guard, grabbed my arm and pulled me in. He pushed me up against the work tops and was trying to kiss me, exactly like the cold room incident. On this occasion, he managed to kiss my cheek before I could get away. Again, I managed to eventually get away and I told him not to do that again. [PRIVATE]. I felt really scared and frightened again when he did it.”*

The panel took into consideration that Colleague A repeated this account in their oral evidence.

The panel considered Colleague A’s account that they provided in the police interview on 20 March 2020. Colleague A stated during the interview:

*‘After that one he then tried pulling me into the nurses’ office, where he tried kissing me and he, again, put his hands down the back of my trousers. Again, he pulled me into the nurses’ office a bit like the cold room. ...There were times when he groped my bum and another time when he tried to kiss me, but I just pulled my arm away and that was it.’*

The panel considered the evidence before it and noted that there was no corroborating evidence in relation to this incident. It also noted that Colleague A had not reported this incident but had provided an explanation as to why they had not. The panel was of the view that your conduct in this charge is similar to the conduct found proved in charge 1b. The panel took into account that Colleague A was consistent in their accounts and described a number of instances in the workplace where you would pull them towards you to try and kiss them. The panel determined on a balance of probabilities between October 2019 and February 2020, you pulled Colleague A into the medication room and attempted to kiss them.

The panel therefore found charge 1e proved.

### **Charge 1f and 1g**

- “1. Between October 2019 and February 2020:
- f. Attempted to kiss Colleague A in the presence of Patient A.
  - g. Said to Colleague A Patient A is “deaf and dumb” or words to that effect.”

**These charges are found NOT proved.**

In reaching this decision, the panel took into account Colleague A’s evidence.

The panel considered the evidence of Colleague A. In their NMC statement Colleague A stated:

*‘Syam also attempted to kiss me when we were in lounge 1 area. On this occasion, there was a patient, who was also present in the room. [Patient A] is*

*non-verbal and was having a meal at the time. Whilst [Patient A] was eating, she had her back turned to us. Syam then pulled me towards him and tried to kiss me. I pushed him straight off and he said to me that it was, 'ok' as [Patient A] is, 'deaf and dumb.' I don't remember saying anything back and walked straight out the room. When Syam tried to kiss me, [Patient A]'s back was turned she didn't see anything, so it didn't cause any distress. [PRIVATE]."*

The panel noted that Colleague A recounted this incident in their oral evidence.

The panel considered the evidence before it. The panel noted that Colleague A did not mention this incident in their police interview or in the local investigation with Mr 1. The panel took into account that this incident was not corroborated by any other evidence.

The panel noted that the other charges found proved indicated that your inappropriate conduct with Colleague A occurred when other members of staff or patients were not present unlike the incident outlined in this charge.

The panel noted that the language used in this charge would call into question your professionalism with patients and noted that there have been no concerns regarding your professionalism towards patients in this case.

The panel concluded that the NMC has not discharged its burden of proof in relation to these charges.

The panel concluded that between October 2019 and February 2020, you did not attempt to kiss Colleague A in the presence of Patient A and you did not say to Colleague A, Patient A is "deaf and dumb" or words to that effect.

The panel therefore found charges 1f and 1g not proved.

**Charge 1h(i) and 1h(ii)**

“1. Between October 2019 and February 2020:

h. Asked Colleague A to purchase:

- i. Condoms
- ii. Lubricant”

**These charges are found NOT proved.**

In reaching this decision, the panel took into account Colleague A’s evidence and your evidence.

The panel considered Colleague A’s evidence that they said that they bought the condoms and lubricant as part of a unit shop.

The panel considered your evidence that you and Colleague A had together, decided to buy condoms and lubricant to use together. You said that Colleague A took your bank card to make this purchase.

The panel considered the evidence before it and bore in mind that it is not disputed that Colleague A purchased condoms and lubricant using your bank card. The panel had no supporting evidence before it which indicates that you asked Colleague A to purchase the condoms and lubricants. The panel concluded that the NMC has not sufficiently discharged its burden of proof to indicate whether you asked Colleague A to buy the condoms and lubricant.

The panel determined that between October 2019 and February 2020 you did not ask Colleague A to purchase condoms and lubricant.

The panel therefore found charges 1h(i) and 1h(ii) not proved.

### **Charge 1i**

“1. Between October 2019 and February 2020:

- i. Asked Colleague A when would they be using the condoms.”

**This charge is found NOT proved.**

In reaching this decision, the panel took into account the messages between you and Colleague A, and your evidence.

The panel considered your evidence. In your statement dated 24 May 2023, you stated:

*“In terms of allegations h.1, h2, I and j [Colleague A] did use my bank card to purchase latex free condoms and lubricant. I did not at any time ask her to do so and did not tell her that I was in a relationship with a colleague at Fieldbay. This was entirely at her instigation, but I had no objection to her using my bank card for this purpose. In the context of sexually explicit messages between us, during the course of these text messages there were discussions between [Colleague A] and I as to using those condoms but again, this communication was very much consensual as was the communication regarding ejaculation.”*

The panel took into consideration the evidence before it. The panel determined that there is evidence of communication between you and Colleague A on an occasion discussing condoms. However, the panel did not have evidence that this was the conversation which resulted in the events outlined in this charge, or if so, how that conversation started, or who asked for the condoms and lubricant to be purchased. The panel was not provided with any messages that directly support the allegation that you asked Colleague A when they would be using the condoms it is agreed that Colleague A purchased for you. There were no messages provided in evidence that indicated that the use of lubricant had been discussed between you and Colleague A. The panel concluded on the balance of probabilities that it was not proved that between October 2019 and February 2020, you asked Colleague A when they would be using the condoms.

The panel therefore found charge 1i not proved.

**Charge 1j**

“1. Between October 2019 and February 2020:

- j. On one or more occasion told Colleague A that you had ejaculated in your pants underwear.”

**This charge is found proved.**

In reaching this decision, the panel took into account Colleague A’s evidence and your evidence, as well as the messages between you and Colleague A.

The panel considered the messages between you and Colleague A. It noted that there were numerous messages around ejaculation and ‘sticky bits’. You said in the messages:

*‘no the first day I saw I had a drip in my pants”, “... u give the hard everytime I touch u n dripped I will suck every bits of u” and “ha ha my pants is wet’. [sic]*

The panel considered Colleague A’s evidence. In their NMC statement, Colleague A stated:

*‘There were times when Syam told me that he had ejaculated into his trousers whilst we were in work. This happened two or three times’*

The panel considered your evidence. In your statement dated 24 May 2023, you stated:

*‘In terms of allegations h.1, h2, I and j ... In the context of sexually explicit messages between us, during the course of these text messages there were discussions between [Colleague A] and I as to using those condoms but again, this communication was very much consensual as was the communication regarding ejaculation.’*

During your oral evidence, you did not deny making these comments and clarified that you did not make these comments whilst at work.



The panel considered the local investigation completed by Mr 1. Mr 1 interviewed you on 2 October 2020. The records show that when you were asked:

*“[Mr 1]: Have you ever told [Colleague A] that your trousers are sticky and that you’d ejaculated because of her?”*

You replied: *‘I did outside of work. I said “I’ve got sticky pants’.*

The panel considered the evidence before it. It noted that you often told Colleague A about having wet dreams in the messages between you. The panel noted that the wording of the charge did not indicate whether you said this to Colleague A in person or via message. The panel determined that between October 2019 and February 2020, on one or more occasion, you told Colleague A that you had ejaculated in your underwear.

The panel therefore found charge 1j proved.

### **Charge 1k and 1l**

“1. Between October 2019 and February 2020:

- k. Pulled Colleague A’s hand to a wet patch in your groin area.
- l. Said “see that is your fault” or words to that effect.”

**These charges are found proved.**

In reaching this decision, the panel took into account Colleague A’s evidence and your evidence.

The panel considered Colleague A’s evidence. In their NMC statement, they stated

*‘On one of these occasions, he also pulled/forced my hand and put it on his groin where there was a wet patch on his trousers and accused me of making him wet his trousers. I specifically remember this as I was sat at the computer and he was stood in the doorway. He then came over to me and said to me,*

*‘see this is your fault’. I had no idea what he was on about until he grabbed my hand and forced my hand to touch his private area where I then noticed a wet patch. He was wearing a light pair of jeans. I pulled my hand away and Syam repeated it was my fault and that it happened all the time. [PRIVATE]. I have no idea why he said or did this. There was no one else in the room at the time. Syam was very good at making sure no one was around when he did these things.’*

The panel noted that Colleague A repeated this account in their oral evidence and provided specific detail as to what you were wearing at the material time.

The panel considered Colleague A’s account that they provided in the police interview on 20 March 2020. Colleague A stated during the interview:

*“And basically, he turned around and told me that he had ejaculated in his underwear, and he pointed down – because looking at him, you couldn’t even miss it. Because he was stood so far away from you, you could blatantly see it. It was a big patch on his trousers, and even in the text messages, incidents in between, he tells me about wet dreams and that he’s ejaculated in his bed and he’s got to strip his bed and his underwear and he’s got to have a shower.”*

In the Facebook messages between you and Colleague A, they stated on 10 December 2019 at 21:30:

*‘hahah you could see your wet patch (water droplets emoji)’*

The panel considered your evidence. You denied these allegations and said that this did not happen at work.

The panel considered the evidence before it and noted that Colleague A was consistent in their description of this incident in all the accounts that they provided. The panel determined that on the balance of probabilities between October 2019 and

February 2020, you pulled Colleague A's hand to a wet patch in your groin area and said, "see that is your fault" or words to that effect.

The panel therefore found charges 1k and 1l proved.

**Charge 2a (i), (ii) and (iii)**

"2. On 26 December 2019:

- a. Laid on top of Colleague A:
  - i. with your penis out.
  - ii. and placed your penis between Colleague A's buttocks.
  - iii. and made thrusting motions."

**The stem of charge 2a is found proved.**

**Charges 2a(i), (ii) and (iii) are found not proved.**

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

The panel considered the evidence of Witness 2. In their NMC witness statement they stated:

*'In regard to night shift, 26 December 2019. I don't remember much happening on this shift. I remember doing the cleaning, putting clients to bed and then we all sat for a long time in the lounge area watching movies and discussing what we were going to do the next night shift. We arranged that we would order pizza. I left the lounge between 12.00 and 01.00, and went up to the office, which is where I normally settle. I remember [Colleague A] not feeling a 100% as she had vertigo, so I checked on her a couple of times throughout the night and she was snoozing on and off in the lounge. I also did extra checks on the clients to make sure all their needs were being met. I can't remember anything else happening. [Colleague A] didn't report anything to me on that night shift.'*

Witness 2 confirmed in their oral evidence that they was in the lounge until at least 12am or 1am, but that they left the room on at least one occasion to go to the toilet.

The panel considered Colleague A's evidence. The panel considered Colleague A's account that they provided in the police interview on 20 March 2020. Colleague A stated during the interview:

*'...then on Boxing Day [Witness 2] was in the office playing a computer game... I was stood in front of the sofa and Syam was pulling me left, right and centre, just trying to give me a kiss, and he wanted a hug, and I was like, 'No, Syam. Just leave me alone. [PRIVATE]. Just leave me alone'. I shouted at him. I was crying, and I got to the point where I had to lay down otherwise I was going to fall down. So I laid on the couch because it's like everything just went black, and it was horrible; [PRIVATE], and, as I lay down, I lay down on my stomach, and Syam lay on top of me, and he said, 'Oh, just wait there a second', and I was trying to move. As I was trying to move, he undone his zip on his trousers and I think he undone his zip – I know he undone his button. He pulled his penis out and he put it in between my bum cheeks... And I was trying to move, and I could feel his hand moving around, and then within seconds he was asking me, 'Can you feel it? See, I told you it was small'.'*

The panel considered your evidence. You said that you did not go into the lounge and that you only spoke to Colleague A from the doorway. You said that you were elsewhere in the building that night and you had more domestic work to complete as Colleague A [PRIVATE]. You said that Colleague A was sleeping in the lounge.

The panel noted in the Facebook messages between you and Colleague A you stated on 26 December 2019 *"No silly I won't touch u from now have a nice evening"*. The panel bore in mind that this message did not have any context about what it referred to.

The panel considered the evidence before it. The panel took into account that Witness 2, Colleague A and your evidence corroborated that Colleague A was not well and that they went to lay down. The panel took into consideration that the date

and time of this incident was a challenge for all witnesses but that this incident took place sometime after 10pm on 26 December 2019. The panel bore in mind the detailed account that Colleague A provided in the police interview. The panel took into account that Colleague A was lying face down and they could not see whether or not you had taken your penis out. It noted that Colleague A gave evidence that you had placed your penis between their buttocks but made no mention of any thrusting motions made by you when you laid on top of them. There was no suggestion that your penis was erect at the time. The panel was of the view that Colleague A may well have recalled that your penis was between their buttocks while you were lying on top of them. However, they were lying face down on the sofa and if you were above them, the panel did not consider that Colleague A could have known for sure that you were fully clothed or that you had placed your penis deliberately rather than it simply being there as a result of your position, lying on top of them with both of you face down.

The panel concluded that on 26 December 2019, you had laid on top of Colleague A. therefore it found the stem of charge 2a proved.

The panel determined that it did not have sufficient evidence that on 26 December 2019 you had laid on top of Colleague A with your penis out, placed your penis between Colleague A's buttocks and made thrusting motions.

The panel therefore found sub charges 2a(i), (ii) and (iii) not proved.

### **Charge 3**

“3. On or around January 2020, whilst Colleague A was asleep, lay next to her.”

**This charge is found NOT proved.**

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

The panel considered Colleague A's evidence. Colleague A stated that they were allocated to be with the patient to provide one to one care for them on a nightshift.

The panel considered Colleague A's account that she provided in the police interview on 20 March 2020. Colleague A stated during the interview:

*'But when he was still laying on the couch with me, I think I turned slightly to try and nudge him off, as if to say I'm still asleep, but I'm moving kind of thing. And he got up and left. And I had the biggest sigh of relief of my life, and that's when I was trying to find ways to block the door. Because I remember my last night shift I was up there, Syam wasn't on shift, and I was trying to think of ways to barricade the door, but the doors open out. So even if I would have barricaded the door, because we're not allowed to lock then because of DOLS, if I had barricaded the doors with chairs or a sofa or something, he still could have gotten in.'*

The panel considered Colleague A's account as provided in the Investigatory Meeting held on 25 September 2020 with Mr 1. They stated:

*'...Syam came in and as soon as I heard him come in I tried to grab my phone to phone my daughter again. I even thought to myself 'Should I pretend to be on the phone? No, I haven't got time, I'll just pretend to be asleep' because I couldn't grab my phone quick enough, so I just laid down really quick and pretended to be asleep and my legs were kind of curled up, not like the way I explained earlier on, its kind of almost like the foetal position....and with that Syam laid on the couch in front of me and I just froze.'* [sic]

The panel acknowledged that there were some inconsistencies in Colleague A's evidence in relation to barricading the patient's room. However, the panel concluded that Colleague A was consistent in their account of your conduct and that they felt you were coming into the patient's room far more often than was required and that they were pretending to be asleep when you went to lay down next to them.

The panel considered your evidence. You said that one to one care was not allocated on night shifts. The panel was of the view that this would not be the case if a patient was presenting with significant symptoms. The panel took into consideration that Colleague A would have been the natural person to take on one to one care with the patient being the healthcare assistant on that shift.

You said that you repeatedly checked on the patient as there was an issue, and the patient needed pro re nata (PRN). The panel was of the view that Colleague A, who was allocated to do observations on the patient, would have notified you if something was not right with the patient, and therefore, there was no need for you to carry out frequent checks on the patient.

The panel considered the wording of the charge which stated that Colleague A was asleep when you lay next to them. The panel determined that whilst there was evidence to suggest that on or around January 2020, you lay down next to Colleague A, Colleague A was consistent and clear in their evidence that they were pretending to be asleep and was not actually asleep during this incident. On this basis, the panel concluded that it could not find that on or around January 2020, whilst Colleague A was asleep, you lay next to them.

The panel therefore found charge 3 not proved.

#### **Charge 4**

- “4. Your conduct at charges 1a(i) and/or 1a(ii) and/or 1b and/or 1c and/or 1d and/or 1e and/or 1f and/or 1g and/or 1h(i) and/or 1h(ii) and/or 1i and/or 1j and/or 1k and/or 1l and/or 2a(i) and/or 2a(ii) and/or 2a(iii) and/or 3 was:
- a. sexually motivated in that you intended to pursue sexual relationship with Colleague A for sexual gratification.
  - b. Sexual harassment in that your conduct towards Colleague A was unwanted.”

**Charges 4a and 4b are both found proved in relation to each of the proven charges.**

## **Charge 4a**

*4. Your conduct at charges 1a(i) and/or 1a(ii) and/or 1b and/or 1c and/or 1d and/or 1e and/or 1f and/or 1g and/or 1h(i) and/or 1h(ii) and/or 1i and/or 1j and/or 1k and/or 1l and/or 2a(i) and/or 2a(ii) and/or 2a(iii) and/or 3 was:*

- a. sexually motivated in that you intended to pursue sexual relationship with Colleague A for sexual gratification.*

**This charge is found proved in relation to charges 1a(i), 1a(ii), 1b, 1c, 1e, 1j, 1k, 1l and 2a (stem only)**

In reaching this decision, the panel looked at each charge or part of a charge found proved and considered whether the actions were sexually motivated, taking into account the NMC guidance PRE-2e, submissions from both parties and the advice of the legal assessor in relation to sexual motivation. It bore in mind that it needed to consider what inferences it could draw about your motivation from the facts found proved and from the surrounding contextual circumstances.

### **In relation to charge 1a(i) and 1a(ii)**

The panel determined that it is clear from the messages you sent to Colleague A that they were sexually motivated. You made reference to sexual acts and repeatedly asked Colleague A to [PRIVATE], demonstrating that you wished to pursue a sexual relationship. The only logical inference which could be drawn from this was that your actions were done for sexual gratification.

When considering both the Facebook messages (charge 1a(i)) and the WhatsApp messages (charge 1a(ii)) the panel determined that while the majority of the sexually motivated messages were via Facebook, the content of the WhatsApp messages, while not as explicit or numerous, showed the same intent and sexual motivation as those on Facebook.

### **In relation to charge 1b**



The panel determined that the action of pulling Colleague A into the kitchen cold room and attempting to kiss them was sexually motivated.

The panel considered the background of the messages you had sent to Colleague A and your clear wish to pursue a sexual relationship. The action of pulling Colleague A into the room and attempting to kiss them demonstrates a sexual action in itself and was a demonstration of your wish to pursue a sexual relationship for sexual gratification.

### **In relation to Charge 1c**

The panel determined that you putting your hands down Colleague A's trousers, was sexually motivated, and that there was no other explanation for it.

The panel considered that in asking Colleague A why they had '*a sticky bum*', you reinforced that there was not any other reason than sexual motivation for your actions. This was far more than any practical joke and had a clear link with you asking Colleague A on a number of occasions what underwear they were wearing. The panel inferred on the balance of probabilities that this was done in your pursuit of a sexual relationship for sexual gratification.

### **In relation to charge 1e**

The panel determined that pulling Colleague A into the medication room and attempting to kiss them was sexually motivated in pursuit of a sexual relationship for sexual gratification.

The panel considered the similarities with your actions in charge 4a in relation to charge 1b and found this part of charge 4a proved for the same reasons.

### **In relation to charge 1j**

The panel determined that your actions were sexually motivated in pursuit of a relationship with Colleague A for sexual gratification.

You said in your messages:

*'no the first day I saw I had a drip in my pants", "... u give the hard everytime.....'[sic]*

The panel considered this shows a clear link between your comments and the sexual gratification you sought, in that you were describing how you were sexually aroused.

### **In relation to charges 1k and 1l**

The panel considered both of these parts of charge 4a together, as they form part of a continuing action by you.

The panel determined that your actions were sexually motivated in pursuit of a sexual relationship for sexual gratification. In reaching its decision, the panel considered that the action of pulling Colleague A's hand towards a wet patch in your groin area and the words you used are an extension of the behaviour exhibited in charge 1j, and therefore the panel applied the same reasoning and rationale to its decision above in considering charge 4a in relation to 1j.

### **In relation to charge 2a (stem only)**

The panel determined that the action of lying on top of Colleague A was sexually motivated for sexual gratification in pursuit of a relationship.

In reaching its decision the panel considered the nature of this action. It took place on a night shift and at a time when Colleague A was [PRIVATE] and as a result was lying down on a settee.

There is no reasonable explanation offered by you for your action, which you denied. In taking into account the evidence of your sexually motivated messages and actions around the time of this incident, 26 December 2019, the panel inferred on the balance of probabilities that your actions were a further extension of your sexually motivated behaviour.

## Charge 4b

4. Your conduct at charges 1a(i) and/or 1a(ii) and/or 1b and/or 1c and/or 1d and/or 1e and/or 1f and/or 1g and/or 1h(i) and/or 1h(ii) and/or 1i and/or 1j and/or 1k and/or 1l and/or 2a(i) and/or 2a(ii) and/or 2a(iii) and/or 3 was:
- a.....
- c. *Sexual harassment in that your conduct towards Colleague A was unwanted.*”

In considering whether each of the facts found proved amounted to sexual harassment, the panel considered the definition from Section 26 of the Equality Act 2010:

*A person (A) harasses another (B) if—*

*(a)A engages in unwanted conduct related to a relevant protected characteristic, and*

*(b)the conduct has the purpose or effect of—*

*(i)violating B's dignity, or*

*(ii)creating an intimidating, hostile, degrading, humiliating or offensive environment for B*

.

*(2)A also harasses B if—*

*(a)A engages in unwanted conduct of a sexual nature, and*

*(b)the conduct has the purpose or effect referred to in subsection (1)(b).*

The panel bore in mind the advice it received that in considering whether the conduct has the ‘*purpose or effect*’ referred to in Section 2b, it has to consider matters including the perception of the victim and also whether, viewed objectively, it was reasonable for the conduct to have that effect.

The panel recognised that Colleague A's sex was a protected characteristic as defined by the Equality Act 2010.

The panel determined that there is clear and consistent evidence from Colleague A, in their police interview, local investigation and NMC accounts that the messages and actions by you were unwanted and unwelcome. Colleague A described how, as a result of the previous experience commented on above, they had difficulty saying 'no' directly. However, the panel determined that it is clear from their answers in messages to you that they deflected sexual suggestions and comments from you, and that Colleague A repeatedly told you they [PRIVATE] but wanted to maintain your friendship.

The panel then considered each part of charge 4b separately.

#### **In relation to charge 1a(i) and 1a(ii)**

The panel determined that the sending of messages by you on both Facebook and WhatsApp amounted to sexual harassment.

Colleague A's consistent evidence, accepted by the panel, is that these sexual messages were unwanted and unwelcome. A large number of messages were sent by you over the period between October 2019 and December 2019. The panel considered that your actions had the effect of creating an intimidating, hostile, degrading and humiliating environment for Colleague A and that, viewed objectively, it was reasonable for Colleague A to perceive them as having that effect.

#### **In relation to charge 1b**

The panel determined that your pulling Colleague A into the kitchen cold room and attempting to kiss them amounted to sexual harassment.

The panel heard from Colleague A that this was unwanted behaviour by you, and this is supported by the evidence of Ms 1, who states that Colleague A also told them it was unwanted.

Taking this into account, the panel considered that your actions had the effect of creating an intimidating, hostile, degrading and humiliating environment for Colleague A and that, viewed objectively, it was reasonable for Colleague A to perceive them as having that effect.

### **In relation to charge 1c**

The panel determined that putting your hand down Colleague A's trousers amounted to sexual harassment.

Colleague A has consistently described how this was unwanted and how it made them feel and that it would happen when no one else was present. They described pulling away from you and forcing your hand out of their trousers, and that as a result of you doing this, Colleague A felt it necessary to change the type of clothing they wore to work.

This clearly caused Colleague A distress. The panel considered that your actions had the effect of creating an intimidating, hostile, degrading and humiliating environment for Colleague A and that, viewed objectively, it was reasonable for Colleague A to perceive them as having that effect.

### **In relation to charge 1e**

The panel considered that your actions in respect of this part of charge 4b are consistent with those in relation to your actions in charge 4b, relating to charge 1b above.

Based on the same reasoning and rationale in that part of this charge the panel also determined that your actions in pulling Colleague A into the medication room and attempting to kiss them amounted to sexual harassment. The panel considered that your actions had the effect of creating an intimidating, hostile, degrading and humiliating environment for Colleague A and that, viewed objectively, it was reasonable for Colleague A to perceive them as having that effect.

### **In relation to charge 1j**

The panel determined that the numerous messages about ejaculating in your pants was unwanted by Colleague A and amounted to sexual harassment.

The panel in reaching its decision considered the number of messages and that you also repeated this directly to Colleague A, who as outlined above had explained repeatedly that they did not want a sexual relationship with you.

The panel considered that your actions had the effect of creating an intimidating, hostile, degrading and humiliating environment for Colleague A and that, viewed objectively, it was reasonable for Colleague A to perceive them as having that effect.

### **In relation to charges 1k and 1l**

As both parts of charge 1 form a continuing action the panel considered them together and determined that your words and actions amounted to sexual harassment.

The panel considered that your seeking to put the blame for your actions on to Colleague A, added to the intimidation you caused and that your actions were clearly unwanted by Colleague A, as described previously.

The panel considered that your actions had the effect of creating an intimidating, hostile, degrading and humiliating environment for Colleague A and that, viewed objectively, it was reasonable for Colleague A to perceive them as having that effect.

### **In relation to charge 2 (stem only)**

The panel determined that your actions in lying on top of Colleague A amounted to sexual harassment.

In their evidence Colleague A describes saying to you:

*‘No, Syam. Just leave me alone. [PRIVATE]. Just leave me alone’. I shouted at him. I was crying.....’*

This was clearly unwanted, and the panel considered that it also took place on a night shift when only one other member of staff was present, and at a time when Colleague A [PRIVATE]. This added to the intimidating nature of your actions.

The panel considered that your actions had the effect of creating an intimidating, hostile, degrading and humiliating environment for Colleague A and that, viewed objectively, it was reasonable for Colleague A to perceive them as having that effect.

The panel found charge 4 proved in relation to charges 1a(i), 1a(ii), 1b, 1c, 1e, 1j, 1k, 1l and 2a (stem only).

### **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**

Mr Kabasinskas invited the panel to find the charges found proved amounted to misconduct.

Mr Kabasinskas referred the panel 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. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances.’*

Mr Kabasinskas also referred the panel to the cases of *Nandi v GMC* [2004] EWHC 2317 and *Calhaem v GMC* [2007] EWHC 2606 (Admin), where in the latter case, Mr Justice Jackson commented on the definition of misconduct as:

*‘It connotes a serious breach which indicates that the doctor’s fitness to practise is impaired.’*

Mr Kabasinskas submitted that in regard to the facts found proved, they both, individually and cumulatively, amount to misconduct. He referred the panel to the terms of *‘The Code: Professional standards of practice and behaviour for nurses and midwives 2015’* (the Code). He identified the specific and relevant standards and submitted that your actions amounted to misconduct. In particular, he stated that you have breached the following sections of the Code: 1.1, 1.5, 7.1, 7.3, 7.4, 8.2, 20.1, 20.2, 20.3, 20.4, 20.5 and 20.10.

Mr Kabasinskas submitted that sexual misconduct is unwelcome, and behaviour of that nature is degrading, harmful, humiliating and intimidating. He referred the panel to NMC guidance, namely FTP-2a, and submitted that any kind of misconduct, including that of a sexual nature, has the potential to impact on patient care, and can have an extremely negative effect on the work environment.

Mr Kabasinskas submitted that the charges, as found proved, occurred whilst you were working in a nursing role, and that this raises fundamental questions about your



ability to practise and uphold the standards and values of the Code. He further referred the panel to Section 26 of the Equality Act 2010, and submitted that your conduct, as found proved, was for the purpose of violating Colleague A's dignity and/or creating an intimidating, hostile, degrading or humiliating environment. He reminded the panel of Colleague A's oral and written evidence heard in the previous stages, and submitted that you were in a position of trust, and in a senior position to Colleague A, who was in the role of an HCA.

Mr Kabasinkas submitted that your conduct, as found proved, fell significantly short of the standards expected of a registered nurse. He submitted that when taking the charges both individually and collectively, they amount to misconduct. He invited the panel to make a finding of misconduct.

The panel had regard to your written and oral submissions.

You told the panel that the matters found proved were of a personal nature, and involved only Colleague A. You also told the panel that your actions did not involve your nursing practice, nor any colleague, patient or third party being placed at a risk of harm. You also told the panel that you have always followed nursing and clinical guidelines to the letter.

You also told the panel that the incident occurred over a relatively short period of time. You said that when Colleague A made it categorically clear that she wished to have no more contact with you, you respected her decision and have not had any contact with her since then.

You referred the panel to the references and statements from colleagues and said that there were no concerns raised regarding your clinical practice as a nurse or in their interactions with you in your capacity as a registered nurse.

### **Submissions on impairment**

Mr Kabasinkas addressed the panel on the issue of impairment and reminded the panel 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. He referred the panel to questions posed by Dame Janet Smith in her Fifth Shipman Report, as endorsed by Mrs Justice Cox in the leading case of Council for Healthcare Regulatory Excellence v (1) NMC (2) Grant [2011] EWHC 927 (Admin).

*“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:*

- (i) Has in the past, and/or is liable in the future to act as so as to put a patient or patients at unwarranted risk of harm;*
- (ii) Has in the past, and/or is she liable in the future to bring the profession into disrepute;*
- (iii) Has in the past, and/or is she liable in the future to breach one of the fundamental tenets of the profession;*
- (iv) ...’*

Mr Kabasinkas also referred the panel to paragraph 74 of Grant and submitted that if the panel wish to do so, it should *‘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’*. He submitted that by considering the first three limbs of Grant, your fitness to practise is impaired, as you have shown limited remorse for your conduct, have provided limited evidence of remediation, and that you have also demonstrated minimal insight, both in regard to your actions towards Colleague A and behaviour towards others.

Mr Kabasinkas also referred the panel to the case of *Cohen v GMC* [2008] EWHC 5811 in regard to impairment.

He invited the panel to find your fitness to practise impaired.

The panel had regard to your written and oral submissions.

You told the panel that you accept that you were '*naive and foolish*' to allow a close friendship to develop between yourself and Colleague A. You also stated that although it was not the impression that Colleague A gave you from your personal interactions, you apologise that Colleague A perceived the attention to be unwanted.

You told the panel that since the incidents, you have deeply reflected on the situation. You said that prior to these events, you had worked as a nurse for approximately 25 years with an unblemished record. You told the panel that you '*misread*' Colleague A's feelings and that this was a significant error of judgement on your part and that you take full responsibility for your actions. You stated that you can see how your interactions with Colleague A were inappropriate and unprofessional, and that you sincerely regret putting your colleagues in an awkward or difficult position, and that you are very sorry. You told the panel that you have remained fully cooperative with both your previous employer and the NMC, as your regulator.

You told the panel that whilst your conduct at the time was ill-advised, you are not of the view that your interactions with Colleague A do not impair your fitness to practise as a nurse.

The panel accepted the advice of the legal assessor.

### **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 fell 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*

***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*

***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*

*20.4 keep to the laws of the country in which you are practising*

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

*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. In assessing whether the charges amounted to misconduct, the panel considered the charges individually and collectively as well as the circumstances of the case as a whole.

The panel next considered each charge, and if it was so serious to amount to misconduct.

The panel took into account the NMC’s guidance on seriousness – FTP-3, dated 27 February 2024, and the behaviour the NMC regarded as particularly serious, namely sexual misconduct and harassment.

### **Charge 1a(i) and 1a(ii)**

The panel, having found these charges proved, considered if your actions were so serious as to amount to misconduct. The panel determined that your actions towards Colleague A in charge 1a were unwanted, sexual in nature, sexually motivated and amounted to sexual harassment. It heard that Colleague A asked Witness 2 to ask you to refrain from communicating with them, but you did not listen to that request. The panel noted your communications and that, although initially reciprocated, it became clear that Colleague A was attempting to deflect your interactions with them, but you continued.

The panel also considered that you were in a position of trust and seniority, and Colleague A was vulnerable and in a junior position to you. The panel, having had regard to the Code, which sets out the expectations around the use of social media, determined that your actions were sufficiently serious to amount to misconduct.

The panel has also found proved in relation to charges 4a and 4b that your conduct was sexually motivated (for sexual gratification and in pursuit of a sexual relationship) and amounted to sexual harassment. In the panel's view, this was an aggravating feature underpinning this and each of the proven charges.

### **Charge 1b**

The panel, having found this charge proved, considered if your actions were so serious as to amount to misconduct. It determined that your conduct towards Colleague A was unwanted, inappropriate, coercive and that there was use of physical force towards a vulnerable and junior colleague. It further determined that your actions were sexual in nature, sexually motivated, and found that it amounted to sexual harassment.

The panel heard that Colleague A attempted to stop you and sustained an injury to their arm. This was also confirmed by Ms 1 in their statement at the Local Investigation, who corroborated seeing the injury (a '*Chinese burn*') to Colleague A.

Based on the evidence before it, the panel was of the view that your advances were unwanted and concluded that your actions were sufficiently serious to amount to misconduct.

The panel has also found proved in relation to charges 4a and 4b that your conduct was sexually motivated (for sexual gratification and in pursuit of a sexual relationship) and amounted to sexual harassment. In the panel's view, this was an aggravating feature underpinning this and each of the proven charges.

### **Charge 1c**

The panel, having found this charge proved, considered if your actions were so serious as to amount to misconduct. The panel noted that your conduct towards Colleague A occurred in the workplace whilst both you and Colleague A were on duty caring for patients, and there may have been an impact on patient care, as following this interaction, Colleague A may not have been in the right mindset to properly care for patients.

The panel determined that your conduct was unwanted, inappropriate, coercive and used physical force on a vulnerable and more junior colleague. The panel were of the view that your conduct was sexual in nature, sexually motivated and amounted to sexual harassment, in that you put your hands down Colleague A's trousers. By doing this, you breached and failed to abide by professional and personal boundaries. These actions were intimate and invasive.

Based on the evidence before it, the panel was of the view that your advances were unwanted and concluded that your actions were sufficiently serious to amount to misconduct.

The panel has also found proved in relation to charges 4a and 4b that your conduct was sexually motivated (for sexual gratification and in pursuit of a sexual relationship) and amounted to sexual harassment. In the panel's view, this was an aggravating feature underpinning this and each of the proven charges.

### **Charge 1e**

Having found this charge proved, the panel next considered whether your actions were sufficiently serious as to amount to misconduct. The panel determined that your conduct towards Colleague A, namely the inappropriate physical contact, was an abuse of your position of power, as you were senior to Colleague A. The panel also took into account that your conduct, based on Colleague A's evidence, was unwanted and was sexually motivated. The panel further considered that your conduct involved a greater use of physical force against Colleague A, who was pushed up against the kitchen counter and therefore unable to escape. The panel heard that this unwanted sexual harassment on your part left Colleague A feeling scared, ultimately causing her to take [PRIVATE], which consequently could have had an impact on patient care.

Based on the evidence before it, the panel were of the view that your advances were unwanted and concluded that your actions were sufficiently serious to amount to misconduct.

The panel has also found proved in relation to charges 4a and 4b that your conduct was sexually motivated (for sexual gratification and in pursuit of a sexual relationship) and amounted to sexual harassment. In the panel's view, this was an aggravating feature underpinning this and each of the proven charges.

### **Charge 1j**

Having found this charge proved, the panel next considered whether your actions were sufficiently serious as to amount to misconduct. The panel noted that whilst you said that communications between yourself and Colleague A occurred outside of work via social media messaging, the messages were nevertheless inappropriate and sexual in nature, unwarranted and unwanted. The panel also considered that you had a responsibility to ensure any messages were not unwanted, and that you failed to do so.

The panel considered that whether or not the communication occurred outside of the workplace, it was sent to a junior colleague, for whom you had supervisory responsibility, and created a working environment for Colleague A which could have had an impact on the care being delivered to patients. The panel determined that your conduct was part of a campaign in your attempts to pursue an unwanted sexual relationship with Colleague A for your own sexual gratification and amounted to sexual harassment.

Based on the evidence before it, the panel was of the view that your advances were unwanted and concluded that your actions were sufficiently serious to amount to misconduct.

The panel has also found proved in relation to charges 4a and 4b that your conduct was sexually motivated (for sexual gratification and in pursuit of a sexual relationship) and amounted to sexual harassment. In the panel's view, this was an aggravating feature underpinning this and each of the proven charges.

### **Charges 1k and 1l**

Having found these charges proved, the panel next considered whether your actions were sufficiently serious as to amount to misconduct. The panel noted that it was one incident, which occurred in the workplace, but made Colleague A feel '*cornered*'. The panel determined that your conduct was sexually motivated and part of a campaign of sexual gratification, in that you were pursuing a sexual relationship with Colleague A. The panel further noted that this was exacerbated by the fact that you carried out this action whilst you were alone with Colleague A, and was an abuse of your position of power, as you were senior to Colleague A. The panel determined that you sought to blame Colleague A for your actions, and that your conduct had the effect of belittling Colleague A, and [PRIVATE]. The panel concluded that your conduct affected Colleague A's perception of their safety in the workplace, and that this could have affected their ability to work during the rest of their shift, and in turn may have also had a significant impact on patient care.



Based on the evidence before it, the panel was of the view that your advances were unwanted and concluded that your actions were sufficiently serious to amount to misconduct.

The panel has also found proved in relation to charges 4a and 4b that your conduct was sexually motivated (for sexual gratification and in pursuit of a sexual relationship) and amounted to sexual harassment. In the panel's view, this was an aggravating feature underpinning this and each of the proven charges.

### **Charge 2a (stem only)**

Having found this charge proved, the panel next considered whether your actions were sufficiently serious as to amount to misconduct. The panel noted that this charge was towards the end of the period of your interactions with Colleague A, following several conversations where Colleague A explicitly told you they were not interested in pursuing a sexual relationship with you. The panel heard in evidence that Colleague A [PRIVATE] and was lying down at the time of this incident. It also heard that this occurred during the night shift, where less staff were available, and that by you isolating Colleague A, this could have had a significant impact on patient care. The panel concluded that this amounted to sexual harassment, in that it was sexual in nature and sexually motivated.

Based on the evidence before it, the panel was of the view that your advances were unwanted and concluded that your actions were sufficiently serious to amount to misconduct.

The panel has also found proved in relation to charges 4a and 4b that your conduct was sexually motivated (for sexual gratification and in pursuit of a sexual relationship) and amounted to sexual harassment. In the panel's view, this was an aggravating feature underpinning this and each of the proven charges.

### **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 Fitness to Practise Library, namely DMA-1, updated on 3 March 2025, 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. To justify that trust, nurses must be honest and open and act with integrity. 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 found that limbs a, b and c were all engaged in this case. In relation to Grant, the panel determined that although there was no direct impact on patient care, there was the potential for indirect harm to patients. Colleague A, who was made subject to your inappropriate and sexually motivated behaviour both in and out of the workplace, could have been affected and may have found their work performance compromised. It also noted that by harassing Colleague A, your and their attention could have been elsewhere, and not on the care of vulnerable patients.

The panel determined that your actions were unprofessional and amounted to sexual harassment of a junior colleague. It concluded that you brought the nursing profession into disrepute, and that you had breached the fundamental tenets of the nursing profession, including promoting professionalism and trust, and treating people fairly and respectfully, with kindness, dignity and compassion. The panel determined that these factors, amongst others, are fundamental to the nursing profession and that you breached this.

The panel had regard to the case of *Cohen v GMC* [2008] EWHC 5811.

The panel was of the view that your actions are not easily remediable through training, courses or reflections as your conduct relates to sexual misconduct and harassment, and that the misconduct found is not directly related to your clinical practice. In theory, these matters are remediable, but it would require a high degree of insight, reflection and strengthening of practice in order to address the attitudinal failings which underpin a course of conduct of this nature.

The panel had very limited evidence before it to demonstrate any attempt to remediate the concerns and concluded that there is a distinct lack of insight into how your actions affected those around you, including and not limited to the impact on patients, your colleagues or the wider nursing profession. The matters found proved evidence deep-seated attitudinal problems, particularly towards junior colleagues. There is limited evidence before the panel to demonstrate remorse or insight. The panel acknowledged that there was a brief reflective statement from you, which acknowledged that you had misjudged the impact of your behaviour on Colleague A, and you expressed remorse for the discomfort this had caused them. However, this was only the beginning of the development of your insight, and the panel considered that it did not adequately address the concerns identified in this case.

The panel also had sight of some training certificates, but determined that these certificates do not address the concerns identified in this case. The panel considered the character references, which were largely undated, and noted that some do not address the concerns raised and that it may be the referees were not aware of the concerns raised. However, the panel acknowledged that the references demonstrate some positive feedback regarding your clinical practice, and professional relationships with colleagues, and that you had no regulatory concerns raised in the 25 years prior to these concerns being raised. The panel considered that there are some beginnings of insight into the impact of your behaviour, but that considerable further development is required in terms of your understanding of the impact your conduct had on patients, colleagues and the wider nursing profession. The panel was satisfied that until that insight has developed, and the concerns have been addressed, there remains a risk of repetition, and therefore a risk of harm to patients and colleagues if your fitness to practise were not found impaired.

The panel therefore concluded that your fitness to practise is impaired on the grounds of public protection.

Further, the panel bore in mind 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 determined that public confidence in the profession would be seriously undermined if a finding of impairment were not made in this case, particularly given the sexual nature of the charges and findings of sexual misconduct, sexual behaviour and harassment both in and outside of the workplace. The panel determined that a reasonable and well-informed member of the public would be appalled if your fitness to practise was not found impaired, given the panel's decision on misconduct. Accordingly, the panel also finds your fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired on both public protection and wider public interest grounds.

### **Submissions on sanction**

Mr Kabasinkas submitted that the NMC had advised you in the Notice of Hearing that it would seek the imposition of a striking off order if the panel found your fitness to practise impaired.

Mr Kabasinkas invited the panel to consider the Sanction Guidance (SG) and submitted that a striking off order is proportionate and fair and would adequately address the public protection and the public interest concerns in this case.

Mr Kabasinkas submitted that the aggravating factors of this case include:

- You were in a senior position of trust;

- Serious breach of professional boundaries;
- Charges found proved indicate that there is a pattern of sexual misconduct, and this conduct took place over a period of time;
- Deep seated attitudinal concerns; and
- Lack of insight and remediation.

Mr Kabasinskas submitted that there are no mitigating factors.

Mr Kabasinskas referred the panel to the NMC guidance, namely SAN-2, and submitted that the charges found proved are of a serious nature and that there remains a risk of repetition and therefore a risk of harm. He submitted that your conduct involved an imbalance of power, abuse of position of trust and was unwelcome. He also submitted that it is for the panel to consider whether you should be allowed to remain on the register.

Mr Kabasinskas invited the panel to consider one sanction: a striking off order. He submitted that when considering the charges found proved, a striking off order is the most proportionate order to impose. He submitted that your conduct was sexually motivated and there is clear evidence of deep-seated attitudinal issues, and that your behaviour was of the most serious kind. He submitted that you have failed to demonstrate meaningful remorse or insight, and that you have failed to acknowledge your actions, or the impact your conduct has had on your colleagues.

Mr Kabasinskas submitted that only a striking off order would address the issues in this case.

In relation to a conditions of practice order, Mr Kabasinskas submitted that there are no appropriate, proportionate or workable conditions that would sufficiently protect the public, or meet the wider public interest.

In relation to a suspension order, Mr Kabasinskas submitted that the public would not be sufficiently protected if you were not removed from the register. Moreover, in light of the panel's findings, a suspension order would fail to satisfy the wider public

interest. In these specific circumstances, a well-informed member of the public would be shocked if you were not struck off from the register, having been found impaired on the basis of serious sexual misconduct.

Therefore, Mr Kabasinkas' submission was that the only appropriate order in this case was a striking-off order, and invited the panel to impose this order.

You told the panel that you are prepared to work with a number of colleagues to prove that you are not a danger to the public or patients. You said that you are deeply sorry that you have brought disrespect to the nursing profession. You said that the circumstances of the case have [PRIVATE] and affected your [PRIVATE].

You said that you and Colleague A [PRIVATE] and that any texts alluding to this were deleted by Colleague A. You told the panel that you believe you deserve a second chance, and that you welcome any sanction the panel wish to impose.

The panel accepted the advice of the legal assessor.

### **Decision and reasons on 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 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 panel took into account the following aggravating features:

- Repeated incidents of serious sexual misconduct over a period of time, and this continued, despite being told on numerous occasions it was not reciprocated;
- Abuse of position of trust and power in that you targeted a more junior female member of staff;

- Your length of service as a registered nurse for over 25 years, and you should have been well aware that your actions involved an imbalance of power and a breach of professional boundaries, and that your behaviour towards Colleague A was unacceptable;
- Very limited insight and remorse into your failings; and
- Physical and emotional harm was caused to Colleague A and there was a further risk of indirect harm to vulnerable patients, due to the impact of your actions on Colleague A, and the working environment.

The panel took into account the following mitigating features:

- During this hearing, you expressed that you were sorry for your actions;
- No previous regulatory concerns have been raised regarding your professional practice over a period of 25 years as a registered nurse.

The decision on sanction is a matter for the panel independently exercising its own judgement. In relation to the charges found proved, the panel was of the view that it was sexual misconduct of the most serious kind. It involved repeated messaging, unwanted physical contact, and in some instances, coercion, which took place over a period of time, both within and outside of the workplace, and involved an imbalance of power with a vulnerable junior colleague. The panel had regard to NMC guidance, SAN-2 (the section relating to cases involving sexual misconduct) where it states:

*‘Long-term or repeated conduct is more likely to suggest risk of harm, together with conduct involving imbalances of power, ...’*

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 neither protect the public nor be in the wider public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The



SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the NMC guidance – SAN-3d, in particular:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *Potential and willingness to respond positively to retraining;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force; and*
- *Conditions can be created that can be monitored and assessed.*

The panel was of the view that your conduct is not directly related to your clinical practice, but is related to your conduct in the workplace towards a junior colleague in respect of whom you had supervisory responsibility. Your conduct also raised attitudinal concerns, and continued even after you were asked to stop. The panel determined that there are no practical or workable conditions that could be formulated, given the seriousness and nature of the sexual misconduct in this case.

Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public.

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

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

The panel considered that the incidents were repeated over a significant period of time, and that there remains a risk of repetition, and therefore of direct harm to colleagues and indirect harm to patients. The panel has identified this case as raising concerns about harmful and deep-seated attitudinal issues, into which you have demonstrated no insight at this stage. The limited insight and remorse you have expressed related only to the immediate impact on Colleague A and your failure to notice at the time that your actions were unwelcome. The panel has identified a significant risk of this behaviour being repeated. It therefore concluded that a suspension order is not appropriate.

The panel had regard to NMC guidance, namely SAN-3e. It determined that your actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with you remaining on the register. The findings in this particular case demonstrate that your conduct was extremely serious, and to allow you to continue practising would undermine public confidence in the profession and in the NMC as its regulatory body.

After taking into account all the evidence before it during this case, the panel determined that the only appropriate sanction sufficient to protect both colleagues and patients 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 themselves, the panel also concluded that nothing short of a striking off order would be sufficient in this case to satisfy the wider public interest considerations of declaring and upholding professional standards in order to maintain public confidence in the profession.

The panel considered that this order was necessary to mark the seriousness of your actions, to protect the public, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

### **Submissions on interim order**

Mr Kabasinkas invited the panel to impose an interim suspension order for a period of 18 months. He referred the panel to NMC guidance, INT-2, and submitted that an interim suspension order for a period of 18 months is necessary given the panel's findings in order to protect the public and meet the wider public interest. Further, he submitted that this was required to cover the 28-day appeal period and, if you wish to appeal the decision, the period for which it may take for that appeal to be heard.

You told the panel that you do not feel able to oppose the NMC's application.

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

### **Decision and reasons on interim order**

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the charges 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 striking-off order. The panel decided to impose an interim suspension order for a period of 18 months to cover the 28-day appeal period and any period which an appeal may be heard.

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

This will be confirmed to you in writing.

That concludes this determination.