

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

**Substantive Hearing
Tuesday, 10 June 2025 – Thursday, 19 June 2025
Monday, 27 April 2026 – Wednesday, 29 April 2026**

Virtual Hearing

Name of Registrant: **Onorio Gelacio**

NMC PIN 05C05940

Part(s) of the register: Registered Nurse – (Sub Part 1)
Adult Nurse - March 2005

Relevant Location: Surrey

Type of case: Misconduct

Panel members: Catherine Devonport (Chair, registrant member)
Jayanti Durai (Lay member)
Asmita Naik (Lay member)

Legal Assessor: Angus Macpherson

Hearings Coordinator: Ekaette Uwa

Nursing and Midwifery Council: Represented by Beheshteh Engineer, Case Presenter

Mr Gelacio: Present and represented by Chris Pataky

Facts Proved by admission: 1a, 2a, 3, 7a, 10

Offer of no evidence: 15a, 15b, 15ci, 15 cii

Facts proved: 7b, 13b (for 2a), 13ci (for 2a), 13cii (for 2a)

Facts not proved: 1b, 2b, 4, 5, 6a, 6b, 8a, 8b, 9a,9b, 11a, 11b, 11c, 12,13a, 13b (for 7a & 7b), 13ci (for 7a & 7b) 13cii (for 7a & 7b), 14, 15a, 15b, 15ci, and 15 cii

Fitness to practise: Impaired

Sanction: **Caution Order (one year)**

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

At the outset of the hearing Ms Engineer, on behalf of the Nursing and Midwifery Council (NMC), made a request that parts of this case be held in private on the basis that proper exploration of your case involves references to the health of Person A. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Pataky on your behalf indicated that he supported the application to the extent that any reference to the health of Person A should be heard in private as there would be no public interest in such personal matters being discussed publicly.

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.

Having heard that there will be reference to Person A's health and to her private life, and/or the health of others, the panel determined to hold the hearing in private as and when such issues are raised in order to protect the privacy of Person A. In the course of her evidence, the panel revised its ruling and determined that it was more practical for the entirety of her evidence to be held in private and directed that that should be the case.

Application to apply Redactions to the case bundles

Ms Engineer turned the panel's attention to a schedule of redactions reflecting and the NMC's position and yours.

Mr Pataky on your behalf submitted that the bundles before the panel included matters to which you objected and which were not agreed; they are the subject of your application for a number of redactions. He stated that you apply for redaction of

references, primarily concerning the use of terms such as “harassment”, “bullying”, “assault”, sexual assault”, and “stalking” as identified by the schedule.

Mr Pataky submitted that these references are not relevant to the panel’s consideration of the allegations in the case and that it would be prejudicial and unfair for them to be included in the case bundles.

Mr Pataky drew the panel’s attention to Rule 31 of the Rules and urged it to consider the twin principles of relevance and fairness contained therein. He argued that the inclusion of the ‘*Harassment and Bullying Policy*’ is neither relevant nor fair, given that no allegations of harassment or bullying have been charged by the NMC. He submitted that the policy, and references to it, are therefore not material to the panel’s determination. He further submitted that there is a real risk that the panel may be invited to assess your conduct through the prism of harassment and bullying, notwithstanding the fact that such allegations do not form part of the formal charges.

Mr Pataky drew the panel’s attention to the decision in *El Baroudy v GMC* [2013] EWHC 2894 (Admin), where the panel erred by assessing factual allegations based on issues not formally charged. He submitted that to proceed in such a manner would represent a fundamental shift in the nature of the case and would be manifestly unfair.

Mr Pataky submitted that the NMC has not charged harassment or bullying as standalone allegations. He noted that while it may be argued that the wording of certain charges reflects aspects of the definition of harassment under section 26 of the *Equality Act 2010*, this does not permit the panel to treat the matter as if harassment or bullying have been formally charged. He stated that in the absence of clear charges of that nature, any attempt to introduce such characterisations risks prejudicing your case and undermines the integrity of the process.

He urged the panel to direct the exclusion of all references to harassment, bullying, assault, sexual assault, and related policy documents from the bundle.

Ms Engineer, on behalf of the NMC, opposed your application to redact references to harassment, bullying, assault, sexual assault, and related policy documents from the

case bundle. She submitted that this is not an application that challenges the charges themselves but rather relates to whether certain documents are properly before the panel. She maintained that the documents in question are relevant and admissible, and that their inclusion is fair.

Ms Engineer submitted that the wording of charges, particularly those under charges 13 and 15, draws directly on the language of section 26 of the *Equality Act* and further submitted that the conduct alleged in the charges incorporates these elements and that the term “harassment” is therefore engaged by the charges themselves. She contended that there is no unfairness in referring to documents or terminology that reflect that framework.

Ms Engineer referred the panel to the case of *PSA v HCPC and Yong* [2021] EWHC 52 (Admin) to support her argument. She emphasised that the NMC’s guidance on misconduct (FTP-2A) supports the inclusion of documents which relate to professional behaviour, workplace culture, and interpersonal misconduct, where they are directly relevant to the charged facts.

Ms Engineer submitted that the charges in this case do not need to be labelled as “*harassment*” or “bullying” in order for the panel to consider the conduct in that context, particularly where the effects and circumstances fall squarely within the definition in the *Equality Act*.

Ms Engineer concluded that there is no basis to exclude the documents and words you identified in the schedule as their inclusion is necessary to enable the panel to fairly and fully assess the allegations as presented.

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

The panel carefully considered the application for redactions to case bundles. The panel had regard to the submissions of Ms Engineer and Mr Pataky on your behalf as well as Rule 31 and section 26 of the *Equality Act*.

The panel reminded itself that the key considerations under Rule 31 are relevance and fairness. The panel was mindful of its duty to ensure the proceedings are conducted fairly.

Items allowed to remain in the exhibit bundle

The panel determined to allow the following items on the schedule to remain in the bundle 2, 3, 4, 6, 7, 9, 10, 18, 29, 30, 31, 32, 34, 35, 37, 39 and 44 for the following reasons:

- The content of these items includes descriptions of conduct of a sexual nature, which has been explicitly alleged in the charges. Whether or not your motivation was sexual is a matter for the panel's ultimate determination; the nature of the conduct is therefore relevant.
- The documents contain information that may relate to the allegations raised by Person A and your response in this case. The panel considers it important to have the full context in order to fairly assess the evidence.
- The material provides important context from evidence obtained during the local investigation. It underpins some of the allegations before the panel.
- The items include Person A's perspective of the alleged behaviour directed towards her. The panel considers this relevant and potentially probative evidence; you will have the opportunity to challenge this evidence during the course of the hearing.

Items to be Redacted

The panel has decided to exclude the following items from the bundle:

- Item 11: This item relates to an alleged breach of confidentiality, which does not form part of the charges before the panel. It is therefore not relevant to the issues the panel must determine and is excluded.

- Item 22: This contains double hearsay. Although the content is potentially relevant, in the absence of any specific submission as to why the panel should admit it as hearsay, the panel does not consider it appropriate or fair to include it.
- Item 28: Paragraphs 58–61 relate to the outcome of other proceedings, including your dismissal. The panel considers that these are not relevant to the current proceedings and that their inclusion could be prejudicial.
- Item 33: This also concerns the outcome of the local investigation and/or other proceedings. The panel is not concerned with the outcome of those proceedings and finds the material irrelevant.
- Item 41: The word “*stalking*” appears in this document but does not form part of the charges against you. The panel considers that its inclusion would be inappropriate and prejudicial. The panel therefore directs that this term be redacted.
- Item 42: The content of this item is not relevant to the matters charged and may be prejudicial. It is therefore to be excluded.

The panel was satisfied that this decision strikes a fair balance between ensuring that only relevant and admissible material is before the panel while also preserving your right to a fair hearing. It determined that you remain entitled to challenge the evidence and the characterisation of the alleged conduct during the course of these proceedings.

Decision and reasons on application to amend charges 2A and 12

The panel heard an application made by Ms Engineer, on behalf of the NMC, to amend the wording of charges 2a and 12.

Ms Engineer submitted that the proposed amendments would provide clarity and more accurately reflect the evidence before the panel.

“That you, a registered nurse:

- 2) On one or more occasion from January 2019 onwards;

a) Imitated/mockered Person A's limp **and/or the limp of another colleague/previous colleague;**

12) Your actions in one or more of the above charges 1 a), 4, 6 a), 6 b), 8 a), 9 a), 9 b), 10), 11 a), 11 b) & 11 c) above were sexually motivated, in that you sought sexual gratification from your actions **and/or your actions were sexual.**

In relation to charge 2a), Ms Engineer submitted that the proposed amendment is administrative in nature and made to ensure the allegation accurately reflects the evidence before the panel. She made the application pursuant to Rule 28 of the Rules and the NMC's *Guidance PRE 2c*.

Ms Engineer submitted that the amendment does not alter the substance of the charge and causes no prejudice but rather ensures clarity and accuracy in the charge as framed.

In respect of charge 12, Ms Engineer submitted that the proposed addition of the words "*and/or your actions were sexual*" is necessary and appropriate. She further submitted that the conduct underpinning this charge includes serious and specific behaviours of a sexual kind described in the evidence already before the panel. This includes, placing and withdrawing a pen in and out of Person A's cleavage, shoving photographs of erect penises in a colleague's face, putting his face in front of Person A's genitalia, touching Patient A's shoulders, back or bottom, kissing and grabbing another colleague's genitalia, grabbing a further colleague's bottom.

Ms Engineer further submitted that amending the charge to expressly reflect the sexual nature of the alleged conduct ensures that the seriousness of the allegation is properly pleaded and that the evidence is captured accurately. She stated that the amendment does not introduce new facts, nor does it create unfairness or prejudice to you. She referred the panel to the case of *GMC v Haris* [2020] EWHC 2518 (Admin), and to the NMC's guidance at PRE 2E in support of her arguments. She invited the panel to allow both amendments.

Mr Pataky did not oppose the proposed amendment in respect of charge 2a).

He opposed the proposed insertion of "*and/or your actions were sexual*" in Charge 12. He further submitted that the amendment was only brought to your notice one working day before the hearing.

Mr Pataky contended that this amendment would materially broaden the scope of this case and fundamentally alter the nature of the allegation. He argued that the existing charge is clear and intelligible, and the proposed wording introduces ambiguity. Specifically, he highlighted the lack of clarity regarding whether "*and/or your actions were sexual*" refers to sexual motivation, sexually explicit conduct, or another interpretation entirely.

Mr Pataky contended that the ambiguity surrounding the expanded allegation presented a risk of unfairness. He also highlighted the particular prejudice that could arise if a party wasn't afforded adequate time or clear information to prepare a response.

Consequently, he urged the panel to reject the proposed amendment, arguing that permitting such a significant broadening of the case at this late stage would be fundamentally unfair.

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

Regarding charge 2a, the panel determined to allow the amendment. It was of the view that the proposed amendment accurately reflects the available evidence; it noted that you do not object to this change. The panel was satisfied that no injustice would arise.

Concerning charge 12, the panel first considered the limited notice provided and the arguments with regards to fairness made by Mr Pataky. It however, concluded that the proposed wording does not significantly broaden the nature of the charge or alter it to your disadvantage. The panel found that the charge remains within the scope of

the factual matrix already known to you, and therefore this amendment was also allowed.

The panel was of the view that the amendments were 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.

Decision and reasons on application for reasonable measures

The panel heard an application under Rule 23(1) of the Rules made by Ms Engineer for the provision of a special measures to support Person A in giving her evidence. She explained that the allegation against you was of a sexual nature and that Person A was the alleged victim.

Ms Engineer submitted that Person A was anxious about seeing you and requested that:

- a support person from the NMC be permitted to remain on the video link with Person A during her evidence.
- your camera is turned off while Person A is giving her evidence.

She submitted that the application is made to enable Person A to give her best evidence in the circumstances.

Ms Engineer referred the panel to Rule 23(1) of the Rules and the NMC guidance in *DMA-6*, which supports the use of special measures where necessary to ensure the fairness and integrity of the proceedings and to facilitate reliable evidence from vulnerable witnesses. She submitted that these measures are proportionate and necessary in the interests of justice and will assist Person A in giving clear and accurate evidence.

Mr Pataky, on your behalf, did not oppose the application and indicated that it is a matter for the panel's discretion.

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

The panel determined that the requested measures were reasonable and necessary to support Person A in giving her best evidence. The panel accepted that seeing you may impair her ability to do so.

The panel, therefore, directed that the requested special measures be implemented to support Person A.

Decision and reasons on Application to Admit Hearsay Evidence and a further application to Amend the Charges

Ms Engineer made an application to admit hearsay evidence under Rule 31 of the Rules. The application was made in tandem with a further application under Rule 28 to amend the charges to add two new charges (charges 16 and 17), which are predicated on the content of the aforementioned hearsay evidence.

The charges read as follows:

16) On unknown dates:

- a) Made inappropriate gestures imitating sexual acts to Person E;**
- b) Took items belonging to Person E and used these to imitate/mock them;**
- c) Referred to Person E as “Anus” rather than using their name;**
- d) Repeated inappropriate phrases of a sexual nature in front of Person E;**
- e) Made jokes, comments and/or references to Person E’s weight;**
- f) Imitated/mockered a priest in front of Person E.**

17) Your actions in charge 16(a)-(e) above had the purpose or effect of;

- a) Violating Person E’s dignity, and/or;**
- b) Creating an intimidating, hostile, degrading, humiliating or offensive environment for Person E.**

Ms Engineer referred the panel to the hearsay evidence which consisted of a signed witness statement from Person E dated 19 March 2022 and correspondence between the NMC and Person E in which she confirmed that she did not wish to engage further with the proceeding. She stated:

On 14 February 2024:

“...I was happy to support the nursing sister [Person A] by agreeing to give my statement confirming the behaviours I had witnessed, but I still live in the same town as OG and do not want to get involved any further Again, do ring me at any time to discuss this if you want to...”

“...I am happy for you to call me anytime re the above. However I was led to believe it was simply to confirm I had written that statement. I am not interested in attending any future hearings etc but happy to speak to you to confirm my statement...”

On 16 February 2024

“...I have read and understood the contents of your last email - however my answer remains the same I'm afraid. I initially gave my statement to [Person A] on the understanding that I'd be happy for it to be used if helpful to her case, but stated at that time that I would not be willing to attend hearings etc...”

On 6 June 2025:

“...My feelings have not changed regarding this matter. As I said earlier. I do not want to get involved any further...”

Ms Engineer argued that the allegations in Person E's statement mirror those already before the panel and pointed out their consistency with existing charges. She further asserted that the NMC made reasonable efforts to secure Person E's attendance, but Person E has twice declined to participate. Ms Engineer concluded by submitting that the hearsay evidence is relevant and credible, with no indication of fabrication by Person E.

Mr Pataky opposed both applications, arguing that the hearsay evidence is irrelevant to the current allegations and that its admission would be fundamentally unfair.

Mr Pataky emphasised the seriousness of the allegations, which you strongly deny. He highlighted that the statement in question is the sole and decisive evidence supporting the proposed charges. He argued that the absence of the witness for cross-examination creates a significant procedural disadvantage for you, making it impossible to test or challenge the assertions made by Person E.

Mr Pataky further underscored that the evidence concerns a range of serious conduct, all of which you strongly refute. He argued that given the seriousness of these allegations, procedural safeguards, specifically the ability to cross-examine the author of this statement, are necessary for a fair hearing.

Mr Pataky drew the panel's attention to the NMC's limited efforts to contact Person E and her confirmed unwillingness to participate in these proceedings. He inferred that her response suggests she does not wish to stand by her assertions. He stressed that there is no evidence to show that the NMC attempted to compel Person E, nor was there any explanation for why further steps were not taken. He submitted that the background suggests the NMC had initially decided not to rely on this evidence.

Mr Pataky also highlighted that the origin of the statement was not clear, noting that it was reportedly provided to Person A's husband rather than directly to the NMC. He further underscored the significant delay in the NMC seeking to rely on this material and the limited engagement with Person E thereafter. He directed the panel to the cases of *Thorneycroft v NMC* [2014] EWHC 1565 (Admin), *Bonhoeffer v GMC* [2011] EWHC 1585 (Admin), and *GMC v Ogbonna* [2010] EWCA Civ 1216 and invited it to dismiss the application.

Regarding the application to include additional charges, Mr Pataky submitted that the seriousness of these allegations, the fact that the hearsay evidence is the sole and decisive support for them, and the absence of any means to test or challenge person E's assertions, means that admitting them would result in substantial injustice to you. He therefore invited the panel to dismiss both applications.

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 Rules provides that, so far as it is 'fair and relevant', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings.

The panel considered the application to admit the hearsay evidence, specifically a written statement from Person E. While acknowledging the seriousness of the allegations and their similarity to existing charges, the panel was not satisfied that the NMC had taken reasonable steps to secure Person E's attendance.

It observed that while the original statement was dated 19 March 2022, there was no meaningful follow-up until February 2024, when Person E declined to attend. It found that no attempts were made to formally require her attendance, and no explanation was provided for this omission.

Further concerns were raised regarding the statement's provenance, as it was originally obtained via Person A's husband. It noted that Person E refused to provide a formal statement to the NMC and twice confirmed her wish to not be involved in the proceeding. The panel found that this undermines the reliability and weight that could be attributed to the statement.

Referring to Rule 31 of the Rules and the guidance set out in *Thorneycroft v NMC*, the panel balanced the overarching objective of public protection and the importance of procedural fairness. The panel determined that the hearsay evidence was the sole and decisive basis for the proposed new charges and could not be adequately tested in Person E's absence. It found that the inability to cross-examine Person E would cause significant prejudice to you.

Accordingly, the panel refused the NMC's application to admit the hearsay evidence.

The panel then addressed the application to amend the charges to include charges 16 and 17.

The panel noted Mr Pataky's submissions that the proposed charges are serious and would increase the gravity of the case and potential sanction. However, given the absence of other admissible evidence to support the amendment, the panel concluded it would be inappropriate and unjust to amend the charges as requested.

The panel noted that the charges were entirely dependent on the hearsay evidence. It considered that allowing the amendments would cause grave unfairness to you, as these allegations could not be tested or challenged. The panel was not satisfied that such amendments could be made without injustice.

Therefore, the panel therefore refused the NMC's application to admit the hearsay evidence and rejected the application to amend the charges to include charges 16 and 17.

Details of charge

That you, a registered nurse, whilst working at Oakcroft House Care Home;

- 1) On one or more occasion between August 2018 – August 2021;
 - a) Placed/pulled a pen in/out between Person A's cleavage/breasts.
 - b) Laughed at Person A, after they asked you to stop placing your pen in between their cleavage/breasts.
- 2) On one or more occasion from January 2019 onwards;
 - a) Imitated/mockered Person A's limp and/or the limp of another colleague/previous colleague;
 - b) Laughed at Person A after they asked you to stop imitating their limp.
- 3) On one or more occasion on unknown dates, imitated/mockered Resident B's distinctive gait/limp.
- 4) In or around December 2019 tried to lift Person A's top/shirt to see their scar.

- 5) In August 2020, after finding out that Person A had to attend for a colonoscopy, sent Person A three texts of cartoon 'bottoms'.
- 6) On one or more occasion between 2019-2020;
 - a) Shoved pictures of erect penises in Person A's face;
 - b) Whilst showing pictures of erect penises to Person A, stated words to the effect 'that's who I was with last night.'
- 7) In or around January 2021 after Person A had suffered a fall in the office;
 - a) On one or more occasion mocked/imitated Person A's fall, by throwing yourself to the floor;
 - b) On one or more occasion whilst throwing yourself to the floor, used words to the effect 'Oh no I fell.'
- 8) On one or more occasion around January/February 2021, inside the lift at the Home;
 - a) Deliberately knelt down and placed your face in front of Person A's genitalia.
 - b) After placing your face in front of Person A's genitalia ran off laughing.
- 9) On one or more occasion on unknown dates touched Person A's;
 - a) Shoulders;
 - b) Back/bottom.
- 10) On one or more occasion between August 2019 – January 2021 touched/fiddle with Person A's bra strap.
- 11) On an unknown date;
 - a) Kissed Person C;
 - b) Grabbed Person C's genitalia;
 - c) Grabbed Person D's bottom.

12) Your actions in one or more of the above charges 1 a), 4, 6 a), 6 b), 8 a), 9 a), 9 b), 10), 11 a), 11 b) & 11 c) above were sexually motivated, in that you sought sexual gratification from your actions and/or your actions were sexual.

13) Your actions in one or more of charges 2 a), 2 b), 7 a) & 7 b) were inappropriate in that:

- a) The conduct was unwanted;
- b) It related to Person A's protected characteristic, namely their disability;
- c) It had the purpose or effect of:
 - i) Violating Person A's dignity and/or;
 - ii) Creating an intimidating, hostile, degrading, humiliating or offensive environment.

14) Your actions in charge 5 above were unwanted and had the purpose or effect of;

- a) Violating Person A's dignity, and/or;
- b) Creating an intimidating, hostile, degrading, humiliating or offensive environment for Person A.

15) Your actions in charge 3 above were inappropriate in that;

- a) The conduct was unwanted;
- b) It related to Resident B's protected characteristic, namely their disability;
- c) It had the purpose or effect of:
 - i) Violating Resident B's dignity and/or;
 - ii) Creating an intimidating, hostile, degrading, humiliating or offensive environment.

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

Background

The charges arose from a referral made by Oakcroft House Care Home (BUPA) (the Home) stemming from allegations of bullying and harassment made by a former colleague whilst you were employed as a registered nurse at the Home.

The concerns had been raised by Person A in her resignation email in August 2021. Person A made several allegations including that you had without her consent touched her bra strap and used her cleavage as a pen holder. She complained about other incidents including that you had knelt down in the lift at the home pretending to tie shoelaces and placing your face in front of her genitals. She further alleged that you had bullied her by mimicking and joking about the way she fell and also mimicked and joked about her gait and that of another individual with a limp.

These allegations resulted in an internal investigation where you made some limited admissions; subsequently a referral was made to the NMC.

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

During your testimony, Mr Pataky requested that portions of your evidence should be held in private on the basis that proper exploration of your case will involve discussion of your personal life and the health and personal life of Person A. The application was made pursuant to Rule 19 of the Rules.

Ms Engineer indicated that she had no objection to the application to the extent that any reference to your personal life and the health and personal life of Person A should be heard in private.

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 noted that it had previously granted an application for Person A's evidence to be held in private. It then considered Mr Pataky's request for your evidence to be heard in private.

In evaluating this request, the panel acknowledged that your testimony would likely involve details about your private life, as well as the health and private life of Person A.

Considering the overall structure of the hearing, the panel determined that separating public and private elements would neither be practical or appropriate because health and issues relating to private life are intrinsic to the entire case. The panel determined to hold the entirety of your evidence in private in order to protect the privacy and welfare of all parties and avoid the impracticality of segmenting the proceedings.

Before making any findings on the facts, the panel heard an application to amend charge 14 and an application to offer no evidence on charge 15.

Decision and reasons on application to amend the charge 14

The panel heard an application made by Ms Engineer, on behalf of the NMC, to amend the wording of charge 14.

She submitted that the proposed amendment would provide clarity and more accurately reflect the evidence already heard by the panel.

"That you, a registered nurse:

- 14) Your actions in charge 5 above **were unwanted and** had the purpose or effect of;
 - a) Violating Person A's dignity, and/or;

- b) Creating an intimidating, hostile, degrading, humiliating or offensive environment for Person A.

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

Mr Pataky submitted that you had no objection to this amendment, and that it was a matter for the panel’s discretion.

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 interests of justice. It better reflected the NMC’s case. 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. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

Decision and reasons on application to offer no evidence in respect of charge 15

The panel considered an application made by Ms Engineer to offer no evidence in respect of charge 15.

Ms Engineer submitted that you had already accepted the underlying conduct relating to Resident B as set out in charge 3. However, it became apparent during the evidence that Resident B was not aware of the conduct, and in fact, may have passed away at the time it is alleged to have occurred.

In light of this, Ms Engineer submitted that the NMC does not intend to offer any evidence in respect of this charge.

Ms Engineer confirmed that this decision does not diminish the seriousness of the remaining charges and noted that the charge itself had been clearly pleaded.

Mr Pataky, on your behalf, indicated that you do not oppose the application and confirmed that the position is agreed for the reasons outlined by Ms Engineer.

The panel accepted the advice of the legal assessor.

The panel was satisfied that the decision to offer no evidence was properly made and did not prejudice the overall fairness or integrity of the proceedings. It determined to address this application when it came to consider charge 15.

Decision and reasons on facts

At the outset of the hearing, the panel heard from Mr Pataky, who informed the panel that you made admissions to charges 1a, 2a, 3, 7a, 10, 15b, 15ci, 15cii. Some of those charges were pleaded in the alternative. Accordingly, the panel decided to hear the evidence in relation to them before determining the extent to which it found those charges proved.

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 Ms Engineer on behalf of the NMC and by Mr Pataky on your behalf.

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:

- Linda Marks: Regional Manager at the Home at the time of the incident

- Person A: Deputy Manager at the Home
at the time of the incident

The panel also heard evidence from you.

In determining the facts of this case, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by both the NMC and Mr Pataky.

The panel then considered each of the disputed charges. Before setting out its findings of facts, the panel noted that Person A and yourself had worked alongside each other as Deputy Manager and Manager of the Home since 2018, that you were her line manager and undertook supervisions with her and that she had not advanced any complaint or criticism of you in those supervisions or to any other person before her resignation email dated 1 August 2021.

The panel also took into account, that it was confirmed by both Person A and you that you had a long-standing close friendship in addition to being colleagues and that you shared information about your personal lives with each other.

The panel noted the character direction given by the legal assessor that the panel was entitled to take into account the fact that you are of good character. This means that you have never before been found to have behaved dishonestly in a criminal court or elsewhere or to have behaved in a similar fashion in the past. These facts may be relevant to your credibility and your propensity to behave as alleged by the NMC. However, they are not determinative.

Charge 1a

On one or more occasions between August 2018 and August 2021:

- a) Placed/pulled a pen in/out between Person A's cleavage/breasts.

You admitted this charge inasmuch as on one occasion you pulled a pen from between Person A's cleavage/breasts.

This charge is found proved to the extent of your admission.

In reaching its decision, the panel considered the oral evidence of Person A, Ms Marks and yourself, the statements of Person A and Ms Marks, internal investigation records, contemporaneous documentation including Person A's resignation email, and the police report.

The panel first considered whether Person A used her cleavage as a pen holder. During the internal investigation, Person A denied doing so. In her live evidence, she did not accept using her cleavage as a pen holder but that she did occasionally fix her pen to the side of her clothing near her shoulder.

Your evidence was that Person A used her cleavage as a pen holder. This was supported by Person C, who stated during an interview in the internal investigation that Person A did, in fact, use her cleavage as a pen holder.

The panel noted that in her interview with Ms Mark, Person A stated that you had put the pen in her cleavage repeatedly: "*daily in reception*" and that "*It's been going on the last 2 years*". She maintained as much in her oral evidence. She stated that Ms Casoria and Person C "*have definitely seen it*".

The panel noted that during the internal investigation, Ms Marks stated that no members of staff had corroborated Person A's account of the incident. She had interviewed both Person C and Ms Casoria. Moreover, Person C and Ms Casoria told the police that they had not witnessed any sexual conduct.

The panel also considered Person A's claim in her interview with Ms Marks that this was happening "*daily*" during "*the last 2 years*". The panel heard evidence to suggest that in this period Person A was frequently absent or working from home and was therefore not in Reception where the incidents were alleged to have occurred with such regularity.

The panel also considered your admission and the context in which you admitted to pulling the pen from Person A's cleavage. You stated this occurred once, as a joke, after commenting on her using her cleavage as a pen holder and that you were invited to retrieve it. You denied placing the pen there or touching her skin. The panel found your account to be consistent on this point and accepted your evidence to the extent that you pulled the pen once, and not on more than one occasion, nor in a manner beyond what you described.

Ultimately, the panel was not satisfied, on the balance of probabilities, that you placed or repeatedly pulled a pen in or out of Person A's cleavage or breasts. There was insufficient evidence to support that this happened on more than one occasion or in a manner exceeding your admitted conduct.

Charge 1b)

On one or more occasions between August 2018 and August 2021:

Laughed at Person A after they asked you to stop placing your pen in between their cleavage/breast.

This charge is found NOT proved.

In reaching its decision, the panel considered both your evidence and that of Person A, including her oral testimony, written accounts and investigation records at the local level. It also had regard to contemporaneous material, including an email you sent to Ms Marks during the local investigation, in which you referred to the incident and the tone of the interaction.

The panel found it plausible that there was laughter following the incident described in charge 1a, which you have admitted. The panel noted that both you and Person A described having a friendly and informal working relationship at the time. This was supported by the tone and content of your respective evidence. Person A's own live evidence was consistent with there being a light-hearted exchange immediately after the incident.

The panel was not satisfied, on the balance of probabilities, that you laughed *at* Person A in a mocking or derisory way after being asked to stop. Instead, it found it more likely that any laughter which occurred was within the context of the interaction itself, consistent with the dynamic as described by both parties.

Accordingly, the panel finds charge 1b not proved.

Charge 2a)

On one or more occasion from January 2019 onwards, you imitated/mockered Person A's limp and/or the limp of another colleague.

You admitted this charge inasmuch as you imitated Person A's limp on two occasions and the limp of another colleague on one occasion.

This charge is found proved to the extent of your admission.

In reaching its decision, the panel took into account your admission that you imitated the limp of Person A and another colleague. The panel accepted this admission and was satisfied that the conduct occurred. However, the panel was not satisfied that the imitation was carried out in a mocking or derisory manner. It considered the context in which the conduct took place and found no evidence that it was intended to humiliate or belittle either individual.

The panel had particular regard to the interview notes of Person C from the local investigation, where he stated, '*Not mimicking, I think OG used to be a good impersonator...*' when asked whether he had witnessed you mimicking anyone limping. This supported the view that the imitation was not perceived as offensive or mocking by those present at the time. Person C also told the police that Person A and yourself had:

'...a good working relationship. [You have] always been very supportive of [Person A's] mobility issues and supported her at work. [You have] always been supportive of equality. [Person C] has never seen anything

mocking her disability. [Person C] always thought they got on well and that [you] went above and beyond for her.'

Therefore, the panel finds charge 2a proved to the extent that you imitated the limp of Person A and another colleague but not proved insofar as it alleges that this was done in a mocking or derisory manner.

Charge 2b)

Laughed at Person A after they asked you to stop imitating their limp.

This charge is found NOT proved.

In reaching its decision, the panel considered the oral evidence and written statements of Person A, including her resignation letter, and your response.

The panel acknowledged Person A's evidence that she was self-conscious about her disability. However, the panel found that there was insufficient evidence to establish, on the balance of probabilities, that she clearly communicated this to you. While Person A stated in her resignation letter and in her live evidence that she asked you to stop, there was no corroborating evidence of when or how this was conveyed. In this instance, the panel was not persuaded that Person A expressed a clear objection to the limp imitation at the time, or that you understood it to be unwelcome.

Accordingly, the panel finds charge 2b not proved.

Charge 3

On one or more occasions on unknown dates, you imitated/mockered Resident B's distinctive gait/limp.

You admitted this charge inasmuch as you imitated Resident B's distinctive limp/gait on one occasion.

This charge is found proved to the extent of your admission.

The panel accepted your evidence that you imitated Resident B's distinctive gait on one occasion. You stated that Resident B was one of your favourite residents and that there was no intention to mock or cause offence. Person A also confirmed that you were fond of Resident B in her live evidence. The panel had no reason to doubt that Resident B was someone you were fond of.

While the panel was satisfied that the imitation occurred, it was not satisfied that it was mocking or derisory in nature. There was no evidence that the conduct was intended to ridicule Resident B or was perceived as such by others at the time. Accordingly, the panel finds the charge proved to the extent that you imitated Resident B's gait on one occasion but not proved in so far as it alleges mocking or derisory intent.

Charge 4

In or around December 2019, you tried to lift Person A's top/shirt to see their scar.

This charge is found NOT proved.

In reaching its decision, the panel considered the oral evidence and written statements of Person A as well as your response to this allegation.

The panel noted that the allegation was raised several years after the alleged incident and was not referenced in contemporaneous documentation or initial accounts. The absence of contemporaneous records of this allegation, while not determinative, affected the panel's ability to reliably assess the context and detail of the allegation. It also noted that this allegation was not corroborated by the witness said to have been present at the time.

The panel noted your outright denial of the allegation; the panel found no independent evidence to support Person A's account. Given the timing of the disclosure, the absence of corroboration, and the lack of contemporaneous record, the panel was not satisfied that the incident occurred as alleged.

Accordingly, the panel finds charge 4 not proved.

Charge 5

In August 2020, after finding out that Person A had to attend for a colonoscopy, you sent Person A three texts of cartoon 'bottoms'.

This charge is found NOT proved.

In reaching its decision, the panel considered the oral and written evidence of Person A, your response, and the overall evidential context.

The panel noted that you denied this allegation in its entirety and maintained that it was fabricated. The panel also noted the seriousness of the alleged conduct but found that the evidence to support it was limited to Person A's witness statement which was dated 14 February 2024 and oral testimony. No contemporaneous records or messages were provided to support the claim, nor was there any documentation showing that that you had sent such messages at the time.

The panel heard Person A state during her live evidence that she called the office and asked a colleague, to tell you to stop. However, there was no corroborating evidence from the said colleague or any other source to support that such a conversation occurred or that a complaint was made at the time.

Given the absence of corroborative or contemporaneous evidence and the seriousness of the allegation, the panel was not satisfied that the charge was proved on the balance of probabilities.

Accordingly, the panel finds charge 5 not proved.

Charge 6 a) & b)

On one or more occasions between 2019–2020:

- a) Shoved pictures of erect penises in Person A's face;
- b) Whilst showing pictures of erect penises to Person A, stated words to the effect of, *"that's who I was with last night."*

This charge is found NOT proved.

In reaching its decision, the panel considered the written and oral evidence of Person A, your account, and the documentary material, including the internal investigation records and police report.

The panel noted that you have consistently denied this allegation and, in your live evidence. In addition, you stated in your oral evidence that you never shared intimate details of your personal relationships with Person A. The panel found your evidence on this point to be consistent and credible.

The panel noted that this allegation was not referred to in the police report or during the internal investigation. It appeared for the first time in Person A's witness statement dated 14 February 2024. The absence of any earlier mention or corroborating material caused the panel to doubt the credibility of Person A's account.

In light of the evidence heard and the lack of supporting or contemporaneous evidence, the panel was not satisfied, on the balance of probabilities, that the conduct asserted in charges 6a and 6b occurred as described.

Accordingly, the panel finds charge 6 a) and b) not proved.

Charge 7a

In or around January 2021, after Person A had suffered a fall in the office:

a) On one or more occasion, mocked/imitated Person A's fall by throwing yourself to the floor.

You admitted this charge inasmuch as you imitated Person A's fall on one occasion by throwing yourself to the floor.

This charge is found proved to the extent of your admission.

In reaching its decision, the panel considered the oral and written evidence of Person A, your admissions, and the broader context, including your character references and the resignation email.

The panel noted that you admitted to imitating Person A's fall on one occasion, asserting that it was part of a demonstration or light-hearted interaction. You described it as a training exercise. The panel was not persuaded by this explanation. The panel accepted that the conduct occurred, and that you did indeed imitate Person A's fall.

The panel noted that this behaviour was consistent with other instances of imitation described in the evidence and with Person C's observation that you were known to be "*a good impersonator*". The panel also took account of your positive testimonials, which consistently described you as supportive and well-liked by colleagues.

While the conduct was wholly inappropriate, something you have since acknowledged, the panel did not find it was done with intent to mock or belittle Person A. It was of the view that it appeared to be a poorly judged attempt at humour, carried out in a light-hearted manner consistent with the nature of your relationship with Person A.

The panel found insufficient evidence to support that the imitation occurred on more than one occasion. It noted that although Person A referenced this behaviour in her resignation letter, that letter and subsequent accounts lacked clarity or specificity to confirm repeated incidents.

Accordingly, the panel finds charge 7a proved to the extent that you imitated Person A's fall on one occasion but not proved insofar as it alleges mocking or that it occurred on more than one occasion.

Charge 7b

In or around January 2021, after Person A had suffered a fall in the office:
On one or more occasion, whilst throwing yourself to the floor, used words to the effect "oh no, I fell."

This charge is found proved.

In reaching its decision, the panel considered the oral evidence of the parties, your admissions, and the documentary evidence, including meeting notes from the local investigation dated 2 August 2021.

The panel had sight of the meeting notes, in which you stated, in response to a question as to whether you had feigned a fall:

“It’s a fall, oh my god [Person A] what are you going to do if you had a fall. We were laughing together,”

This was broadly consistent with Person A’s account and suggested that words to similar effect were used at the time of the imitation as set out in charge 7a.

The panel was satisfied, on the balance of probabilities, that you said those words in connection with your imitation of Person A’s fall. However, as with charge 7a, the panel did not find that the comment was made in a mocking or derisory manner. Rather, it appeared to be said in a light-hearted way, consistent with your admitted style of humour and past conduct.

Accordingly, the panel finds charge 7b proved.

Charge 8a

On one or more occasion around January/February 2021, inside the lift at the home: Deliberately knelt down and placed your face in front of Person A’s genitalia.

This charge is found NOT proved.

In reaching its decision, the panel considered the oral and written evidence of Person A, your evidence, and the contemporaneous material including the internal investigation documents and Person A’s email describing the incident.

The panel observed that Person A described the incident in her email, stating that you had followed her into the lift and knelt down with your face level with her genital area, pretending to tie imaginary shoelaces. She said she moved to the corner of the lift, covered herself with her hands, and told you to get up. She described this as an intimidating experience and appeared visibly distressed when giving live evidence about this incident.

It noted that you consistently denied the allegation. You explained, during the internal investigation and your live evidence, that you may have picked something up from the lift floor but that you do not recall the incident in the manner described by Person A. You also stated that you had only been in the lift with her once or twice and denied any deliberate attempt to kneel in front of her.

The panel considered the nature of the allegation and the need for clear and persuasive evidence to support a finding of deliberateness. While Person A clearly found the experience upsetting, the panel concluded that the available evidence did not demonstrate that your actions were deliberate or carried out with the intention alleged. There was no corroborative evidence. Moreover, the panel considered that the situation was open to interpretation. Person A may have interpreted your behaviour in a way that you did not intend.

The panel acknowledged that this incident appeared to be a pivotal and distressing moment for Person A, but it was not satisfied, on the balance of probabilities, that you deliberately knelt down in front of her genital area. It was of the view that the NMC did not fulfil the burden of proof required to establish intent.

Accordingly, the panel finds charge 8a not proved.

Charge 8b

On one or more occasion around January/February 2021, inside the lift at the home:
After placing your face in front of Person A's genitalia, ran off laughing.

This charge is found NOT proved.

In reaching its decision, the panel considered the oral and written evidence of Person A, your account, and the surrounding context.

As set out in its findings on charge 8a, the panel was not satisfied that you deliberately placed your face in front of Person A's genitalia. This charge is predicated on that action having occurred in the manner alleged.

Further, there was no corroborative evidence to support the claim that you ran off laughing afterwards. The panel accepted that Person A found the alleged incident distressing; however, it was not satisfied, on the balance of probabilities, that the conduct occurred as described or with the intent implied.

Accordingly, the panel finds charge 8b not proved.

Charge 9 a) &b)

On one or more occasion on unknown dates, you touched Person A's:

- a) shoulders;
- b) back/bottom

This charge is found NOT proved.

In reaching its decision, the panel considered the oral evidence of Person A and yourself, the police report, and the local investigation records.

The panel noted Person A's allegation in her police statement and during her live evidence that you touched her shoulders, back, and, on one occasion squeezed her bottom and that you had commented that it was "*squidgy or firm*" or words to that effect. It noted that you denied these allegations unequivocally. It also noted that you accepted that on one occasion, at Person A's request, you had helped to untwist her bra strap due to physical challenges which she had but that you maintained that you never touched her skin and that you had done so with her consent.

The panel considered these to be serious allegations. It had sight of the police report and the internal investigation notes, where no witnesses corroborated the conduct

described by Person A. The panel noted that, despite the gravity of the allegations, there was no contemporaneous record of complaint or witness support for the claims.

In light of the lack of corroborative evidence and the nature of the conduct alleged, the panel was not satisfied, on the balance of probabilities, that you touched Person A's shoulders or back/bottom in the manner alleged.

Accordingly, the panel finds charges 9a and 9b not proved

Charge 10

On one or more occasion between August 2019 and January 2021, you touched/fiddled with Person A's bra strap.

You admitted this charge inasmuch as on one occasion, you untwisted Person A's bra strap.

This charge is found proved to the extent of your admission.

In reaching its decision, the panel considered the oral and written evidence of Person A, your account, the internal investigation records, and relevant documentation.

The panel noted that you admitted that you touched Person A's bra strap on one occasion. You stated that you observed it was twisted and, after Person A indicated she was struggling with dressing due to her disability, she asked you to untwist it. You maintained that you assisted by adjusting the strap and did not touch her skin. The panel found your evidence to be consistent throughout the investigation and in your oral evidence.

The panel also noted that although Person A raised this allegation from the outset, her accounts reflected several inconsistencies. In her witness statement, she stated that you fiddled with her bra strap "*around half a dozen times*" referencing incidents in August 2019 and again in January 2021. In her live evidence, she said she would

have known if the strap had been twisted and gave the impression, she would not have needed assistance. Again, in her interview with Ms Marks dated 11 August 2021, when asked if anyone had ever told her that her bra strap was twisted, she responded, “No,” and when asked if anyone had ever offered to untwist it, she replied, “*Only Oggie.*”

The panel found that while Person A had raised the allegation early, the inconsistencies across her accounts impacted the overall reliability of her version of events. There was no corroborative evidence, and the local investigation did not identify any witnesses to the incident.

In light of the above, the panel preferred your account, which it found consistent and credible. Accordingly, the panel finds the charge proved to the extent that you touched Person A’s bra strap on one occasion, as admitted. The panel does not find the allegation proved beyond that.

Charge 11a

On an unknown date, you kissed Person C.

This charge is found NOT proved.

In reaching its decision, the panel considered the evidence presented, including the account of Person C during the local investigation and to the police, and your live evidence.

The panel noted that the evidence in support of this charge was in Person A’s witness statement dated 14 February 2024 and in her oral evidence. In the former, she stated:

“I have witnessed [you] acting inappropriately towards other staff. For example, I witnessed [you] kiss and grab the genitalia of [Person C] and grab the bottom of staff member [Person D].”

However, the panel noted that Person C denied that any such incident occurred when interviewed by Ms Marks during the internal investigation and again when questioned by the police. It also noted that you strongly denied the allegation throughout these proceedings and there was no direct or corroborative evidence to support that this incident occurred.

In light of the clear denials from both you and the alleged recipient of your conduct, and the absence of any other evidence to substantiate the allegation, the panel was not satisfied, on the balance of probabilities, that the incident took place.

Accordingly, the panel finds charge 11a not proved.

Charge 11b

On an unknown date, you grabbed Person C's genitalia.

This charge is found not proved.

In reaching its decision, the panel considered the available evidence, including Person C's statements to the internal investigation and the police, as well as your response.

Person C denied that any such incident occurred when interviewed by Ms Marks during the local investigation and again during the police inquiry. You also vehemently denied the allegation at all stages of the proceedings.

The panel adopted its findings in respect of charge 11a). It noted that there was no independent or corroborative evidence to support that Person A's evidence that the incident took place. In light of the clear and consistent denials from both you and Person C, the panel was not satisfied, on the balance of probabilities, that this conduct occurred.

Accordingly, the panel finds charge 11b not proved.

Charge 11c

On an unknown date, you grabbed Person D's bottom.

This charge is found NOT proved.

In reaching its decision, the panel considered the oral and written evidence of Person A and your response. It also took into account the absence of any evidence from Person D or other witnesses.

The panel noted that this allegation is based solely on Person A's account. You have strongly denied the allegation throughout. The panel noted that it had not heard from or seen any statement from Person D confirming that such conduct took place. Furthermore, there was no corroboration from any other witnesses, and, in fact, colleagues interviewed during the internal investigation denied witnessing any conduct of this nature.

In the absence of any direct or supporting evidence from Person D and given the nature of the allegation, the panel was not satisfied, on the balance of probabilities, that the incident occurred.

Accordingly, the panel finds charge 11c not proved.

Charge 12

Your actions in one or more of the above charges 1a, 4, 6a, 6b, 8a, 9a, 9b, 10, 11a, 11b, 11c were sexually motivated, in that you sought sexual gratification from your actions and/or your actions were sexual.

This charge is found NOT proved.

The panel considered this charge only in relation to the factual findings which it has found proved, specifically charges 1a and 10. All other charges listed within charge 12 were found not proved, and therefore not considered in the context of this charge.

In respect of charge 1a, and generally the panel noted that Person A, under cross-examination, [PRIVATE] and confirmed that she did not believe the conduct was sexually motivated. In respect of charge 1a specifically, the panel has found that there was no touching of skin, no touching of sexual organs, and no evidence of sexual gratification.

The panel then considered whether the conduct could be considered '*sexual*'. It had regard to the definition of '*sexual*' as set out in section 78 of the *Sexual Offences Act 2003* and considered whether a reasonable person would consider the conduct to be sexual by its nature or context.

The panel accepted that the conduct occurred once, in a joking context, following a light-hearted exchange between you and Person A. It noted that you stated during the local investigation, "*I wish I could also do that,*" referring to Person A using her cleavage as a place to hold her pen. You have consistently maintained this account, and the panel found your explanation provided a plausible reason for the conduct not being '*sexual*'.

The panel considered this to have been a one-off incident, playful in nature, and consistent with the informal dynamic described by both parties. The panel accepted that your action may have reflected curiosity or surprise but considered that it was not sexual and that further it was not sexually motivated.

In respect of charge 10, the panel accepted your evidence that Person A asked you to help adjust her bra strap because she had difficulty dressing due to her disability. It also accepted that you pointed out that the strap was twisted, and she invited you to assist. The panel found that there was no touching of the skin when the assistance was given. In those circumstances, the panel considered that your action was not sexual, and not sexually motivated.

The panel therefore found that in both instances, the conduct did not meet the threshold of sexual motivation, whether by intent or effect, and that there was no evidence of your seeking or obtaining sexual gratification, nor did the panel find the conduct was inherently '*sexual*'.

Accordingly, the panel finds charge 12 not proved.

Charge 13a

Your actions in one or more of charges 2a, 2b, 7a and 7b were inappropriate in that:

a) The conduct was unwanted.

The panel did not consider this charge in relation to charge 2b, because it was not found proved.

This charge is found NOT proved.

In reaching its decision, the panel considered the context in which the conduct occurred, the nature of the relationship between you and Person A, and whether you were aware that the conduct was unwanted.

In relation to charge 2a, the panel found that you did imitate the limp of Person A and another colleague. However, it was not satisfied that it had been clearly communicated to you that this conduct was unwanted. While the panel accepts that Person A may have felt uncomfortable, it was not satisfied that you were aware of that discomfort at the time. The panel was not provided with any evidence to suggest that the other colleague did not want this conduct at the time.

In respect of charge 7a, the panel found that you imitated Person A's fall on one occasion. The panel considered the light-hearted context in which this occurred, and the nature of the friendly and informal working relationship described by both parties. On that basis, the panel concluded that you would not have reasonably known that the conduct was unwanted.

Similarly, in relation to charge 7b, the panel found that the comment made alongside the imitation occurred in a similar context, and there was nothing to suggest you knew or ought to have known that the conduct was unwelcome.

Accordingly, the panel finds charge 13a not proved in relation to charges 2a, 7a, and 7b.

Charge 13b

Your actions in one or more of charges 2a, 2b, 7a and 7b were inappropriate in that:
b) They related to Person A's protected characteristic, namely their disability.

This charge is found proved for charge 2a and not proved in respect of 7a and 7b

The panel did not consider this charge in relation to charge 2b, because it was not found proved.

In reaching its decision, the panel considered whether the conduct in question was related to Person A's disability, which is a protected characteristic under the *Equality Act 2010*.

In relation to charge 2a, the panel found that you imitated Person A's limp. While the conduct may have been carried out in a light-hearted manner and within the context of an informal and friendly working relationship, the panel was satisfied that the imitation was directly related to Person A's physical presentation, which stemmed from her disability.

As such, the conduct was related to a protected characteristic with regards to Person A. The panel therefore finds charge 13b proved in relation to charge 2a.

In relation to charge 7a, the panel found that you imitated Person A's fall on one occasion. However, there was no clear evidence linking the fall itself to her disability. Without that link, the panel could not be satisfied that the conduct related to a protected characteristic. Accordingly, the panel finds charge 13b not proved in relation to charge 7a.

As charge 7b was directly connected to the conduct in 7a, the same reasoning applies. The panel finds charge 13b not proved in relation to charge 7b.

Charge 13ci

Your actions in one or more of charges 2a, 2b, 7a and 7b were inappropriate in that:

i) they had the purpose or effect of violating Person A's dignity.

This charge is found proved in relation to charge 2a and not proved in relation to charges 7a and 7b.

The panel did not consider this charge in relation to charge 2b, because it was not found proved.

In relation to charge 2a, the panel found that you imitated Person A's limp. The panel noted that Person A was still coming to terms with her disability at the time and had described feeling self-conscious about her physical condition. While the panel accepted that you did not intend to cause offence and perceived your conduct as light-hearted, it considered the effect of the conduct on Person A. The panel was satisfied that the imitation had the effect of violating her dignity. The subjective impact on Person A, taken together with the context and nature of the imitation, supported a finding that the threshold was met. Accordingly, the panel finds charge 13ci) proved in relation to charge 2a.

In relation to charge 7a, the panel found that you imitated Person A's fall on one occasion. However, the panel was not satisfied that the conduct had the purpose or effect of violating her dignity. The panel considered the context of the interaction and the nature of the relationship between you and Person A at the time. There was insufficient evidence that the conduct had the impact required to meet this threshold. The panel therefore finds charge 13ci) not proved in relation to charge 7a.

As charge 7b was directly linked to the conduct in 7a, the same reasoning applies. The panel finds charge 13ci) not proved in relation to charge 7b.

Charge 13cii

Your actions in one or more of charges 2a, 2b, 7a and 7b were inappropriate in that:

ii) they had the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment.

This charge is found proved in relation to charge 2a and NOT proved in relation to charges 7a and 7b.

The panel did not consider this charge in relation to charge 2b, because it was not found proved.

In relation to charge 2a, the panel found that Person A was still coming to terms with her disability and was self-conscious about it at the time. While you perceived your conduct to be light-hearted, the panel was satisfied that it had the effect of creating a humiliating and offensive environment for Person A.

The panel accepted Person A's live evidence that she was not a confrontational person and may not have communicated how the conduct made her feel. However, it concluded that the absence of an expressed objection did not diminish the impact the conduct had on her. The panel found that the imitation, though not intended to harm, created an atmosphere that was intimidating and degrading for Person A.

Accordingly, the panel finds charge 13cii) proved in relation to charge 2a.

In relation to charge 7a, the panel found that while the imitation of Person A's fall was inappropriate, it did not have the effect of creating an intimidating, hostile, degrading, humiliating, or offensive environment. The panel considered the nature of the relationship at the time and the context of the conduct and was not satisfied the threshold was met. Therefore, the panel finds charge 13cii) not proved in relation to charge 7a.

As charge 7b is intrinsically linked to the conduct in 7a, the same conclusion applies.

The panel finds charge 13cii) not proved in relation to charge 7b.

Charge 14

Your actions at charge 5 above were unwanted and had the purpose or effect of:

- a) violating Person A's dignity and/or;
- b) creating an intimidating, hostile, degrading, humiliating or offensive environment.

This charge is found NOT proved

In reaching this decision, the panel noted that charge 14 is expressly linked to the conduct alleged in charge 5. As charge 5 was found not proved, the factual basis underpinning charge 14 no longer stands.

Accordingly, in the absence of a proven primary allegation, the panel finds that it cannot be satisfied that your actions had the purpose or effect described in subparagraphs a) or b). As such, the panel finds charge 14 not proved.

Charge 15

Your actions in charge 3 above were inappropriate in that;

- a) The conduct was unwanted;
- b) It related to Resident B's protected characteristic, namely their disability;
- c) It had the purpose or effect of:
 - i. Violating Resident B's dignity and/or;
 - ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment.

This charge is found NOT proved.

The panel heard some evidence relating to this charge and noted that you accepted you're your actions in relation to Resident B had been inappropriate. However, during the course of proceedings, Ms Engineer, on behalf of the NMC, made an application to offer no evidence in respect of charge 15. The application followed clarification during the hearing that Resident B may have passed away at the time the alleged conduct took place, and, in any event that she would have been unaware

of the incident. In those circumstances, Ms Engineer confirmed that the NMC did not intend to offer any evidence in regard to this charge.

In light of this development, the panel determined that, in the absence of further evidence and given the unique circumstances, it would not be appropriate or fair to make a finding solely on the basis of the admission. The panel therefore declined to rely on the admission and concluded that the charge falls away.

Accordingly, the panel finds charge 15 not proved.

Determination on Interim order

Following its determination in respect of the facts, the panel considered whether it should impose an interim order on your registration in the context of the factual allegations which have been found proved. It was mindful that it may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in your own interests until a substantive order takes effect.

The NMC did not apply for an interim order at this hearing and Mr Pataky made no submissions.

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

The panel considered its earlier decision on facts; it noted that you are currently practising without restriction, and that there is no evidence of any new concerns relating to your practice.

The panel, therefore, concluded that an interim order would not be required for the protection of the public, otherwise in the public interest or in your own interest at this time.

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 safely and effectively without restriction.

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

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

Submissions on misconduct

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

Ms Engineer referred the panel to relevant case law and invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of '*The Code: Professional standards of practice and behaviour for nurses and midwives 2015*' (the Code) in making its decision.

Ms Engineer identified specific, relevant standards where she submitted your actions amounted to misconduct.

'1 Treat people as individuals and uphold their dignity at all times

To achieve this you must:

1.1 treat people with kindness, respect and compassion

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

Ms Engineer submitted that the incidents all occurred in the workplace when you were Person A's manager.

Ms Engineer submitted that your imitation of Resident B's limp was serious misconduct involving a patient. She submitted that this demonstrated a risk to patient safety and was likely to be repeated. Ms Engineer submitted that your conduct formed part of a pattern of behaviour involving the repeated imitation of disabilities of different individuals. Ms Engineer submitted that this demonstrated an attitudinal problem.

Mr Pataky stated at the outset that you accepted that the facts found proved were sufficiently serious to amount to misconduct.

Mr Pataky reminded the panel of your early admissions and submitted that this early acceptance and acknowledgement was material to the panel's assessment at this stage.

Submissions on impairment

Ms Engineer moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public

confidence in the profession and in the NMC as a regulatory body. This included reference to relevant cases.

Ms Engineer submitted that there is insufficient evidence of insight. She directed the panel to your early reflective account and submitted that it focused largely on your own perspective, did not demonstrate recognition of the impact on others, address patient safety concerns, and did not demonstrate meaningful insight into the seriousness of your conduct. She submitted that there was no updated reflective material evidencing developed insight, and that you had chosen not to give evidence.

Ms Engineer submitted that there is questionable evidence in terms of remediation. Whilst there were training certificates before the panel, she submitted they should be treated with caution, as there was limited information as to their content, duration, practical element or assessment.

In relation to testimonials and recent materials, Ms Engineer submitted that they should be given limited weight. She submitted that some testimonials material included hearsay or copied material from external sources and should be disregarded.

Ms Engineer submitted that, in this case, the material before the panel did not demonstrate that the risk of repetition had been sufficiently reduced. Ms Engineer therefore submitted there remained such a risk; she added that the actions found proved demonstrate an attitudinal issue, and in particular that parts of this behaviour were discriminatory. She submitted that your actions brought the profession into disrepute.

Ms Engineer concluded that public confidence in the profession would be undermined if a finding or impairment were not made, particularly in the case of a nurse who mocked a patient's disability. She stated that both the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) and the NMC *Guidance* point squarely to a finding of both

misconduct and impairment.

Mr Pataky stated that you accepted impairment on public interest grounds, given the seriousness of the findings and the need to uphold confidence in the profession and proper professional standards. However, he submitted that your fitness to practise was not currently impaired on public protection grounds.

Mr Pataky submitted that the panel should consider the context of the events, including the close friendship between you and Person A, **[PRIVATE]**. He submitted that you had recognised and accepted that your conduct was inappropriate and unprofessional.

In relation to insight, Mr Pataky submitted that you had demonstrated substantial insight. He submitted that you had been open about the cause of the concerns, acknowledging in your reflective account and evidence that you had exercised poor judgment and had allowed personal and professional boundaries to become blurred.

Mr Pataky submitted that your challenge to a small number of allegations should not be treated as evidence of a lack of insight, particularly where the essence of the case had been accepted.

Mr Pataky further submitted that the absence of any repetition over the subsequent years was powerful evidence of insight and reduced risk. He submitted there had been no suggestion of any similar concerns arising since these events, and that the evidence of your subsequent practice demonstrated you had learned a salutary lesson.

Mr Pataky submitted that there was substantial evidence of remediation. He referred the panel to your engagement with these proceedings, your acceptance of responsibility, and the training you had undertaken. Mr Pataky referred the panel to evidence that you had become an equality and diversity champion at your current workplace by democratic election, submitting that this was a significant and meaningful development in light of the concerns raised. He submitted that this was

not superficial remediation, but sustained remediation undertaken over several years.

Mr Pataky submitted that your practice since 2021 provided substantial reassurance. He referred to the testimonials before the panel, particularly from your current manager, describing you as exemplary, professional, highly regarded by colleagues, residents and relatives, and confirming your appointment as acting manager during your manager's maternity leave. He submitted these matters, together with positive appraisals, training records and evidence of leadership responsibilities demonstrate that you have practised safely and professionally over a significant period.

In relation to public protection, Mr Pataky submitted there was no real risk of repetition and risk to patients or the public. He submitted that there was no evidence of deep-seated attitudinal problems or values incompatible with the NMC Code. He invited the panel to conclude that you were not impaired on public protection grounds.

As to the public interest component, Mr Pataky stated that you accept the findings amount to misconduct and accept impairment on public interest grounds.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council*, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin).

Decision and reasons on misconduct

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

The panel was of the view that your actions did fall significantly short of the standards expected of a registered nurse, and that your actions amounted to a breach of the Code. Specifically:

'8 Work co-operatively

To achieve this you must:

8.7 be supportive of colleagues who are encountering health or performance problems. However, this support must never compromise or be at the expense of patient or public safety

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct.

Charge 1a

In considering whether charge 1a amounted to misconduct, the panel had regard to its findings. It noted that it had accepted that you once removed a pen from Person A's cleavage/breast at her invitation. It had found no sexual motivation and accepted that the conduct occurred within the context of a close and informal friendship between you and Person A in which personal and professional boundaries had become blurred.

The panel considered that whilst your conduct exhibited poor judgment, in the specific context of your relationship it did not amount to misconduct. The panel was not persuaded that a one-off incident of this nature, occurring at Person A's request and absent of any exploitative or sexual element, would be regarded as deplorable by fellow professionals.

The panel therefore concluded that, although ill-advised, the conduct at charge 1a did not amount to misconduct.

Charges 2a),13b), 13ci), and 13cii)

The panel considered these charges together as they relate to the same incident.

The panel reminded itself of its findings that, in respect of charge 2a, you had imitated Person A's limp on two occasions. The panel had found that the conduct was not carried out in a mocking or derisory manner, nor with an intention to humiliate. However, the panel also bore in mind its findings under charges 13b, 13ci, and 13cii, namely that your conduct had the effect of violating Person A's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment, notwithstanding the absence of intent to cause harm.

The panel considered that the repeated imitation of a colleague's disability-related limp, particularly by a senior nurse in a position of leadership and towards a subordinate colleague amounted to misconduct. It was of the view that while the conduct occurred in the context of an informal and long-standing working relationship and personal friendship in which boundaries had become blurred, you ought to have known better and ought to have been aware of the effect of your conduct on Person A and upon others.

The panel considered that, viewed in light of the findings under charge 13, this ill-thought-out conduct related to a protected characteristic and fell seriously short of the standard expected of a registered nurse and therefore, amounted to serious misconduct.

Charge 3

In relation to charge 3, the panel recalled its finding that you had imitated Resident B's distinctive limp or gait on one occasion, and that you did not intend to mock or be derisory. The panel also noted your statement during the facts stage that you were asked to imitate Resident B. The panel accepted there was no malicious intent and that you had been fond of Resident B.

However, the panel considered that this concerned a patient. It was of the view that irrespective of the intent, imitating a patient's physical vulnerability had the potential

to undermine public confidence in the profession. It concluded that a fellow professional and an informed member of the public would regard such conduct as deplorable. Accordingly, the panel determined that charge 3 amounted to misconduct.

Charges 7a and 7b

The panel considered charges 7a and 7b together. It recalled its findings that, on one occasion, you imitated Person A's fall by throwing yourself to the floor and saying words to the effect of "*oh no, I fell*". The panel had found this was not done to mock or belittle Person A but was a poorly judged attempt at humour carried out in a light-hearted manner within the context of your informal relationship.

The panel nonetheless considered the conduct was wholly inappropriate. Although a one-off incident, you were in a position of authority over Person A and you failed to demonstrate professional judgment and maintain professional boundaries. The panel was of the view that you ought to have appreciated the potential for such conduct to cause offence.

The panel considered that while your conduct was at the lower end of the spectrum, it was satisfied that when considered in the round, it formed a pattern of behaviour and amounted to misconduct. Accordingly, the panel determined that charge 7a and 7b amounted to misconduct.

Charge 10

In considering whether charge 10 amounted to misconduct, the panel had regard to its findings. It noted that it had accepted that you untwisted Person A's bra strap at her request. The panel accepted your evidence that this occurred once and at Person A's invitation. It had found no sexual motivation and accepted that the conduct occurred within the context of a close and informal friendship between you and Person A in which personal and professional boundaries had become blurred.

The panel considered that whilst your conduct exhibited poor judgment, in the specific context of your relationship it did not amount to misconduct. The panel was

not persuaded that a one-off incident of this nature, occurring at Person A's request and absent any exploitative or sexual element, would be regarded as deplorable by fellow professionals.

The panel therefore concluded that, although ill-advised, the conduct at charge 10 did not amount to misconduct.

The panel found that your actions as set out in charges 2a), 3, 7a) and b), 13b) and 13ci) and 13cii) did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

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

In coming to its decision, the panel had regard to the NMC Guidance on '*Impairment*' (Reference: DMA-1 Last Updated:28/01/2026) in which the following is stated:

'Being fit to practise is not defined in our legislation but for us it means that a professional on our register can practise as a nurse midwife or nursing associate safely and effectively without restriction.'

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) ...
- 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 first considered whether any of the limbs of the Grant test were engaged as to your past conduct. The panel was of the view that although you acted without malice, sexual motivation, or an intention to humiliate or degrade, your actions were capable of causing emotional harm.

It had particular regard to your imitation of Person A's limp, which the panel found related to a protected characteristic and which had the effect of violating her dignity

and creating a degrading or humiliating environment. Further, the conduct at charge 3, involving imitation of Resident B's gait had the potential of causing emotional harm if it were witnessed by a relative of hers or any other third party.

The panel was also mindful that the misconduct in charges 7a and 7b caused offence to Person A in spite of the friendly relationship between you, and the lack of malicious intent on your part. The panel was of the view that you failed to maintain professional boundaries and lacked awareness of how your conduct at the time might affect the subjects of your imitating behaviour.

The panel found that your misconduct constituted a serious breach of fundamental tenets of the nursing profession as set out above. It determined that you failed to uphold these standards and values which are central to the nursing profession, thereby bringing the reputation of the nursing profession into disrepute.

The panel therefore concluded that limbs b and c of the Grant test are engaged in respect of your past conduct.

The panel next considered whether the limbs of the *Grant* test are engaged as to the future. In this regard, the panel considered the case of *Cohen v GMC* in which the Court addressed the issue of impairment with regard to the following three considerations:

- a. *Is the conduct that led to the charge easily remediable?*
- b. *Has it in fact been remedied?*
- c. *Is it highly unlikely to be repeated?'*

In this regard, the panel also considered the factors set out in the NMC Guidance on insight and strengthened practice (FTP-16).

The panel first considered whether your misconduct is capable of being addressed. In the NMC Guidance – Can the concern be addressed (FTP-16a).

The panel was satisfied that the concerns stemmed from a lack of professional awareness and judgment, rather than from deep-seated attitudinal concerns, or malicious intent.

The panel considered whether the misconduct identified is remediable. It was of the view that your misconduct arose from a blurring of professional and personal boundaries, poor judgment in your interactions with a colleague, and a failure to appreciate that certain conduct could be perceived as inappropriate, harmful or offensive irrespective of intention. It also bore in mind that awareness of behaviour in relation to protected characteristics is typically part of professional training and equality and diversity training and thereby acknowledged as behaviour that is amenable to change.

The panel bore in mind the contextual factors in this case, including the longstanding jocular relationship between Person A and yourself, the evidence that humour formed part of your interpersonal style and the pressures of the working environment at the relevant time. While none of those matters excuse your misconduct, they informed the panel's assessment that the concerns identified are capable of being remediated.

The panel next considered whether you have in fact remediated the concerns. It had regard to the NMC Guidance – Has the concern been addressed (FTP-16b). The panel took into account your admissions and expressions of remorse. It had particular regard to a passage in your original reflective statement as follows:

'As I look back and re visit the events that lead to my referral to NMC, it made me realised that I did a mistake by mixing personal and professional relationship with my Colleague. I am sorry that my Colleague perceived my actions differently.'

Further in your oral evidence you said:

"...It's inappropriate in now when I consider now how many years, it's unprofessional. You know, I have since reflect on my actions for the last four years and attended trainings and this action must not be repeated again. Even in a laughing manner, or even when other people agree to let you mimic another person."

The panel considered the training you have undertaken, including learning relevant to equality, diversity and human rights as well as your election as the equality and diversity champion at your current workplace by residents and your colleagues. While you did not provide the panel with an up-to-date reflective piece articulating the impact of your actions and your learning from recent trainings, the panel was satisfied based on your oral evidence at stage one that there is sufficient evidence of meaningful remediation.

The panel also attached weight to the positive testimonials describing your professional conduct since the incidents. It further noted that you made your current employer aware of the matters which the panel has been considering and there has been no repetition of similar concerns over a significant period.

In a testimonial dated 23 April 2026 your manager stated as follows:

'I am aware of the allegations and the outcome of the first hearing Oggie also shared a hard copy of the outcome of the first NMC hearing to me and to HR... Mr Gelacio ...

- *Always has positive work ethics and always supports our residents at Kings Lodge with professionalism and care respecting their privacy and care*
- *He conducts himself professionally amongst all his coworkers, residents and relatives*
- *He is a champion for equality and diversity at Kings Lodge, treating everyone equal with respect regardless of their disabilities and who they are....'*

The panel noted that you acknowledged much of the conduct found proved and made admissions broadly consistent with the panel's findings. It was satisfied that there was sufficient evidence of meaningful insight, particularly when viewed alongside your admissions, expressions of remorse, and engagement with relevant training.

Taking all of the evidence together, the panel was satisfied that the misconduct has been remedied.

The panel considered whether there remains a risk of repetition of the misconduct found proved. The panel determined that the risk of repetition is very low. It noted the sustained absence of repetition. The panel further considered that the regulatory process itself is likely to have been a substantial learning experience for you and a significant deterrent against any repetition.

The panel was satisfied that the misconduct represented a serious and context-specific lapse in judgment rather than evidence of ongoing risk to patients, colleagues or the wider public. The panel considered the insight demonstrated, the remediation undertaken, the passage of time without recurrence, your consistent engagement with the process and the significant learning that you have gained from these proceedings and concluded that a finding of impairment is not necessary on the grounds of public protection.

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 although there is no current risk to the public, your misconduct was sufficiently serious to warrant a finding of impairment in order to mark the conduct as unacceptable. It concluded that a fully informed member of the public would be concerned if such conduct, particularly your imitation of the vulnerabilities of patients and colleagues, were not marked by a finding of impairment.

The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore finds your fitness to practise impaired on the grounds of public interest in order to maintain confidence in the profession and to uphold, declare and maintain professional standards.

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

Sanction

The panel considered this case very carefully and decided to make a caution order for a period of one year. The effect of this order is that your name on the NMC register will show that you are subject to a caution order and anyone who enquires about your registration will be informed of this order.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had regard to the NMC Guidance on '*The sanctions available*' (Reference: SAN-2 Last Updated: 28/01/2026).

The panel accepted the advice of the legal assessor.

Submissions on sanction

The NMC had informed you in the Notice of Hearing, dated 13 May 2025 that it would seek the imposition of a striking off order if the panel found your fitness to practise currently impaired. During the course of the hearing, Ms Engineer informed the panel that the NMC would be seeking a six month suspension order without a review.

Ms Engineer referred the panel to relevant case law and the *NMC Guidance* on Factors to consider before deciding on sanctions (SAN-1 and SAN- 2d). She submitted that the aggravating features of this case are:

- Abuse of a position of trust;
- Deliberate breaches of the Code;
- A pattern of misconduct over a period of time;
- Vulnerability of a person receiving care; and

- Failure to work collaboratively and respectfully with colleagues.

Ms Engineer acknowledged that there were mitigating features including:

- Your work history since the events; and
- Relevant training undertaken.

Ms Engineer submitted that the misconduct found proved is serious. In relation to charges 2a and 13 Ms Engineer submitted that the conduct involved imitating a colleague's limp, a protected characteristic, on more than one occasion and in relation to more than one person. She submitted that the panel had rightly found that it fell seriously short of the standard expected of a registered nurse.

In relation to charge 3, Ms Engineer submitted that the misconduct involved imitating a resident's distinctive limp or gait and that, notwithstanding your account, the panel found that such conduct had the potential to undermine confidence in the profession and would be regarded negatively by fellow professionals and informed members of the public.

In relation to charges 7a and 7b, Ms Engineer submitted that the panel found the conduct wholly inappropriate, involved a failure to maintain professional boundaries, and was particularly serious given your position of authority over Person A. She submitted that these matters demonstrated a pattern of misconduct.

Ms Engineer submitted that a suspension order is the appropriate sanction in this case to protect the public and manage public confidence. She stated that this case is far too serious to take no further action. Likewise, a caution order would be wholly inappropriate for conduct the panel has recognised both relates to a patient and the imitation of a person's protected characteristic.

Ms Engineer further submitted that a conditions of practice order would not be sufficient as the NMC guidance makes clear that, in cases such as this, a conditions of practice order is not the appropriate sanction.

Ms Engineer submitted that a suspension order was the appropriate sanction in the circumstances because it would mark the seriousness of the misconduct, maintain public confidence in the profession and maintain and uphold professional standards.

The panel also bore in mind the submissions made by Mr Pataky on your behalf.

Mr Pataky submitted that significant weight should be attached to the fact that the events occurred many years ago and that these proceedings had extended over a period of approximately five years.

Mr Pataky submitted that the panel should take into account that its findings of impairment were made on public interest grounds alone. He submitted that the actual findings of fact, misconduct and impairment are significant matters which the panel should take into account.

Mr Pataky submitted that a number of aggravating features identified in the guidance were not relevant in this case. In particular, he submitted this was not a case of deliberate harm, malice, or abuse of trust - in the sense contemplated by the guidance, deep-seated attitudinal concerns, or repeated misconduct of the kind which led to more serious sanctions. He invited the panel to take account of the context of the close, longstanding friendship which you had with Person A and it's finding that your misconduct was at the lower end of the spectrum.

Mr Pataky submitted that the following mitigation features were present:

- Early admissions to almost all the allegations found proved;
- Expressions of remorse and apology;
- Meaningful insight, as already found by the panel;
- Full remediation and a very low risk of repetition;
- Relevant training undertaken;
- Positive testimonials and evidence of strengthened practice;
- No previous regulatory history;
- Full engagement with the regulatory process;

- The unusual and highly contextual nature of the misconduct; and
- The lengthy passage of time without repetition.

Mr Pataky submitted that this was one of the rare and exceptional cases in which no further action would be appropriate. He submitted that the findings already made, taken together with the five-year regulatory process, meant substantial action had already been taken and no further action was required.

Mr Pataky submitted that, in the alternative, if the panel considered some further regulatory response necessary, a one-year caution order would be a robust finding.

Mr Pataky submitted that given the panel's findings of remediation and low risk of repetition, a conditions of practice order was unlikely to be necessary or appropriate.

Mr Pataky submitted that both a suspension order and a striking off order would be wholly disproportionate and inappropriate as this case bears no hallmarks of cases warranting either temporary or permanent removal from the register.

Decision and reasons on sanction

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the *Sanctions Guidance*, SAN -1 and SAN -2 published by the NMC.

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

Having found your fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in the circumstances. 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 decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- A limited pattern of misconduct over an unknown period; and
- Your misconduct involved the imitation of the disability of persons with protected characteristics, including someone who had been a vulnerable patient.

The panel also took into account the following mitigating features:

- early admissions to the substance of the facts;
- apologies and expressions of remorse;
- efforts to prevent repetition demonstrated by your election by residents and colleagues as an Equality and Diversity Champion at your current workplace;
- relevant training undertaken, including professional boundaries, equality and diversity training;
- evidence that you have worked safely and professionally since the events causing concern; and
- reflection and insight into the concerns identified in this case.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action. The panel did not find the exceptional circumstances required to take a decision of no further action as contained in SAN-2a.

Next, in considering whether a caution order would be appropriate in the circumstances, the panel had regard to the NMC Guidance on 'Caution order' (Reference: SAN-2b) Last Updated: 28/01/2026) in which the following is set out:

'A caution is only appropriate if the Committee has decided there's no risk to the public or to people using services that requires the professional's practice to be restricted. This means the case is at the lower end of the spectrum of impaired fitness to practise, but the Committee wants to mark that what happened was unacceptable and must not happen again.'

The panel was satisfied that you have demonstrated meaningful insight into your misconduct. The panel took into account your admissions, expressions of remorse, your acceptance that your conduct was inappropriate, and the steps you have taken to prevent repetition including your training and mentoring. The panel also had regard to the positive testimonials before it and its earlier findings that the concerns had been remediated and were highly unlikely to be repeated.

The panel considered that you have been in nursing practice since the events which led to these proceedings, and you are up to date with your training, and you received positive testimonials from your colleagues. The panel has been told that there have been no adverse findings in relation to your practice either before or since these incidents.

The panel considered whether it would be proportionate to impose a more restrictive sanction and looked at a conditions of practice order.

The panel noted the NMC's Guidance on seriousness (SAN-1) – "*Sanctions for charges related to upholding public confidence in the profession or upholding proper professional standards*", which states as follows:

'...Where the Committee has found impairment to uphold public confidence and professional standards, it is unlikely that a conditions of practice order will be an appropriate sanction. This is because conditions of practice are intended to allow a professional to practise safely while they strengthen their practice. However in cases where the impairment relates only to upholding standards or public confidence, the panel has already found that there are no concerns about the professional's clinical practice. As such, conditions are unlikely to have any impact on the professional's practice or upholding public confidence and professional standards...'

The panel reminded itself that it had found no impairment on public protection grounds, no clinical competence concerns and no deep-seated attitudinal concerns. The panel concluded that no useful purpose would be served by a conditions of

practice order, as there are no concerns on your clinical practice, and no conditions could be formulated which would directly address the public interest concerns identified.

The panel further considered the imposition of a short suspension order, as submitted by Ms Engineer. The panel was not satisfied that this was the least restrictive sanction which could be imposed to mark the public interest concerns. In reaching that conclusion, the panel took into account that:

- it has found no current risk to the public or public protection concerns;
- it has found the misconduct to be at the lower end of the spectrum;
- its findings that you have remediated the concerns;
- you have engaged with these protracted proceedings; and
- you have worked without any repetition since the events in question.

In light of the evidence concerning your current nursing practice, the panel considered that suspending you would deprive patients of an otherwise competent nurse. The panel also considered that an informed member of the public, aware of all the facts and context of the case, including the findings on remediation and low risk of repetition, would regard a suspension as disproportionate in the circumstance.

The panel noted that, in its decision on your impaired fitness to practise, there were no public protection concerns identified in this case. It considered that a caution order would be proportionate to mark the wider public interest concerns identified. Having considered the general principles above and looking at the totality of the findings on the evidence, the panel has determined that to impose a caution order for a period of one year would be the appropriate and proportionate response. It would mark not only the importance of maintaining public confidence in the profession but also send the public and the profession a clear message about the standards required of a registered nurse in relation to maintaining professional boundaries and sustaining the principles of equality and diversity in the workplace.

In making this decision, the panel carefully considered the submissions of Ms Engineer in relation to the sanction that the NMC was seeking in this case. However, the panel considered that, whilst your misconduct was serious and required marking, it is not fundamentally incompatible with remaining on the nursing register and a suspension order would be punitive and disproportionate. The panel was satisfied that public confidence in the profession could be maintained if you were allowed to remain on the register, and a caution order was imposed to mark your misconduct.

Accordingly, the panel therefore determined to impose a caution order for a period of one year to mark your misconduct, and the public interest concerns identified. For the next one year, your employer - or any prospective employer - will be on notice that your fitness to practise has been found to be impaired and that your practice is subject to this sanction.

At the end of this period the reference to the caution order will be removed from your entry on the register. However, the NMC will keep a record of the panel's finding that your fitness to practise had been found impaired. If the NMC receives a further allegation that your fitness to practise is impaired, the record of this panel's finding and decision will be made available to any practice committee that considers the further allegation.

This decision will be confirmed to you in writing.

That concludes this determination.