Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Monday 24 August 2026 – Wednesday 26 August 2026

Nursing and Midwifery Council
10 George Street, Edinburgh, EH2 2PF

Name of Registrant:	Andrew Cassels
NMC PIN:	10I1355S
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing – (August 2013)
Relevant Location:	Glasgow
Type of case:	Conviction
Panel members:	George Duff (Chair, Lay member) Alison Thomson (Registrant member) Cerys Jones (Lay member)
Legal Assessor:	Andrew Gibson
Hearings Coordinator:	Sara Glen
Nursing and Midwifery Council:	Represented by Lindsey McFarlane, Case Presenter
Mr Cassels:	Present and represented by Vivienne Tanchel, Counsel instructed by Clyde & Co.
Facts proved by admission:	Charge 1
Facts not proved:	N/A
Fitness to practise:	Impaired
Sanction:	**Suspension order (6 months)**
Interim order:	**Interim suspension order (18 months)**

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

At the outset of the hearing, Ms Tanchel, on your behalf, made a request that this case be held in private on the basis that proper exploration of your case involves reference to [PRIVATE]. Ms Tanchel submitted that there is agreement with the Nursing and Midwifery Council (NMC) that these matters should be heard in private as and when they arise. Ms Tanchel submitted that [PRIVATE] is in attendance at this hearing and as he is fully appraised of all of the issues in this case, he should be allowed to remain as and when any matters arise that should be heard in private. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms McFarlane, on behalf of the NMC, indicated that there was no opposition for parts of this hearing to be heard in private as and when such matters arise.

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 [PRIVATE], the panel determined to go in and out of private session as and when such matters are raised in order to protect your privacy.

Decision and reasons on application to admit the NMC insight bundle into evidence

The panel heard an application made by Ms McFarlane under Rule 31 to allow the NMC bundle relating to insight into evidence. Ms McFarlane submitted that the bundle contains emails from you dated July 2025 which include informal responses in relation to the incident and behaviour which led to your conviction, which is the subject of this hearing. She submitted that these emails included some of the last responses from you prior to today's hearing.

Ms McFarlane submitted that it is the NMC's position that the emails contained in this bundle are relevant to determining insight demonstrated by you and that these might be of particular use to the panel in evidencing whether and what extent that insight has been developed over the last year. She submitted that it is the NMC's position that it is fair to include these emails. She submitted that these are responses provided by you in relation to the allegations, the victim of the offence and the criminal and Fitness to Practise proceedings. Ms McFarlane submitted that whilst the NMC acknowledges that you were not legally represented at the time of these responses, you were represented up until a couple of months prior to you writing your responses and that you should have been aware that you did not need to provide any responses and also that any responses to the NMC could be used in a subsequent hearing or meeting.

Ms Tanchel submitted that she objected to the application to admit the insight bundle into evidence. She submitted that it is only a snapshot of the wider communication between you and the NMC. Ms Tanchel submitted that the NMC were well apprised by the summer of 2025 of [PRIVATE]. She submitted that [PRIVATE] and you were not represented at the time of the communication with the NMC.

Ms Tanchel submitted that admitting the insight bundle into evidence flies directly in the face of the right that every registrant has against self-incrimination and that this is of particular importance in the circumstances of this case where the sanctions being considered by this panel may include the most serious sanction. Ms Tanchel submitted that there was no warning provided to you at any stage that your communication with an administrative member of the NMC team may find its way into a bundle before a panel.

Ms Tanchel submitted that the NMC is required to comply with statutory steps when bringing allegations against a registrant which include the opportunity in the appropriate forum and in the appropriate way for a registrant to comment on those allegations, in the context of the Fitness to practise rules and that the opportunities to comment are made plain in the statutory regime. She submitted that they do not encompass communications with administrative staff of the NMC, She submitted that it is highly prejudicial and grossly

unfair for any communication between administrative staff at the NMC and a registrant who is unrepresented at that time to find its way into a bundle today. Ms Tanchel submitted that she is able to provide [PRIVATE] and should not have been contacted by the NMC. These were provided to the panel.

Ms Tanchel submitted that there was a substantive hearing listed for May 2025 that could not go ahead, and the selective communication proposed to be put before the panel between the NMC and you, formed a minute part of ongoing communication between you and the NMC in respect on whether you were going to attend or not and the relisting of the matter of the substantive hearing. She submitted that in the context of this being administrative communication, and no warning to you of the fact that the material may be subsequently relied upon, your lack of representation and [PRIVATE] means that these documents could not be seen to be in any way be fair or relevant. Ms Tanchel submitted that these documents ought not to be before the panel in any consideration in regard to your fitness to practise.

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

The panel considered the evidence before it of [PRIVATE] at the time of the communications between you and the NMC and your potential vulnerability. It also considered the evidence that you were unrepresented at the time of the communications and as such, it determined that it would not be fair to allow the insight bundle to be admitted into evidence.

In these circumstances the panel refused the application.

Details of charge

That you, a registered nurse,

Were convicted at Hamilton Sheriff Court on 18 January 2024 as follows:

1) On 12 November 2019 at REDACTED you ANDREW CASSELLS did sexually assault REDACTED, your colleague there, REDACTED in that you did handle and seize her clothed buttocks; contrary to Section 3 of the Sexual Offences (Scotland) Act 2009.

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

Background

The NMC received a referral on 20 July 2020 from the Chief of Nursing Services at NHS Lanarkshire (the Health Board) where you were employed as a registered nurse in the [PRIVATE] (the Hospital). You began your employment at the Hospital on 9 November 2015.

On 12 November 2019, you were working with a female colleague and during the shift you handled and seized her buttocks over her clothing. The incident was reported to the Health Board on 10 December 2019.

The victim reported the matter to Police Scotland on 30 August 2020.

On 11 May 2022, the NMC was informed by your representative at the time, that the Crown Office and Procurator Fiscal Service had issued a complaint against you and you

had been charged with sexual assault, contrary to section three of the Sexual Offences (Scotland) Act 2009.

On 18 January 2024, you were convicted at the Hamilton Sheriff Court, on one count of sexual assault. You were subsequently sentenced on 2 April 2024 to a Community Payback order for a 24-month supervision period, 200 hours of unpaid work and Sexual Offences Act 2003 certification, subject to a notification requirement for two years.

Decision and reasons on facts

The charge concerns your conviction and, having been provided with a copy of the extract conviction report dated 19 August 2024, the panel finds that the facts are found proved in accordance with Rule 31(2) and (3).

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, your fitness to practise is currently impaired by reason of your conviction. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

The panel heard evidence from you under oath.

Submissions on impairment

Ms McFarlane addressed the panel on the issue of impairment and reminded the panel to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the case(s) of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) and *Cohen v General Medical Council* [2008] EWHC 581 (Admin).

Ms McFarlane submitted that you are not fit to practise unrestricted. She referred the panel to the test of impairment outlined by Dame Janet Smith in the 5th Shipman report 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/their fitness to practise is impaired in the sense that S/He/They:*
>
> a) *has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
>
> b) *has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
>
> c) *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
>
> d) *[…]'*

Ms McFarlane submitted that the first three limbs, a), b) and c) of this test are engaged in this case.

Ms McFarlane submitted that with respect of limb a), you have been convicted of a sexual assault, which whilst committed against a colleague, took place in a healthcare setting where patients were being treated. She submitted that whilst no harm was caused to any patients, there was a potential for harm to be caused by your actions. Further, Ms McFarlane submitted that as the assault took place in a patient facing area in the hospital, there was a potential that patients could have witnessed the assault, which poses a risk of causing mental and potential psychological harm to them.

Ms McFarlane referred the panel to the NMC Guidance DMA-1 '*Impairment*' last updated 28 January 2026 specifically '*Sexual Misconduct*' and to FTP-2a-ii '*Sexual Misconduct*' last updated 31 July 2026.

Ms McFarlane submitted that registered nurses frequently come into contact with vulnerable patients and that patients are more likely to be vulnerable than colleagues and other members of the public due to health issues and/or personal circumstances which result in them being under the care of health professionals.

Further, she submitted that patients may be more reluctant to seek medical advice and treatment, thus potentially putting their health at risk if they were aware that a registered nurse, convicted of a sexual assault was allowed to practise unrestricted. Therefore, Ms McFarland submitted that your conviction demonstrates that you have acted and are liable in the future to act in a manner which puts patients at unwarranted risk of harm.

With regard to limb b), Ms McFarlane submitted that you have brought the nursing profession into disrepute by virtue of your conviction. She submitted that the serious nature of your conviction and that it occurred in the course of your practice, calls into question the suitability of you remaining on the register. Your conviction has therefore had a negative impact on the reputation on the profession and accordingly has brought the profession into disrepute.

With regard to limb c), Ms McFarlane submitted that your actions have breached the fundamental tenets of the nursing profession namely '*prioritising people, preserving safety and promoting professionalism and trus*t' as detailed in 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code).

Ms McFarlane referred the panel to the NMC Guidance FTP-2c-1 namely '*Directly referring specified offences to the Fitness to Practise Committee*' last updated 27 February 2024.

Ms McFarlane submitted that your actions caused mental and psychological harm to the victim, as stated in the summary of events provided by Police Scotland where it says that she '*froze, felt uneasy and powerless*'. She submitted that the actions that led to your conviction harmed a colleague and put patients at risk of harm as there was the potential for them to have witnessed the assault. Ms McFarlane submitted that your actions are a serious departure from the standards as detailed in the Code and of those expected of a registered professional. She submitted that registered professionals occupy a position of privilege and trust in society and are expected at all times to be professional and law abiding. She submitted that registered professionals have the right to attend work and care for patients without fear of being abused and harassed by colleagues. Ms McFarlane submitted that your actions undermined the trust of the public and your colleagues and is therefore likely to undermine public confidence in the profession. She submitted it is clear that you have breached the fundamental tenets of the nursing profession.

Ms McFarlane referred the panel to the NMC Guidance FTP-16a *'Can the concern be addressed'* last updated 27 February 2024 and FTP-2c-1 '*Directly referring specified offences to the Fitness to Practise Committee*' last updated 27 February 2024 and submitted that your conviction relates to a sexual assault, which is a specified offence and is a form of sexual misconduct. She submitted that the offence took place during your professional practice, in a patient facing area and is the type that is suggestive of deep seated behavioural and attitudinal issues. Ms McFarlane submitted that while the incident occurred during your clinical practice, it is not related to your clinical competency and therefore it is not possible to address your conduct through methods of remediation such as training courses or supervision at work.

Ms McFarlane referred the panel to the NMC Guidance FTP-16b '*Has the concern been addressed*?' last updated 25 March 2026 and FTP-16c '*Is it highly unlikely that the conduct will be repeated*?' last updated 14 April 2021 and submitted that your behaviour which led to your conviction is indicative of a deep-seated attitudinal issue, which is more difficult to remediate and likely cannot be remediated in ways such as completed trainings.

Ms McFarlane submitted that in your defence bundle, there are several training certificates, of which some relate to clinical areas, which she submitted are not relevant to this case as your clinical competence is not in question. She submitted that there are certificates relating to the completion of Equality, Diversity and Inclusion (EDI), remediation and professional boundaries, which are arguably more relevant to addressing the concerns of this case. She submitted that most of these appear to be short e-learning courses. She submitted that this is not a case of a professional being over familiar with a colleague or patient or a case of making a well-meaning but inappropriate remark. She submitted that this is a case of sexual assault and a person should not need to go on a course to understand that it is not acceptable to commit such an offence or sexually assault their colleagues.

Ms McFarlane submitted that there are a number of references which are from before the conviction and a number from friends and acquaintances. She submitted that these offer little value in demonstrating effective remediation.

Ms McFarlane referred the panel to the NMC Guidance FTP-16c and submitted that the incident which led to your conviction did not occur in unique circumstances. She submitted that it is unclear in the reflective pieces how you maintain that you are innocent and that you have mentioned very little insight into the impact on the victim and on others. She submitted that you are focussed on the impact on yourself with no acceptance of wrongdoing in relation to the behaviour which led to your conviction. She submitted that your strategy to avoid people's personal space and '*keep your hands in your pockets*' is not practical and is focussed on you not getting into trouble rather than genuine remediation and insight into behaviours which led to your conviction. She submitted that due to your conviction relating to an area which is more difficult to remediate – namely sexual misconduct – which occurred during your clinical practice and in a patient-facing role compounded by your lack of insight into your actions, there is a likelihood of repetition of the behaviour similar in nature to the conviction.

Ms McFarlane submitted that your conviction and underlying behaviour of the offence is extremely serious and indicative of deep-seated attitudinal issues which are difficult to

remediate without sufficient insight. She submitted that in light of the above, there is an ongoing risk of harm to members of the public. She submitted that you have been convicted of sexually assaulting your colleague at work and that you have failed to demonstrate sufficient insight into your actions. Further, she submitted that your reflections have focussed on the impact on yourself rather than the victim or the public at large.

Therefore, Ms McFarlane submitted that a finding of impairment is necessary on public protection grounds.

Ms McFarlane submitted that it is also in the public interest that a finding of impairment is made in order to declare and uphold the proper standards of conduct and behaviour. She submitted that you sexually assaulted a colleague at work, and that this is conduct that other professionals and the public would find deplorable. She submitted that the public expects registered nurses to act in accordance with the law, treat people with kindness and respect and to feel safe with them due to the trusted position that they hold in caring for people at their most vulnerable. She submitted that other registrants and workers in healthcare settings have the right to attend work without fear of suffering sexual assault. She submitted that your actions clearly undermine public confidence in the nursing profession and constitute a breach of professional standards.

Ms Tanchel conceded that at this stage of the proceedings, there is no burden on the NMC to prove anything, impairment is a matter for the panel's discretion. However, she submitted as a matter of fairness, it was incumbent on the NMC to put questions to you, when you took the oath and were ready to answer any shortcomings on the material before the panel today. She submitted that the NMC failed to do so and as such, have created an inherent and prejudicial position for you. She submitted that now assertions are made about the remediation and the documents provided to the panel, without you being given any opportunity to comment on such perceived shortcomings. She submitted that it is grossly unfair. Ms Tanchel submitted that it is in the public interest for matters to be brought fairly and appropriately, and that you were denied that opportunity.

Ms Tanchel submitted that the submissions made on behalf of the NMC, if followed, would amount to a failure by the panel in discharging its statutory function. She submitted that the panel's statutory function is to exercise its discretion in deciding any of the matters which are to be determined. She submitted that there are no ineluctable conclusions that the panel may come to and therefore is it not an ineluctable conclusion that a certain type of offending leads to a certain outcome.

Ms Tanchel conceded that this panel may consider that any criminal conviction, and one as set out in these allegations may engage the public interest. She submitted that there is no such concession in respect of public safety. Ms Tanchel submitted that it is understandable that a member of the public would be concerned about a nurse practising with a criminal conviction to the extent that the public interest may be found by the panel to be engaged.

Ms Tanchel submitted that it is insightful and courageous of you in circumstances where you dispute the underlying allegation to concede that the public interest is engaged.

Ms Tanchel submitted that submissions were made on behalf of the NMC on matters that were not found proved by this panel. Ms Tanchel submitted that this panel has had before it a conviction and the facts upon which impairment can be found are limited to that conviction. She submitted that any submissions in respect of harm to patients are ill founded and if the panel were to make a finding of impairment predicated on the same, it would be falling into lawful error. She submitted that the panel is only able to make findings of impairment based on facts found proven by it, either by way of admission or criminal conviction. Ms Tanchel reminded the panel that there is no evidence other than hearsay evidence before this panel of the underlying offending. She submitted the NMC has failed to provide the panel with the witness statement of the complainant and the panel has before it, third hand evidence of what took place, mainly a police summary. She submitted there is nowhere in the police summary where it considers long term impact or otherwise on the complainant. She submitted that any submissions made in that regard are speculative.

Ms Tanchel referred the panel to the cases of *Cheatle v GMC* [2009] EWHC 645 (Admin), *R(Zigmeud) v GMC [2008]* EWHC 2643 (Admin) and *GMC v Meadow* [2007] EWCA Civ 1390.

Ms Tanchel submitted that this case relates to a conviction of sexual assault against a fellow practitioner. She submitted that there is no evidence in this case of any risk to patient safety. She submitted that bearing in mind the isolated nature of the behaviour in the context of this case, the significant passage of time since the allegation of the incident took place, the delay in the complainant's reporting of the incident, subsequent delay in the criminal process and subsequent delay in reaching this stage of proceedings, there can be no assertion of any ongoing risk to public safety. She submitted that it was a single incident in the context of, up until these facts arose an unblemished and commendable career, with no repetition since. Ms Tanchel submitted that there is no evidence of any likelihood of repetition and therefore no evidence that impairment of fitness to practise is engaged on the basis of public safety.

Ms Tanchel drew the panel's attention to the NMC Guidance and the case of *Sawati v GMC* [2022] EWHC 283 (Admin).

Ms Tanchel submitted that although you continue to deny the underlying misconduct, you accept your conviction and you are to be commended for your full engagement in the remediation undertaken thus far. Ms Tanchel submitted that the propositions advanced by the NMC, should be disregarded as you were not given the opportunity to set out your response to inferences that the NMC seeks to persuade the panel or form the basis of your finding. She submitted that this is a critical procedural failing.
Ms Tanchel submitted that it is noteworthy that as part of your criminal sentence, you were required to undertake 200 hours of remedial work in the community, and you were placed on the sex offenders register. She submitted that the purpose of placing convicted sex offenders on the register, is because they may pose an ongoing risk. She submitted that the objective of those who are placed in charge of monitoring the behaviour of sex offenders is to have oversight of the offenders conduct. Ms Tanchel submitted that your removal from the sex offenders Register, as you have now completed your two years is

considerable indication that you no longer pose a risk of reoffending. She submitted that this also supports why there can be no finding of impairment in respect of public safety as those charged with overseeing your risk, have determined that you no longer pose a risk.

Ms Tanchel submitted that the unchallenged evidence of your engagement is that you were initially put on a form of remediation which required you to attend courses in the company of other sex offenders. She submitted that those running the course decided that the nature of your offending behaviour was different to that of other sex offenders in the group and that you did not fall into the same category as them. Therefore, she submitted that a plan was devised for you to engage with a remedial process to fit the level of risk you might pose.

Ms Tanchel submitted that it is a matter of common sense that there is a spectrum of sexual offending, as there is with other types of offending such as violence or dishonesty or the like. Ms Tanchel submitted that in order for the panel to discharge its statutory function which requires the panel to exercise its discretion, it must decide where on the spectrum of offending this behaviour occurred. She submitted that it is at the lower end of the spectrum as the touching occurred over clothing, in public during the course of a work shift. She submitted that this is different to a serious assault or rape in the dark of the night. She submitted that the NMC falls into error in adopting the polarised approach it has, in considering the risks posed by you.

Ms Tanchel submitted that there is no evidence of ingrained attitudinal problems and there has never been an assault prior to this one and there has not been one since. She submitted that there is no evidence of overriding misogyny or other types of attitudinal type issues with women. She submitted that the argument advanced by the NMC goes around in circles. She submitted that what it says is that because you do not accept the underlying incident, you therefore have ingrained attitudinal problems. She submitted that the objective evidence points away from that; the completion of a criminal remediation process, the removal from the sex offenders register, the completion of your criminal sanction and work that you have done and your voluntary engagement in remedial process for the purposes of this hearing.

Ms Tanchel submitted that there is a fundamental misunderstanding on the part of the NMC of what the continuous professional development certificates (CPD) in respect of your clinical practice relate to. She submitted that the NMC have advanced that you are not making all efforts to ensure that you are safe to return to practice after not being in practice for a period of time. Ms Tanchel submitted that it would not be prudent for you to simply return to practice without ensuring that your clinical skills are up to date. She submitted that it is commendable and shows an engagement with, and insight into what is required of you as a practising clinician. She submitted that the CPD documents are not advanced in any way to show insight in respect of this allegation and it is to do with professionalism and boundaries. She submitted that the NMC makes the observation that it is not to do with boundaries, however Ms Tanchel submitted that this is precisely what this case is about. She submitted that it is a transgression of boundaries that amounted in a criminal context to a sexual assault. She submitted that the NMC has failed to place before the panel any other context.

Ms Tanchel referred the panel to your reflection on '*professional boundaries'* and she submitted that it is a crucial point that you acknowledge that professional boundaries are dynamic. She submitted that this recognition by you is crucial in underpinning your understanding of what may or may not be appropriate. She submitted it depends on the dynamics and ongoing awareness of the surrounding circumstances.

Ms Tanchel submitted that in your evidence you told the panel that this experience has had a profound impact on you and that you do not say this to seek empathy or sympathy or to place your interests above the public interest. She submitted it is about understanding. She submitted a practitioner who has gone through this process, and a criminal process and who has reflected in the way that you have, who has expressed how difficult it has been and the impact that it has had on you [PRIVATE], is less likely to repeat this behaviour in the future.

Ms Tanchel referred the panel to your reflection on '*remediation*' and highlighted to the panel that you have used the Gibb's cycle (1988) to draft your reflection. She submitted

that this is a recognised tool when considering an incident. She submitted that in your reflection, instead of undermining your insight, you show candour and honesty in explaining that you started from a place where you were angry rather than showing insight. She submitted that you have worked your way forward from feeling anger and frustration, to now understanding why your conduct is being called into question by the NMC. She submitted that this shows the journey that you have taken in order to understand what insight means and how it can make others call into question your right to practise. She submitted that it is not clear from any submissions made by the NMC what more you should or could have done to demonstrate insight.

Ms Tanchel referred the panel to your self-reflection statement in which you discuss the contributing factors and stress levels that you were working under. She submitted that it is extremely unlikely that your conduct will be repeated as a consequence of circumstance and thus negating any future risk on public safety. She submitted that you considered the impact on your colleague and acknowledge how difficult it must have been for her to go to the police and the emotional weight and impact it must have been not just for her, but for others around her. Ms Tanchel submitted that it is difficult to see a greater reflection on what the impact would have been on her. She submitted that the submission made on behalf of the NMC is untenable.

Ms Tanchel referred the panel to the references provided by those who have assisted you in your remediation. Ms Tanchel submitted that the reason the historic references were put into the bundle was to highlight that whatever your conduct was, that it was a single isolated incident in the context of a commendable career where your skills are commented on by the authors of the testimonials. Ms Tanchel referred the panel to some more recent testimonials, one is from your mentor who is himself a member of the nursing profession and will be well aware of the obligations to be candid, truthful and full in what he sets out to the panel convened by the NMC, his own regulator.

In conclusion, Ms Tanchel submitted that there is no basis for this panel to make a finding of impairment based on public safety. She submitted that this is an isolated incident that took place almost seven years ago and that there is no risk going forward. She submitted

by virtue of your criminal conviction it is conceded that an informed member of the public, who knows all of the evidence in this case and who is objective may consider it to be impactful on the reputation of the profession and the regulator's obligation to uphold standards in the profession. She submitted that impairment on that basis may be a finding in which this panel, in discharging it statutory function perceives to be an accurate representation of the current position. She submitted that it is not accurate that you have attitudinal problems or that there is an ongoing risk.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Cohen v General Medical Council* and *Meadow v General Medical Council*.

Decision and reasons on impairment

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

In coming to its decision, the panel had regard to the NMC Guidance DMA-1 on *'Impairment'* last updated 28 January 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/their fitness to practise is impaired in the sense that S/He/They:

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

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

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

d) *[…]'*

The panel determined that limbs b) and c) are engaged in this case.

In relation to limb a), the panel considered that in its submissions, the NMC said that there was, in the past, and that there is a potential psychological risk to patients as a result of

your conduct which resulted in your conviction. The panel considered that whilst there is a potential risk to patients in that if colleagues were unable to work effectively with one another, then this may impact on patients and their treatment, the panel determined that there has been no evidence put before the panel at this hearing to suggest that any patients were put at risk of harm on the day of the incident or prior to the incident. Further, it determined that that there is no evidence of any concerns raised about your conduct by other colleagues that you worked with and that there is nothing before this panel to demonstrate the nature of the relationship you had with the complainant. The panel further considered that there is no evidence of any deep-seated attitudinal issues. Therefore, the panel was not satisfied that patients would be put at unwarranted risk of harm.

Regarding insight, the panel considered that in your evidence you were accepting of your conviction but you maintained that you denied your conduct which led to your conviction. It noted that in your reflective statements and in your evidence, you recognise that your conviction is serious and how it would cause concern for others. It considered that you recognise the impact that your conviction may have on people's views of your suitability to practise as a nurse. It also noted that in your reflection statement you demonstrate an understanding on how difficult it would have been for the complainant to have reported your conduct and how that may have affected her emotional well-being and vulnerability. You also demonstrate an understanding on how your conduct which resulted in your conviction may have impacted the reputation of the nursing profession.

The panel considered the issue of whether you had deep-seated attitude issues as a result of the conduct that led to your conviction. It determined that while you deny the actions which led to your conviction, this does not automatically equate to a lack of remorse for your actions. The panel considered that there is no evidence before it of any pattern of behaviour, there are no further concerns raised by other colleagues of your behaviour before the panel and therefore the panel determined that in the context of these matters, there is no evidence of any deep-seated attitudinal concerns.

Further, the panel took into consideration the steps you have taken to strengthen your practice. The panel had before it, several certificates demonstrating courses you have

undertaken for your continuous professional development. The panel considered that the courses you have undertaken demonstrate a broad spectrum which addresses your conduct as well as your clinical practice. The panel considered that courses on '*Equality Diversity and Inclusion in Health and Social Care in Scotland*' completed on 26 April 2026 and '*Professional Boundaries in Health and Social Care*' completed on 21 April 2026 are particularly relevant to your conviction. It further considered that you have clearly given some thought into what courses you would need to take in order to maintain your clinical skills (For example, '*Clinical skills (HSG) Training course*' completed on 29 June 2026, '*Medication awareness (HSG) Training course*' completed 9 August 2026 and '*Mandatory and Statutory (Practical) Training course-Scotland*' completed 25 July 2026) and be an effective practitioner if you were to return to practice.

The panel further considered your testimonials and noted that many are from prior to your conviction. It noted that they are positive in nature about your professionalism and how you work as part of a team.

The panel considered that this appears to be an isolated incident and that there is no evidence before it of any further concerns raised by other colleagues regarding your behaviour and conduct. The panel considered that there is nothing before it regarding the nature of your relationship with the complainant or other colleagues in your workplace, or any context. The panel heard evidence that you have not been formally working since your conviction but that you have undertaken some casual work with a friend. It considered that you have undertaken courses both related to your conviction and clinical practice in order to strengthen your practice, you have reflected on your actions which led to your conviction and you have thought about how you would do things differently in the future in order to maintain professional boundaries in the workplace and in your personal life as well.

The panel considered your evidence that your conviction has had a huge impact on [PRIVATE] and it further considered that you clearly want to return to practise as you have pursued this for quite some time and you have considered what support you may require going forward if you were to return to practice. In your evidence you told the panel that you

did not want to return to working on a ward and that you have considered that you would like to work in the community or in a more nursing related computer based role. The panel considered that you have thought about the limitations of your future career in the nursing profession. Taking all of the above into consideration, the panel considered that the risk of repetition of your conduct found proved by way of your conviction is low.

The panel therefore decided that a finding of impairment is not necessary on the grounds of public protection.

With regard to limbs b) and c), the panel considered your conduct which resulted in your conviction of sexual assault is a specified offence under the Code. Further it considered that a registered professional has the right to attend work without fear of being sexually assaulted and a member of the public would expect and consider that in this context, nurses should not commit offences against colleagues in the workplace. Therefore, the panel determined that in the past you breached one of the fundamental tenets of the nursing profession, particularly '*Promoting Professionalism and Trust*' and brought the reputation of the nursing profession into disrepute.

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

The panel considered that the public expects high standards of professionalism from a registered nurse and your behaviour fell far below these standards. It considered that your conduct which led to your conviction is serious and sexual assault is a specified offence. It considered that your conduct breached the fundamental tenets of the nursing profession. It determined that public confidence in the profession, in the NMC as its regulator and the confidence of colleagues, would be seriously undermined, if a finding of impairment were not made in this case and the seriousness of your conviction were not marked in some

way. Therefore, the panel finds your fitness to practise is impaired on the ground of public interest.

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

Sanction

The panel has considered this case very carefully and has decided to make a suspension order for a period of six months. The effect of this order is that the NMC register will show that your registration has been suspended.

In reaching this decision, the panel has had regard to the relevant NMC Guidance on Sanction and all the evidence that has been adduced in this case.

The panel accepted the advice of the legal assessor.

Submissions on sanction

Ms McFarlane referred the panel to the NMC Guidance SAN-1 '*The purpose of and approach to sanctions*' last updated 28 January 2026, SAN-2 '*The sanctions available*' last updated 28 January 2026, SAN-4 '*Sanctions for the highest risk cases*' last updated 31 July 2026 and FTPC- 2c-1 '*Directly referring specified offences to the Fitness to Practise Committee*' last updated 27 February 2024. Ms McFarlane referred the panel to the case law of *O v NMC* [2015] 2949 (Admin) and *Bolton v Law Society* [1994] 1 WLR 512.

Ms McFarlane submitted that the aggravating features in this case are;

- Your conduct that led to your conviction occurred while you were employed as a registered nurse and took place in a clinical setting;
- Abuse of a position of trust;
- Your conviction relates to a sexual offence;

- There was emotional and psychological harm caused to the victim, who was a colleague; and
- You have limited insight into your conduct which led to your conviction.

Ms McFarlane submitted that there are no mitigating features identified in this case.

Ms McFarlane submitted that it is the NMC's position that the most appropriate and proportionate sanction in this case is a striking-off order.

Ms McFarlane submitted in the consideration of imposing any sanction, the objective of a Fitness to Practise committee is not to be punitive.

Ms McFarlane submitted that taking no action would not be appropriate in this case due to the seriousness of the offence as it involves sexual misconduct. Ms McFarlane submitted that this is a specified offence and therefore it would neither be appropriate nor proportionate to take no action.

Ms McFarlane submitted that a caution order would also not be appropriate in this case as it would not mark the seriousness of the offence in which you have been convicted. She submitted that imposing a caution order would also be insufficient in order to maintain the high standards within the nursing profession or the trust that the public place in the nursing profession.

Further, Ms McFarlane submitted that a conditions of practice order would also not be appropriate and that the concerns in this case could not be addressed by way of a conditions of practice order. She submitted that imposing a conditions of practice order is only appropriate in cases where concerns are related to a registrant's clinical practice and that this does not apply in this case. She submitted that there are no conditions that could be formulated that would address the public interest concerns in this case and as this case is related to a conviction for a specified offence, imposing a conditions of practice order would not be appropriate or proportionate.

Ms McFarlane submitted that a suspension order is also not appropriate or proportionate in this case as the charge in this case is extremely serious. She submitted that you have been convicted of the sexual assault of a colleague whilst you were at work and in a patient-facing area. She submitted that your insight and reflection in relation to your conviction is limited and there is very little insight in relation to the specific offence in which you have been convicted. Ms McFarlane submitted that temporary removal from the register would be insufficient in order to uphold the public confidence and maintain the professional standards of the nursing profession.

Ms McFarlane submitted that it is the NMC's position that a striking-off order is the most appropriate and proportionate sanction in this case. She submitted that your conviction, including the circumstances and nature of your offence, is fundamentally incompatible with you remaining on the register. Ms McFarlane submitted that you have been convicted of a sexual assault, which is a serious offence and which occurred in your place of work. Further she submitted that your offence was committed against a colleague in a patient facing area and that a well-informed member of the public would be shocked and concerned if a registered nurse who was convicted of a sexual assault were allowed to remain on the register.

Ms McFarlane submitted that this case is particularly serious and concerning given that the offence is a specified offence under NMC guidance and was committed during your professional practice.

Ms McFarlane referred the panel to the NMC Guidance SAN-4 and submitted that there are some offences specified as particularly serious because they raise fundamental questions about the professional's ability to uphold the standards and values set out in the Code. She submitted that if a registrant has been convicted of these offences, it is unlikely that any sanction less than strike-off will be appropriate. Ms McFarlane submitted that the Panel in its decision on impairment correctly identified that sexual assault is a specified offence. She submitted that a conviction for such an offence occurring in a registrant's personal life would be grave enough, however in this particular case it is aggravated because the offence occurred during your professional practice, in a clinical setting and

patient facing area and was perpetrated against a colleague. Ms McFarlane submitted that allowing you to remain on the register would seriously undermine the public's confidence in the nursing profession.

Ms McFarlane submitted that you have only demonstrated limited insight. She submitted that the reflective pieces that you have provided and are before this panel are focused on the impact that the conviction in this case has had on you. She submitted that you have demonstrated limited insight and reflection into how the conviction impacted and continues to impact the victim, your colleagues and the public as a whole. Further, she submitted there appears to be no mention of sexual assault in any of your reflective pieces.
Ms McFarlane submitted that given the conviction in this case is for sexual assault which is specified offence under NMC guidance, the circumstances in which occurred, in a patient facing area and against a colleague who suffered harm as a result, the only sanction that would be sufficient and appropriate to mark the seriousness, to uphold professional standards and maintain the public's confidence in the nursing profession is a striking-off order.

Ms McFarlane submitted that the public expects registered nurses to obey the law, and to treat people with kindness and respect. She submitted that registered nurses in turn expect that they will be able to perform their duties without being subject to abuse or assault particularly by their own colleagues. Ms McFarlane submitted that as a result of your conviction and the circumstances, you are fundamentally incompatible with remaining on the register.

Ms McFarlane submitted that members of the public would be shocked and concerned, if you were to remain on the register with a sexual assault conviction and that this would have a negative impact on their confidence in the profession. She submitted that members of the public, including registrants, who have been victims of, or witnessed sexual misconduct would be particularly concerned and have their confidence shaken by this as well.

Therefore, Ms McFarlane submitted that a striking-off order is the only appropriate and proportionate order in this case.

The panel also bore in mind Ms Tanchel's submissions on your behalf.

Ms Tanchel submitted that the law requires the panel to remain faithful to its determination on impairment and that it would not be appropriate nor lawful for the panel to depart from its findings made at an earlier stage in proceedings.

Ms Tanchel reminded the panel that the purpose of imposing a sanction order is not to punish, but that it is to protect the public and in the circumstances of this particular case, to protect the public's interest rather than its safety. Further, she reminded the panel that the sanction should be as little as is proportionate to satisfy the objectives of the statutory regime and that the panel should remain faithful to its findings at the impairment stage of these proceedings.

Ms Tanchel referred the panel to the NMC Guidance SAN-1 '*The purpose of and approach to sanctions*' last updated 28 January 2026.

In relation to the aggravating factors in this case, Ms Tanchel reminded the panel not to double count in its consideration. She submitted that it is conceded that your actions (sexual assault) amounted to a serious conviction and the panel should not double count that as a serious conviction as it is already one.

Ms Tanchel submitted that in regard to an abuse of a position of trust, the NMC fall into error in its reliance on it. She submitted that it would be appropriate if your conduct was targeted to a patient or if you were a senior clinician and the victim was not and if she was dependent on you in some way for career advancement. Ms Tanchel submitted that there was no abuse of trust beyond the obligation a registered professional already has in respect of their conduct. Ms Tanchel submitted, in the context of this case, to double count an abuse of trust would be erroneous.

With regard to deliberate breaches of the Code, Ms Tanchel submitted that a criminal finding of sexual misconduct entails an intention to undertake the act. She submitted that the underlying behaviour remains denied by you, and she does not intend to go behind the findings of the criminal court.

Ms Tanchel submitted that none of the other aggravating factors as outlined in the NMC Guidance apply. She submitted that there has been no pattern of misconduct over a period of time and there are no previous disciplinary or regulatory findings. Further she submitted there has been no dishonesty in giving evidence or any failure to engage in the fitness to practise proceedings.

With regard to the absence of, or limited insight, Ms Tanchel referred the panel to its written decision on impairment. She submitted that the NMC have maintained their position on your lack of insight and that this was surprising to her considering that the NMC is bound, as is Ms Tanchel and the panel to its decision in the determination. She submitted that it is not an option to relitigate against a finding in which the panel has already considered. She submitted that the panel's reasoning in its decision on impairment flies in the face of a lack of insight and it is not open to the NMC to relitigate.

With regard to vulnerability of the person receiving care, premeditated behaviour and predatory behaviour as aggravating factors, Ms Tanchel submitted that these are not relevant in this case and that there is no evidence before the panel regarding these matters.

With regard to a failure to work collaboratively with colleagues, Ms Tanchel submitted it would be double counting as it is regarding a sexual assault on a colleague. Further, in regard to the guidance that '*the fact that a nurse, midwife or nursing associate has denied an allegation (and their defence has been rejected) may be, in some cases regarded as an aggravating factor*', Ms Tanchel referred the panel to the case law of *Sawati* and submitted she addressed the panel at an earlier stage in these proceedings on its principles. Ms Tanchel submitted that she adopted the principles in the case of *Sawat*i to her submissions in regard to this matter and that she noted what the panel determined in

respect of your response to the allegations and what you have done since. She submitted that the NMC cannot rely on lack of insight in this context as an aggravating factor, or at all.

Ms Tanchel referred the panel to the NMC guidance on mitigating factors. She submitted that you have apologised in writing and as set out in your reflective piece. She submitted that you have spent seven years considering and reflecting and especially since January 2024 when your sentence was imposed. She submitted that you have put things in place to prevent matters from happening again such as the appointment of a mentor by your own choice. She submitted that the guidance states that what is required as a mitigating factor is efforts and the panel found, in its determination that efforts have been undertaken.

Ms Tanchel advanced a chronology and submitted that this incident arose from circumstances in 2019. She submitted that it is noteworthy that the complainant complained to the Trust in 2019 but did not complain to the Police until a year later in August 2020. She submitted that in 2020, following an internal investigation and the NMC becoming aware of the report to police, an interim conditions of practice order was imposed. She submitted that you continued to work as is evidenced in the historic testimonials provided to the panel. She submitted that you returned to work with the same Trust and no further complaints were made. In 2021 at a review, your interim conditions of practice order was revoked by the NMC and you returned to work unrestricted. In 2022 you were cited and this led to the criminal trial. In 2023, you stopped working through your own choice and [PRIVATE]. In March 2023, there was another application for an order and an interim conditions of practice order was imposed. She submitted that in 2024 the criminal trial resulted in your conviction and you were suspended from practice. Further, Ms Tanchel submitted that there was a previous hearing in this matter that was subsequently appealed, and following the successful appeal there was another interim order in May 2026 where you were suspended.

Ms Tanchel submitted that there is objective evidence before the panel, such as the historic testimonials that subsequent to this incident in 2019, you continue to work without

incident. She conceded that it has not been for the full seven years, but the timeline explains why this is the case and that the greatest risk is immediately after the incident in which you had no further concerns.

Ms Tanchel submitted that in regard to relevant training courses the panel concluded in its decision that the boundaries courses are relevant to the issues raised in this case and accepted the reflective accounts and it accepted that you have kept up to date with your practice. She submitted that all of the mitigating factors apply apart from the early admission of facts.

She submitted that it is untenable for the NMC to argue that none of the mitigating factors applied. She submitted that in regard to personal mitigation the panel has heard evidence of the impact that your conviction has had on your life and she submitted that it has also [PRIVATE]. She submitted that you have [PRIVATE] and the panel should consider the impact on innocent victims, namely [PRIVATE] in any decision that it makes.

In regard to sanction, Ms Tanchel referred the panel to the NMC Sanctions Guidance. She submitted that it may be relevant for the panel to consider whether a professional was subject to an interim order while the Fitness to Practise proceedings were ongoing. She submitted that you have demonstrated that you have complied with an interim order and that you have subjected yourself and have been duty bound to the fitness to practise procedures of the NMC as your regulator and that you have positively engaged with the process at every stage.

Ms Tanchel submitted that to make no order would not be appropriate in these circumstances.

Ms Tanchel submitted that with regard to a caution order, this may be an appropriate sanction. She submitted that the NMC submits that this is a very serious allegation and whilst there is no doubt your conviction is serious, it is not rape. She agreed that physical touching holds greater significance than simply making sexual comments, however this is a case where the sexual assault took place over clothing and in a public place. She

submitted that your conduct is closer to the lower end than the middle of this type of conduct and is nowhere near to the most serious type of conduct such as rape or the sexual assault of a patient. Ms Tanchel referred the panel to the NMC sanction guidance on caution orders and submitted that you have provided significant evidence of re-training and reflection, significant insight which makes repetition unlikely and the panel determined that there is evidence that you are able to practise safely and effectively, have shown insight in your reflection and you have demonstrated engagement in proceedings in its determination. She submitted that it is a matter for the panel as to the time period a caution order should be imposed for.

Ms Tanchel made no submission in regard to a conditions of practice order.

With regard to a suspension order, Ms Tanchel referred the panel to the NMC Sanction guidance on '*Suspension order'*:

- *'the impairment is very serious but not fundamentally incompatible with continuing to be a registered professional*
- *An outcome less severe than strike-off would still satisfy the over-arching objective'*

She submitted that both of these circumstances apply to this case. She submitted that in taking into consideration everything in this case, the nature of your sentence, the nature of your rehabilitation, the nature of your insight and continued practice post incident with no further issues, and your testimonials, a suspension order is more than sufficient to satisfy limbs b) and c) of impairment.

With regard to a strike off order, Ms Tanchel referred the panel to the NMC sanction guidance and submitted that this type of case does not lead ineluctably to a striking off order.

Ms Tanchel submitted that it is wrong of the NMC to suggest that police case summaries are always, in every case remotely reliable. She submitted that a police case summary

reflects what a police officer understands about what a third party told them. She submitted that these are frequently unreliable. She submitted that there has been no evidence from the complainant in these proceedings and if the NMC wished to rely upon the same to make their submissions then they ought to have properly put that before the panel. She submitted that it is not her suggestion that a police officer said anything intentionally and recklessly untrue but that regularly what is recorded in a case summary is their understanding and sometimes is wrongly understood.

Ms Tanchel submitted that suspension is the most appropriate sanction in this case bearing in mind the delay in proceedings which should be counted in your favour and the interim order that you have already been subject to. She submitted that an appropriate period of time of a suspension order is one of three months or less without a need for a review. She submitted that it is unclear what more you could do to demonstrate further insight.

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

Decision and reasons on sanction

Having found your fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose. 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:

- Abuse of a position of trust. The panel had no evidence before it to suggest that there was a power imbalance between you and the victim. However, the panel considered that a professional would expect to be able to trust another professional in the workplace and also expect to be able to work in an environment free from this

type of behaviour. The panel also considered that a professional would expect their colleagues to behave in an appropriate manner.

- Deliberate breaches of the Code namely '*Promoting professionalism and trust*'.
- Failure to work collaboratively with colleagues (for example sexual harassment or discrimination). The panel was of the view that your underlying conduct was discriminatory as it related to an assault on a female colleague, which had the potential effect of violating her dignity.

The panel also took into account the following mitigating features:

- This was an isolated incident. The panel had no evidence before it to suggest that your behaviour that led to your conviction happened on more than one occasion.
- There is evidence before the panel that you practised safely and effectively as a registered nurse for a significant period of time, without restriction between 2019 and 2023 without any concerns raised.
- You have made efforts to prevent similar things happening again through undertaking relevant training courses, which include relevant courses to your conviction and also to keeping your skills up to date for clinical practice.
- You have completed several reflective statements.
- There has been no recurrence of your conduct which led to your conviction since the incident occurred in 2019.

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 next considered a caution order and had regard to the NMC Guidance SAN-2b on *'Caution order'* last updated 28 January 2026 in which the following is stated:

> *'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 considered that due to the seriousness of the case, and the public interest issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The panel considered that while your actions were not the most serious, they were not at the lower end of the spectrum. It considered that your behaviour was not only unacceptable but unlawful and as such, led to your conviction of sexual assault which is a specified offence. The panel determined that a caution order would not sufficiently mark the seriousness of your offence and in turn, would not maintain the public confidence in the nursing profession, the NMC as its regulator and uphold the professional standards of the nursing profession in this case. The panel also determined that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be appropriate. The panel is mindful that any conditions imposed must be relevant, proportionate, workable and measurable. The panel had regard to the NMC Guidance SAN-2c on *'Conditions of practice order'* last updated 28 January 2026 and had regard to the following factors:

- *'no evidence of deep-seated personality or attitudinal problems*
- *identifiable areas of the professional's practice in need of assessment and/or retraining*
- *competence cases where there is a realistic likelihood that the concerns about their practice can be resolved*
- *potential and willingness to respond positively to retraining (this should be based on specific evidence provided by the professional)*
- *insight into any health problems, alongside willingness to abide by conditions relating to a medical condition, treatment and supervision*
- *people using services will not be put at risk either directly or indirectly as a result of the conditions*
- *conditions can be created that can be monitored and assessed.'*

The panel is of the view that there are no relevant, proportionate, workable or measurable conditions that could be formulated, given the nature of the charges in this case. The panel determined that the behaviour identified in this case, was not something that can be addressed through retraining or supervision as it was not related to your clinical competence.

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

The panel went on to consider whether a suspension order is appropriate in this case. The panel had regard to the NMC Guidance SAN-2d on *'Suspension order'* last updated 28 January 2026 in which the following factors on when a suspension order may be appropriate are set out:

- *'the impairment is very serious but not fundamentally incompatible with continuing to be a registered professional*
- *an outcome less severe than strike-off would still satisfy the over-arching objective.'*

The panel also had regard to the key considerations as set out in the NMC Guidance to weigh up before imposing a suspension. It noted the following list of circumstances that may make a suspension order an appropriate sanction:

- *'the charges found proved are at the most serious end of the spectrum and call into question the professional's suitability to continue practising, either currently or at all*
- *while it is possible that the professional could be fit to practise in future, only a period out of practice would be sufficient to allow them to fully strengthen their practice through reflection, the development of their professional skills and / or development of insight and remediation*
- *there is a risk to the safety of people using services if the professional were allowed to continue to practise even with conditions*

- *what went wrong is so serious that public confidence in the profession and professional standards could not be maintained if the professional were able to continue practising without stopping for a period of time*
- *despite the seriousness of what happened, the professional has engaged in the proceedings and has shown at least some meaningful insight which evidences a realistic possibility that they will continue to develop this insight, address their concerns and return to practice.'*

The panel was satisfied that in this case, and in consideration of all the circumstances, your behaviour was not fundamentally incompatible with you remaining on the register. The panel considered that this was a one-off isolated incident and it had no evidence before it to suggest that there were any further concerns relating to your behaviour. The panel accepted that your conduct which led to your conviction had the potential to create an unsafe work environment. However, the panel had no evidence before it to suggest that there were any concerns raised regarding patient safety. Further the panel had no evidence before it that identified any deep-seated attitudinal issues in relation to sexual misconduct in its determination on impairment. The panel determined that if a properly informed member of the public, were aware of all the circumstances of this case they would be satisfied that steps have been taken to address your conduct that led to your conviction. The panel noted that you have developing insight and that you have a supportive network in place by way of your mentor. In this regard, the panel was reassured by engagement in these proceedings and your expressed commitment to your reflective practice.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in your case to impose a striking-off order.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause you. However, this is outweighed by the public interest in this case.

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

In making this decision, the panel carefully considered the submissions of Ms McFarlane in relation to the sanction that the NMC was seeking in this case. However, the panel considered that a striking- off order would be unduly punitive in the circumstances of this case. The panel heard no evidence of any of the behaviour which led to your conviction before the incident nor any after the incident occurred.

The panel determined that a suspension order for a period of six months was appropriate in this case to mark the seriousness of your conviction. Further, the panel considered that six months would afford you adequate time to further strengthen your practice and develop your insight. The panel considered that anything less than six months would be insufficient to mark the seriousness of your behaviour and your conviction.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Evidence of further reflections on the impact of your conduct which led to your conviction on the victim, your colleagues and on the public.
- Further reflection on the impact of sexual offending more broadly, including the impact of such behaviour on victims, colleagues, the profession and the public confidence.

- Evidence of the development of a personal development plan which will enable you to pursue different opportunities in the field of adult nursing. For example, in any non-ward based roles which you highlighted to the panel that you would like to pursue.

Interim order

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

Submissions on interim order

The panel took account of the submissions made by Ms McFarlane. She submitted given the panel's decision on sanction, an interim suspension order for a period of 18 months is necessary and is in the public interest, to cover the 28-day appeal period before the substantive order becomes effective.

The panel also took into account the submissions of Ms Tanchel. She submitted that she opposed the application for an interim suspension order to be imposed. She submitted that the imposition of an interim order is only necessary when public safety is at risk. She submitted that the public interest is satisfied as the outcome of this hearing will be published and any member of the public will be aware of the seriousness.

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

Decision and reasons on interim order

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

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

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

This will be confirmed to you in writing.

That concludes this determination.