

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

**Substantive Hearing
Monday, 27 October – Friday, 31 October 2025
Thursday, 26 February 2026**

Nursing and Midwifery Council
2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of Registrant: Nathaniel Salcedo

NMC PIN 01K16290

Part(s) of the register: Registered Nurse – Adult Nursing
RNA – (21 November 2001)
V300: Nurse independent / supplementary
prescriber – (10 December 2014)

Relevant Location: Southend, Mid and South Essex

Type of case: Misconduct

Panel members: Robert Pragnell (Chair, Lay member)
Mandy Rayani (Registrant member)
Shelley Hemsley (Lay member)

Legal Assessor: Brett Wilson (27 – 31 October 2025)
Jayne Salt (26 February 2026)

Hearings Coordinator: Andrew Ormsby

Nursing and Midwifery Council: Represented by Stephen Page, Case Presenter

Mr Salcedo: Present and represented by Laura Herbert,
instructed by the Royal College of Nursing (RCN)

No case to answer: Charges 3(a)

Facts proved by admission: Charges 1(a)(i), 1(a)(ii), 1(b), 1(c), 1(d)(i), 1(d)(ii),
1(e), 1(f), 4(a), 4(b)

Facts proved:	Charges 1(b) by reason of charge 2, 3(b)
Facts not proved:	Charges 1(a)(i) by reason of 2, 1(a)(ii) by reason of 2, 1(c) by reason of 2, 1(d)(i) by reason of 2, 1(d)(ii) by reason of 2, 1(e) by reason of 2, and 1(f) by reason of 2
Fitness to practise:	Impaired
Sanction:	Caution order (2 years)
Interim order:	N/a

Decision and reasons on application to amend the charge

At the outset of the hearing, the panel heard an application made by Mr Page, on behalf of the Nursing and Midwifery Council (NMC), pursuant to Rule 28 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules), to amend the wording of charges 1(d)(ii), 3(b) and 4(b).

The proposed amendment was to change '28 August 2022' to '28 August 2021'. It was submitted by Mr Page that the proposed amendment would correct an error and more accurately reflect the evidence.

The proposed amendments are as follows:

1. Intimidated and/or harassed Colleague A, in that;

d. You massaged Colleague A during an examination when they were seen as a patient on;

ii. 28 August ~~2022~~ **2021**

[...]

3. Did not ask Colleague A's consent to place a stethoscope under their clothing to listen to their chest on;

b. 28 August ~~2022~~ **2021**

[...]

4. Did not ask Colleague A's consent to place a stethoscope under their clothing to listen to their chest on;

b. 28 August 2022 **2021**

Ms Herbert, on your behalf, did not oppose this application.

The panel accepted the advice of the legal assessor.

The panel considered that the amendments would properly reflect the contested allegations. It further determined that the amendments could be made without any unfairness and there would be no prejudice to you or the NMC in making these changes.

Consequently, the panel granted the NMC application to amend the relevant charges.

Details of charge

That you, a registered nurse;

1. Intimidated and/or harassed Colleague A, in that;
 - a. Via System1 you sent inappropriate messages
 - i. On 13th March 2021 you wrote *'you look even more prettier tonight'*
 - ii. On 11 April 2021 you wrote *'you look absolutely gorgeous tonight'*
 - b. On an unknown date in August 2021 said *'I bet you cannot wait until Summer arrives so that you can wear your sexy clothes'*
 - c. On 1 January 2022 you gifted Colleague A, a pair of Pandora earrings

- d. You massaged Colleague A during an examination when they were seen as a patient on;
 - i. 21 March 2022
 - ii. 28 August 2021
 - e. Colleague A did not consent and/or declined massages on one or more occasions on the above dates
 - f. On 22 March 2022 requested for Colleague A to tell Colleague B, that Colleague A would drive you to your home visits.
2. Your conduct in the charges 1a-1f were sexual in nature and/or sexually motivated.
3. Did not ask Colleague A's consent to place a stethoscope under their clothing to listen to their chest on;
- a. 21 March 2022
 - b. 28 August 2021
4. Did not ask Colleague A's consent to place a stethoscope under their clothing to listen to their chest on;
- a. 21 March 2022
 - b. 28 August 2021

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

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

Mr Page made a request that this case be held in private on the basis that the hearing concerned sensitive matters of a sexual nature which may come out in evidence. The application was made pursuant to Rule 19 of the Rules. Mr Page also suggested that the panel may properly conclude that all evidence be heard in private given that we are dealing with a vulnerable witness, namely Colleague A.

Ms Herbert supported the application and submitted that the entire hearing could reasonably be held 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.

Having heard that there will be reference to sensitive private matters in relation to Colleague A, the panel determined to hold such parts of the hearing in private. It did note that Colleague A would be fully anonymised but considered that hearing her evidence in private would support the facilitation of her evidence.

Further, the panel determined to go into private session during Colleague A's oral evidence, and agreed that, although it would then proceed in public session, it would apply Rule 19, in part, to the rest of the case should the need arise.

Decision and reasons on reasonable adjustments/special measures application, pursuant to Rule 23

Mr Page made a request that reasonable adjustments be applied for Colleague A. He explained that she was extremely anxious, and noted that the case concerned allegations

of sexually motivated conduct. The application was made pursuant to Rule 23 of the Rules. He stated that Colleague A had indicated that she did not want to see you whilst she gave video evidence via Microsoft Teams.

Mr Page submitted that given that we are dealing with a vulnerable witness, namely Colleague A, it was reasonable to make adjustments such as re-arranging the camera angle to ensure that she could not see you.

Ms Herbert did not object to the application.

The panel accepted the advice of the legal assessor.

In the circumstances, the panel considered that Colleague A was a vulnerable witness and accepted that she was likely anxious about giving evidence and concluded that applying reasonable adjustments to ensure that she could not see you whilst giving video evidence was appropriate. It was satisfied that this could be achieved by angling the camera and screen to only show the panel and advocates. It found this would assist Colleague A to give their best evidence which was in the interests of all parties.

Accordingly, the panel granted the NMC's application pursuant to Rule 23.

Decision and reasons on application on temporary adjournment

On day one of the hearing, the panel considered an application from Mr Page, on behalf of the NMC, to temporarily adjourn the hearing, pursuant to Rule 32(1) of the Rules, due to the unavailability of Colleague A to give witness evidence on the first day of the hearing.

Mr Page submitted that Colleague A be allowed to give her evidence on day two of the hearing given her current extreme anxiety and her emotional state. He stated that Colleague A also wished to process evidence that she had only recently received and

asserted that she had been under the impression that when she originally made a statement that would be the end of the matter and had not realised that she would be called to give oral evidence at the hearing.

Mr Page stated that it had also been the opinion of the NMC Public Support Service (PSS) officer who had been present on his call with Colleague A that the witness would be more suited to giving evidence tomorrow.

Mr Page also stated that Colleague A would also require time to familiarise herself with a recording she had recently received, and which would be presented to the panel as evidence in due course. He accepted that it was Colleague A's recording but noted that time had elapsed since she had made it and last viewed it.

Mr Page concluded by submitting that temporarily adjourning would allow for the efficient disposal of the case and the efficient facilitation of Colleague A's evidence.

Ms Herbert, on your behalf, stated that she had no objections.

The panel noted the information that it had received, namely that Colleague A was extremely anxious. The panel was mindful of its duty to support vulnerable witnesses, and considered that temporarily adjourning until day two would allow Colleague A an opportunity to review her witness statement to enable her to give her best evidence. It further noted that Colleague A's assertion that she had not been warned of the requirement for her oral evidence to be heard and she had not been provided with a copy of her written statement prior to the hearing.

In the circumstances, the panel granted the NMC's application to temporarily adjourn the hearing, pursuant to Rule 32(1).

Background

The NMC received a referral on 16 August 2022 from Colleague C, the Quality and Governance Manager at IC24 ('the Service'). The referral resulted in an investigation by the NMC which identified the following regulatory concerns:

1. Intimidating and/ or harassing behaviour towards a colleague in that you:
 - 1.1 gave them inappropriate massages;
 - 1.2 made inappropriate comments about their appearance and/ or sent them inappropriate messages;
 - 1.3 gave them a gift;
 - 1.4 attempted to alter working arrangements so you could work alongside them.

2. Your conduct at 1.1 and/ or 1.2 and/ or 1.3 and/ or 1.4 above was sexual in nature and/ or sexually motivated.

The regulatory concerns relate to incidents that are said to have occurred while you were working as an Advanced Nurse Practitioner (ANP) at the Service through Your World Nursing ('the Agency') between March 2021 and March 2022.

These concerns were raised by Colleague A, [PRIVATE] at the Service.

It was alleged that you massaged Colleague A on more than one occasion when treating her, including on her arms and thighs, without her permission. It was also alleged that you made inappropriate comments to Colleague A, sent inappropriate messages to Colleague A and gifted Colleague A Pandora earrings, and that your conduct in doing so was sexual in nature and/or sexually motivated.

Decision and reasons on application of no case to answer

At the close of the NMC case the panel considered an application from Ms Herbert that there is no case to answer in respect of charge 3(a). This application was made under Rule 24(7) of the Rules.

In relation to this application, Ms Herbert submitted that within her witness statement, Colleague A had not alleged that you failed to obtain her consent to place the stethoscope under her clothing on 21 March 2022.

Further, Ms Herbert said that Colleague A, during her oral evidence, stated that you had asked if you could lift her top up:

“He asked if he could lift my top up – I was fine with that as I gave my permission for it”

Ms Herbert submitted that the NMC had not presented evidence that you had failed to obtain Colleague A’s consent, whilst Colleague A had been clear that she gave her consent in relation to this allegation.

Ms Herbert submitted that, in the circumstances, there is insufficient evidence to substantiate charge 3(a) and it should not be allowed to remain before the panel.

Mr Page submitted that the way the examination had been undertaken created an awkward situation. He said she was uncomfortable and in those circumstances her consent may not have been satisfactory.

Mr Page asked the panel to consider the video recording of the examination and noted that Colleague A had, when questioned, stated that it could be heard from the tone of her voice, when she responded to you, that she was uncomfortable with the situation.

The panel took account of the submissions made and accepted the advice of the legal assessor.

The panel accepted the advice of the legal assessor which included reference to the NMC guidance on Evidence (DMA-6).

In reaching its decision, the panel has made an assessment of all the evidence that had been presented to it at this stage. The panel was solely considering whether sufficient evidence had been presented, such that it could find the facts proved and whether you have a case to answer for charge 3(a).

The panel reminded itself that, at this stage, its purpose was not to make findings of fact but to determine whether sufficient evidence, taken at its highest, had been presented by the NMC such that a panel, correctly directed as to the law, could properly find charge 3(a) proved to the civil standard.

The panel considered the submissions of both parties. It also took account of all of the evidence presented to date, both oral and documentary, in reaching its decision.

The panel had particular regard to the case of *R v Galbraith* [1981] 1 WLR 1039, which sets out that:

(1) 'If there is no evidence that the crime alleged has been committed by the defendant, there is no difficulty. The judge will of course stop the case.

(2) The difficulty arises where there is some evidence but it is of a tenuous character; for example, because of inherent weakness or vagueness, or because it is inconsistent with other evidence.

(a) Where the judge comes to the conclusion that the prosecution evidence, taken at its highest, is such that a jury properly directed could not properly convict upon it, it is his duty, upon a submissions being made, to stop the case.

(b) Where, however, the prosecution evidence is such that its strength or weakness depends on the view to be taken of a witness's reliability, or

other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence upon which a jury could properly come to the conclusion that the defendant is guilty, then the judge should allow the matter to be tried by the jury.'

The panel bore in mind the *Galbraith* test in making its careful assessment as whether or not, looking at charge 3(a), there was a case to answer.

The panel accepted that in her oral evidence Colleague A had confirmed that she had given consent.

The panel determined that the NMC had not presented sufficient evidence, even taken at its highest, and discounting any defence explanations that may be put forward, for a reasonable panel to find it proved to the civil standard. In that it had not proven that you did not ask Colleague A's consent to place a stethoscope under their clothing to listen to her chest on 21 March 2022.

In reaching this conclusion the panel noted that the allegation was not made out in Colleague A's witness statement and in her oral evidence she indicated that she had given her consent.

Accordingly, the panel determined that, under limb 2(a) of *Galbraith*, charge 3(a) must fall. Even when taken at its highest, the NMC's evidence is such that a properly directed panel could not reasonably find the facts proved.

Decision and reasons on facts

At the outset of the hearing, the panel heard from Ms Herbert who informed the panel that you made admissions to charges 1(a)(i), 1(a)(ii), 1(b), 1(c), 1(d)(i), 1(d)(ii), 1(e), 1(f), 4(a), 4(b).

The panel therefore finds charges 1(a)(i), 1(a)(ii), 1(b), 1(c), 1(d)(i), 1(d)(ii), 1(e), 1(f), 4(a), 4(b) proved, by way of your admissions.

The panel therefore had to decide whether the charges you admitted, namely 1(a) – 1(f) were sexual in nature and/or sexually motivated as per charge 2. Each charge was considered separately, and then considered as of course of conduct taken together.

The panel then had to consider charge 3(b).

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Page on behalf of the NMC and by Ms Herbert 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 oral evidence from the following witness called on behalf of the NMC:

- Colleague A: [PRIVATE] at the Service at the time of the alleged incidents

The panel accepted the documentary witness statement from Colleague C.

The panel also heard evidence from you under affirmation.

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

The panel was directed to and considered s.78 of the Sexual Offences Act 2003, 'sexual' is defined as whether a reasonable person would consider that:

'a. whatever the circumstances or any person's relation to it, it is sexual due to its nature; or

b. because of its nature it may be sexual and because of the circumstances or the purpose of any person in relation to it (or both) it is sexual.'

The panel was advised that, if any of the facts alleged in charge 1(a) to (f) were admitted and were found proved, it would then be necessary to consider whether they were sexually motivated. In *Basson v GMC* [2018] EWHC 505 (Admin), the High Court defined acting with sexual motivation as conduct done either in pursuit of sexual gratification or in pursuit of a future sexual relationship.

The panel also took into account that, when considering sexual motivation, it should reach its conclusions from all the facts and circumstances of the case, looking at the material in the round. It understood that the best evidence of sexual motivation may be the behaviour itself. Where there was no plausible, alternative explanation as to why the registrant engaged in conduct or actions of an overtly sexual nature, then a panel would be entitled to conclude that the motivation was sexual.

The panel had particular regard to the case of *Haris v General Medical Council* [2021] EWCA Civ 763 in which it was said that sexual motivation could be inferred from:

- The fact that the touching was of the sexual organs;
- The absence of a clinical justification; and
- The absence of any other plausible reason for the touching.

The panel then considered each of the disputed charges.

The panel also received a good character direction and noted that there was no evidence of previous fitness to practise proceedings or findings against you.

The panel considered you to be a credible and honest witness and considered that your recollection and description of the events in question was both credible and plausible.

It noted that you are originally from the Philippines and moved to the UK in 2001 and had therefore been living and working in the UK for approximately 20 years at the time of these alleged incidents.

The panel also considered Colleague A to be a credible and honest witness, she was balanced and fair in her recollection and description of the alleged events.

Charge 1(a)(i) by reason of Charge 2

That you, a registered nurse;

1. Intimidated and/or harassed Colleague A, in that;
 - a. Via System1 you sent inappropriate messages
 - i. On 13th March 2021 you wrote '*you look even more prettier tonight*'
2. Your conduct in the charges 1a-1f were sexual in nature and/or sexually motivated

This charge is found NOT proved.

In reaching this decision, the panel took particular note of Colleague A's witness statement, dated 21 December 2023, and her oral evidence.

The panel also noted your statement and oral evidence.

The panel found that your behaviour was inappropriate, unacceptable and unprofessional in the workplace and noted your admissions that you now accept that this behaviour amounted to intimidation and/or harassment.

The panel noted your oral evidence in which you stated that you had given Colleague A a compliment.

The panel considered that the NMC had not provided persuasive evidence to show that these messages were sexual in nature, or that they were sexually motivated in that your conduct in sending the messages were carried out either in pursuit of sexual gratification or in pursuit of a future sexual relationship.

The panel considered that your explanation that this message was only intended to be a compliment to be plausible. It accepted that at the time of sending you did not intend or believe the message would cause Colleague A to feel uncomfortable. It also took note of Colleague A's written statement where she says "*I do not know if it was their way of trying to be friendly.*"

In the circumstances, the panel concluded that the NMC had not discharged its burden of proof to prove that it was more likely than not that your actions in sending Colleague A the above message, namely, '*you look even more prettier tonight*', was conduct that was sexual in nature and/or sexually motivated.

Accordingly, the panel determined that charge 1(a)(i), by reason of charge 2, was found not proved.

Charge 1(a)(ii) by reason of charge 2

1. Intimidated and/or harassed Colleague A, in that;

- a. Via System1 you sent inappropriate messages
 - ii. *On 11 April 2021 you wrote 'you look absolutely gorgeous tonight'*
2. Your conduct in the charges 1a-1f were sexual in nature and/or sexually motivated

This charge is found NOT proved.

In reaching this decision, the panel took into account Colleague A's witness statement, dated 21 December 2023, and oral evidence.

The panel also noted your statement and oral evidence.

The panel found that your behaviour was inappropriate, unacceptable and unprofessional in the workplace and noted that you accepted that this behaviour amounted to intimidation and/or harassment.

The panel noted your oral evidence in which you stated that you gave Colleague A a compliment.

The panel considered that the NMC had not provided persuasive evidence to indicate that these messages were sexual in nature, or that they were sexually motivated in that your conduct in sending the messages were carried out either in pursuit of sexual gratification or in pursuit of a future sexual relationship.

The panel considered that your explanation that this message was only intended to be a compliment to be plausible. It accepted that at the time of sending you did not intend or believe the message would cause Colleague A to feel uncomfortable. It also took note of

Colleague A's written statement where she says *"I do not know if it was their way of trying to be friendly."*

In the circumstances, the panel concluded that the NMC had not discharged its burden of proof to prove that it was more likely than not that your actions in sending Colleague A the above message, namely, *'you look absolutely gorgeous tonight'*, was conduct that was sexual in nature and/or sexually motivated.

Accordingly, the panel determined that charge 1(a)(ii), by reason of charge 2, was found not proved.

Charge 1(b) by reason of charge 2

1. Intimidated and/or harassed Colleague A, in that;
 - b. On an unknown date in August 2021 said *'I bet you cannot wait until Summer arrives so that you can wear your sexy clothes'*
2. Your conduct in the charges 1a-1f were sexual in nature and/or sexually motivated

This charge is found proved.

In reaching this decision, the panel took particular note of Colleague A's witness statement, dated 21 December 2023, and her oral evidence.

The panel also noted your statement and oral evidence.

The panel found that your behaviour was inappropriate, unacceptable and unprofessional in the workplace and noted that you accepted that this behaviour amounted to intimidation and/or harassment.

The panel noted your oral evidence in which you stated that you had intended this comment to Colleague A to be a compliment. It considered that your reference to Colleague A's clothing and referencing pencil skirts and other items of clothing was entirely unprofessional in a workplace environment.

The evidence was that this statement was made in conversation with Colleague A, following a patient visit, whilst you were alone with her in a parked car in a work environment.

The panel considered that the NMC had not provided persuasive evidence to indicate that your conduct in making this statement to Colleague A was sexually motivated or carried out either in pursuit of sexual gratification or in pursuit of a future sexual relationship. It accepted the submission by defence counsel that there was no evidence that you had ever tried to progress from a collegiate relationship at work to a personal involvement outside of work.

However, the panel did consider that the statement clearly amounted to inappropriate and sexualised language, particularly a reference to 'sexy' clothing, whether it was intended as an innocent compliment or not. It also considered the context of you imagining her in particular types of clothing when using these words. It did not consider that the use of the word 'sexy' rather than 'summer' was a likely mistake, even accepting that English is your second language.

In the circumstances, the panel considered that, on the balance of probabilities, it was more likely than not that your conduct on an unknown date in August 2021, when you said *'I bet you cannot wait until Summer arrives so that you can wear your sexy clothes'* amounted to conduct that was sexual in nature.

Accordingly, the panel determined that charge 1(b), by reason of charge 2, was found proved.

Charge 1(c) by reason of charge 2

1. Intimidated and/or harassed Colleague A, in that;
 - c. On 1 January 2022 you gifted Colleague A, a pair of pandora earrings
2. Your conduct in the charges 1a-1f were sexual in nature and/or sexually motivated

This charge is found NOT proved.

In reaching this decision, the panel took into account Colleague A's witness statement, dated 21 December 2023, and her oral evidence.

The panel also noted your statement and oral evidence.

The panel accepted that your behaviour was inappropriate in the workplace and noted that you accepted that this behaviour amounted to intimidation and/or harassment.

The panel noted your oral evidence in which you stated that you liked giving people gifts and that you considered Colleague A to be special and a friend and that you had intended the gift as a birthday present to make her happy, and nothing more. It also noted that you accepted in oral evidence that this gift of a pair of Pandora earrings had made Colleague A feel awkward.

The panel bore in mind that it had received no evidence to prove that this gift was given other than as a belated birthday gift. The panel considered that the NMC had not provided persuasive evidence to indicate that your conduct in gifting Colleague A the Pandora earrings was sexually motivated in that your conduct in giving this gift to Colleague A was carried out either in pursuit of sexual gratification or in pursuit of a future sexual relationship.

In the circumstances, the panel concluded that the NMC had not discharged its burden of proof to prove that it was more likely than not that your actions, on 1 January 2022, in giving Colleague A a pair of Pandora earrings, amounted to conduct that was sexual in nature and/or sexually motivated.

Accordingly, the panel determined that charge 1(c), by reason of charge 2, was not found proved.

Charges 1(d)(i) & 1(d)(ii) by reason of charge 2

1. Intimidated and/or harassed Colleague A, in that;
 - d. You massaged Colleague A during an examination when they were seen as a patient on;
 - i. 21 March 2022
 - ii. 28 August 2021
2. Your conduct in the charges 1a-1f were sexual in nature and/or sexually motivated

These charges are found NOT proved.

In reaching this decision, the panel took into account Colleague A's witness statement, dated 21 December 2023, and oral evidence.

The panel also noted your statement and oral evidence. It further considered the covert recording of the massage on 21 March 2022, which Colleague A recorded and provided to the NMC, and which was presented as evidence by your representative.

The panel accepted that your behaviour was completely inappropriate and unprofessional in the workplace and noted that you accepted that this behaviour amounted to intimidation and/or harassment.

The panel bore your cross-examination in mind, particularly your assertion that you practised traditional Filipino massage, namely 'hilot', and that you had offered the massages to Colleague A as you wanted to help her as, in your opinion, she looked 'very unwell' and '*almost in a state of collapsing*'.

The panel also noted Colleague A's oral evidence, particularly when asked whether she considered the touching to be sexual. It noted that Colleague A had stated, during her oral evidence, that she did not consider the massage to be sexual and had accepted that the massage was a deep tissue massage.

In relation to the 28 August 2021 massage, during which Colleague A had given evidence that the massage on this occasion had involved the massaging of her thighs, and which you did not dispute, she had stated several times "*I'm not saying this in a sexual way*". The panel considered that this indicated that Colleague A did not actually consider the massages to be sexual, but rather made her feel uncomfortable.

The panel also took account of Colleague A's comments during her oral evidence that she "*may have overthought the situation*" but found the situation uncomfortable. Colleague A was fair and clear in explaining how her past experiences may have impacted on her fear of what she thought could happen, but she was very certain that she had never said the massage was sexual.

The panel was also mindful of the recording made of the 21 March 2022 in which you can be heard asking whether the pressure was "*okay*".

Further, the panel noted that the red marks, indicated in the photographs of red marks and bruises on Colleague A's arms and shoulders, supported your explanation that the

massage was a deep tissue massage. The panel, in reaching its decision, had an open mind about the different ways in which people derive sexual gratification and that any massage or physical touching has the potential to be sexual. However, the panel were persuaded that the massage was not sexual in nature, nor did you derive sexual gratification from it.

The panel also bore in mind Colleague A's requests, after the massage on 28 August 2021, that you carry out a clinical examination of her niece (a child), and her sister. It considered that if Colleague A had been concerned that the said massages were sexualised, it was highly unlikely that she would have requested that you see her niece and sister in a clinical setting.

The panel also noted that Colleague A had accepted that you believed in the power of massage to relieve stress and strain and to aid sleep.

The panel was mindful of the difference in the nature of the massages provided, namely that the 28 August 2021 involved a thigh massage of Colleague A. However, the panel found your explanation was plausible, namely that the massage was different on that occasion as it was carried out in response to a different set of symptoms described by Colleague A. It noted that you had proceeded from knee to thigh but went no further, which was supported by Colleague A's oral evidence whose concern was what she thought, you might do, at the time.

In the circumstances, the panel considered that the NMC had not discharged its burden of proof and proved that it was more likely than not that your conduct when you massaged Colleague A during an examination when they were seen as a patient on both 21 March 2022 and 28 August 2021 was sexual in nature or was carried out in pursuit of sexual gratification or in pursuit of a future sexual relationship.

Accordingly, charges 1(d)(i) and 1(d)(ii), by reason of charge 2, were not found proved.

Charge 1(e) by reason of charge 2

1. Intimidated and/or harassed Colleague A, in that;
 - e. Colleague A did not consent and/or declined massages on one or more occasions on the above dates
2. Your conduct in the charges 1a-1f were sexual in nature and/or sexually motivated

This charge is found NOT proved.

The panel was not satisfied that this charge could be found proved as a person not consenting or declining a massage does not satisfy the test for an action being sexual in nature and/or sexually motivated.

Therefore, the panel could not find charge 1(e), by reason of charge 2, to be proved.

Charge 1(f) by reason of charge 2

1. Intimidated and/or harassed Colleague A, in that;
 - f. On 22 March 2022 requested for Colleague A to tell Colleague B, that Colleague A would drive you to your home visits.
2. Your conduct in the charges 1a-1f were sexual in nature and/or sexually motivated

This charge is found NOT proved.

In reaching this decision, the panel took particular note of Colleague A's witness statement, dated 21 December 2023, and oral evidence.

The panel also noted your statement and oral evidence.

The panel accepted that your behaviour was inappropriate in the workplace and noted that you accepted that this behaviour amounted to intimidation and/or harassment.

The panel noted that this event took place one day after the 21 March 2022 massage, which Colleague A had stated, had made her feel uncomfortable.

The panel took account of your explanation that you had recommended that Colleague A drive to get some 'fresh air' as it would be good for her.

The panel considered that the NMC had not adduced evidence to support the allegation that his request for Colleague A to tell Colleague B, that Colleague A would drive you to your home visits, was sexual in nature or made in pursuit of sexual gratification or in pursuit of a future sexual relationship. It accepted the submission by your counsel that there was no evidence that you had ever tried to progress from a collegiate relationship at work to a personal involvement outside of work.

In the circumstances the panel concluded that the NMC had not discharged its burden of proof and proved that, on the balance of probabilities, it was more likely than not that your conduct, on 22 March 2022 when you requested for Colleague A to tell Colleague B, that Colleague A would drive you to your home visits, was sexual in nature and/or sexually motivated.

Charge 2

2. Your conduct in the charges 1a-1f were sexual in nature and/or sexually motivated.

This charge is found proved in relation to charge 1(b) but NOT proved in relation to 1(a), 1(c), 1(d), 1(e) and 1(f)

The panel noted that one finding that your conduct was sexual in nature in relation to charge 1(b). It also bore in mind Colleague A's witness statement, in particular her concluding comments, in which she stated:

'I do not know what Mr Salcedo's motivations were for this conduct. I do not know if it was their way of being friendly. Mr Salcedo was fine at first and there was nothing wrong.'

'I do not know why Mr Salcedo started to behave in the ways I have described above. Mr Salcedo might have been doing this to be nice, but it made me feel uncomfortable.'

Colleague A also asserted strongly, in oral evidence, that she had never said she believed your conduct was sexually motivated. She described feeling uncomfortable only.

The panel concluded that, when taken together, your conduct was not sexually motivated.

Charge 3(b)

3. Did not ask Colleague A's consent to place a stethoscope under their clothing to listen to their chest on;

b. 28 August 2022

This charge is found proved.

In reaching this decision, the panel took into account Colleague A's witness statement, dated 21 December 2023, and oral evidence.

The panel also noted your statement and oral evidence.

The panel bore in mind Colleague A's assertion in her written statement and oral evidence that she gave consent to the listen to her chest with a stethoscope, but not to place the stethoscope under clothing:

'Usually, a nurse would ask a patient if they wished to have a chaperone. Mr Salcedo did not ask me if I wanted a chaperone for this review. Also, a nurse would usually put the stethoscope over the patient's clothes, however Mr Salcedo put this under my clothes on my chest. Mr Salcedo did not ask if it was okay to put the stethoscope under my top, just asked me if it was okay to listen to my chest.'

The panel was also mindful that Colleague A had consistently repeated this assertion in her oral evidence. She also said, in oral evidence, there was a difference between this occasion, 28 August 2021, and the occasion on 22 March 2022, that *"I was fine on that occasion because I had given permission for it"* demonstrating a clear assertion that she had not consented on 28 August 2021.

The panel noted that, in your evidence, you did not state that you had asked for specific consent to place the stethoscope under Colleague A's clothing. It bore in mind that you stated that you would 'usually' ask.

The panel compared Colleague A's consistent assertion that you had not asked for consent to place the stethoscope under her clothing with the lack of specificity and vagueness with which you disputed her evidence.

In the circumstances, the panel considered that, given Colleague A's consistency and your lack of detail in your evidence, it was proved, on balance of probabilities, that it was more likely than not that you did not ask Colleague A's consent to place a stethoscope under their clothing to listen to their chest on 28 August 2021.

Decision and reasons on misconduct and impairment

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether your fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

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

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

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.*'

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.

Submissions on misconduct

Mr Page invited the panel to take the view that the facts found proved amounted to misconduct.

Mr Page also invited the panel to have regard to NMC guidance FTP-2a (last updated 6 May 2025) which referenced guidance on harassment and the negative effect that such harassment can have on individuals, the work environment and, in turn, the effective delivery of care. He stated that FTP-2a indicates that serious professional misconduct is more likely to occur if the inappropriate conduct occurs in professional practice and that action should be taken if incidents indicate deep seated attitudinal issues which in turn, could put those receiving care at risk.

Mr Page submitted that, taken individually, and taken together, the facts amounted to serious professional misconduct. He submitted that you conducted a massage technique which you were not qualified to conduct and caused physical and emotional harm to Colleague A, who was vulnerable. He also asserted that, by not offering Colleague A a chaperone, your conduct had a harmful effect of her and caused her to call in sick, which resulted in her having a meeting with her line manager regarding her absence. He stated that such conduct had put Colleague A at risk of harm.

Mr Page stated that, although you had accepted that your conduct represented harassment, the conduct occurred over a period of time and was repeated and, as such, indicated deep-seated attitudinal issues.

Mr Page continued to put the NMC's original position which was that you had engaged in sexually motivated misconduct and made admissions. The Chair reminded Mr Page of the panel's findings that the admissions did not include an acceptance of sexual motivation. The panel had found that you had used sexualised language on one occasion. Mr Page agreed that this had been the finding and agreed to address his submissions accordingly.

Mr Page asserted that your conduct resulted in harm to Colleague A, both emotional and physical. He stated that your actions in massaging Colleague A had resulted in bruising. He concluded by submitting that your conduct fell short of what would be considered

proper in the circumstances, and invited the panel to make a finding of serious professional misconduct.

Ms Herbert, on your behalf, stated that it was accepted that it was likely that the panel would find that charges 1(a) to 1(f) would result in a finding of misconduct, because they amounted to intimidation and harassment. However, she emphasised that the panel had not found that these charges constituted sexual misconduct or sexual harassment. She further stated that you had been '*really clear*' that, in relation to charges 1(a) to 1(f), whilst you had accepted that your conduct had been intimidating and harassing, this had not been intentional and you had always denied that you had been sexually harassing Colleague A.

In relation to charges 1(a) to 1(f) Ms Herbert also submitted that any physical harm to Colleague A had resulted from a deep tissue massage and had not been particularly serious. She stated that Colleague A had accepted that this was a deep-tissue massage and that bruising or marks might be a possible outcome of the massage.

In relation to charge 3(b) Ms Herbert submitted that you had asked for consent to listen to Colleague A's chest and, whether or not there was an additional requirement for you to ask permission to put the stethoscope under Colleague A's top, did not really amount to misconduct and was, rather, an oversight. She stated that you did get permission to listen to Colleague A's chest, and you were holding a stethoscope, and Colleague A knew that you were going to listen to her chest with a stethoscope. She argued that, although you may not have received explicit consent to place the stethoscope *under* Colleague A's clothing, there was implicit consent, and as such your conduct did not amount to serious misconduct.

In relation to charge 4, Ms Herbert submitted that you had accepted that you should have offered Colleague A a chaperone and referenced NHS IC24 Chaperone policy version 2.5 (Chaperone policy). However, she stated that the Chaperone policy referred to intimate examinations, and asserted that your assessments of Colleague A on 21 March 2022 and

28 August 2021 did not constitute intimate examinations and were rather examinations of Colleague A's breathing, due to Colleague A's flu-like symptoms.

Ms Herbert also stated that there had been a poster on the wall of the assessment room, which set out chaperone policy for patients, and which indicated that a chaperone could always be asked for. She accepted that your conduct had fallen short but stated that your actions in not offering Colleague A were not so serious that a fellow practitioner would regard them as deplorable.

Submissions on impairment

Mr Page moved on to submissions on impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. He stated that there was a need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. He referenced the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) and NMC guidance DMA-1.

Mr Page submitted that public confidence in the profession needed to be maintained, and that there was a need to declare standards. He stated that public confidence could be undermined by cases such as this, which involved misconduct which, he argued, was less likely to be addressed by training courses and supervised practice.

Mr Page referred to your testimonials and noted that you had presented a testimonial, written in your support, which had referred to the allegations against you as '*slanderous*'. He asserted that, even though you had not described the allegations against you as slanderous, your decision to present this testimonial to the panel, indicated an attitudinal issue.

Mr Page concluded by stating that the findings had constituted serious breach of professional standards and had resulted in psychological and physical harm to Colleague

A, and that confidence in the profession would be undermined were a finding of impairment not made.

Ms Herbert submitted that the current situation is not what it was in 2022 at the time of the events in question. She stated that you can practise safely, that there had been no repetition of your misconduct, and that you are regarded as a professional and productive member of the team and there had never been any issues with patients or colleagues other than Colleague A.

Mr Herbert submitted that your colleagues had a high opinion of you as evidenced by the testimonials and she stated that, importantly, you had presented character references from junior colleagues, including from a female 'admin/driver' you had worked with, who confirmed your behaviour was always professional.

Ms Herbert referenced your reflections which she stated showed genuine insight into your actions and your remorse for your behaviour. She also referenced the articles you had read in relation to harassment and articles discussing the correct place for massage therapy in the work environment.

Ms Herbert stated that you had not had any other work related or regulatory issues during your long career in the UK, in which you had practised since 2001, and asserted that, whilst your misconduct had involved breaches of the NMC Code, not all breaches required a finding of impairment.

Ms Herbert submitted that, although intimidation and harassment was not necessarily your intention, you understood that this had been the result of your actions. She stated this was not a case that involved dishonesty or sexual harassment and that you had been well-meaning and noted that the panel had found your explanations to be plausible. Ms Herbert stated that this had been a single incident related to Colleague A and no one else. She emphasised that you had made admissions at an early stage, both to your employers and to the NMC, and that the events in question took place over three years ago and were

easily remediable, therefore the risk was low. She concluded by emphasising that your misconduct was not at a level of seriousness that would require a public interest finding.

Decision and reasons on misconduct

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments.

In the case of *Nandi v GMC* [2004] EWHC 2317, Mr Justice Collins adopted the approach of Lord Clyde in the case of *Roylance v GMC* [2000] 1 AC 311 that professional misconduct is '*a falling short by omission or commission of the standards of conduct expected among medical practitioners and such falling short must be serious*'. The adjective "serious" must be given its proper weight and conduct which would be considered deplorable by fellow practitioners, whilst not a legal threshold, may be a helpful benchmark. Lord Clyde went on to say that "*It is of course possible for negligent conduct to amount to serious misconduct but the negligence must be to a high degree*".

The panel also had regard to the case of *Meadow v General Medical Council* [2006] EWCA Civ 1390 in which Auld LJ quoted Collins J approvingly in the case of *Nandi v General Medical Council* [2004] EWHC 2317 (Admin) where he said that serious misconduct would be '*conduct which would be regarded as deplorable by fellow practitioners*'.

Charges 1(a) to 1(f)

The panel considered charges 1(a) to 1(f) collectively and considered that your actions in intimidating and harassing Colleague A amounted to a breach of the Code, specifically:

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

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

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

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

The panel noted that your conduct was a course of conduct engaged in, although not continuously, which occurred over a period of approximately a year at work and amounted to harassment of Colleague A, a breach of boundaries and caused her upset and psychological harm.

The panel considered that your conduct, in relation to the totality of charge 1(a) to 1(f) was clearly unacceptable and amounted to a breach of fundamental tenets of the profession.

Therefore, the panel found that your conduct, in relation to the totality of charges 1(a) to 1(e), taken together, constituted serious misconduct.

Charges 1(a) to 1(f) individually

Charges 1(a)(i) and 1(a)(ii)

1. Intimidated and/or harassed Colleague A, in that;
 - a. Via Systm1 you sent inappropriate messages
 - i. On 13th March 2021 you wrote '*you look even more prettier tonight*'
 - ii. On 11 April 2021 you wrote '*you look absolutely gorgeous tonight*'

The panel considered that your conduct in sending Colleague A inappropriate messages was unwise, unprofessional and inappropriate, and noted that you had admitted the charge.

The panel noted that, although you admitted that your actions amounted to intimidation and/or harassment, you stated that it had never been your intention to do cause this intimidation or harassment, and that you had only meant to compliment Colleague A. The panel considered that this assertion was plausible and feasible and noted that your actions in sending these messages were at the lower end of seriousness.

The panel was not satisfied that fellow registrants would consider that your behaviour in sending the above inappropriate messages to be deplorable, given the plausibility of your assertion that, although you admitted the charge, you had not intended to intimidate or harass Colleague A, and the consideration that the conduct was at the lower end of the scale of seriousness.

The panel was satisfied that your conduct had been unwise and unprofessional, but were not persuaded that it would be considered deplorable by fellow professionals.

In the specific circumstances, the panel did not consider that your conduct, as found in charge 1(a)(i) and 1(a)(ii) amounted to serious misconduct.

Charge 1(b)

1. Intimidated and/or harassed Colleague A, in that;
 - b. On an unknown date in August 2021 said 'I bet you cannot wait until Summer arrives so that you can wear your sexy clothes'

When considering this charge the panel took account of the Code, in particular:

'20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

The panel considered that your conduct was unacceptable and was clearly inappropriate and fell sufficiently short of the standards reasonably expected of a registrant as to meet the threshold of serious misconduct.

Charge 1(b) by reason of Charge 2

The panel further noted that this charge was also found to be of a sexual nature by reason of charge 2.

The panel considered that using the word 'sexy' to describe a colleague's clothing inherently amounts to sexualised language and is unacceptable in the workplace.

The panel bore in mind that it had *not* found that your conduct in relation to this charge had been sexually motivated.

However, the panel again determined that your conduct had been unprofessional, unacceptable and inappropriate and fell sufficiently short of the standards reasonably expected of a registrant as to meet the threshold of serious misconduct.

Charge 1(c)

1. Intimidated and/or harassed Colleague A, in that;

c. On 1 January 2022 you gifted Colleague A, a pair of pandora earrings

The panel considered that your conduct in gifting Colleague A a pair of Pandora earrings, as a belated birthday present, was clearly unwelcome, but noted your assertion that you had not intended to intimidate or harass Colleague A was plausible.

Further, the panel considered that fellow professionals might view your act in giving Colleague A a belated birthday present to be unwise and inappropriate but would not consider this act in itself to be deplorable.

However, the panel was mindful that you had admitted that this amounted to intimidation and harassment, albeit it with the explanation that you had not intended to intimidate or harass Colleague A at the time of the events in question, and that you were remorseful.

Further, the panel considered that the act of giving a gift of a pair of earrings was at the lower end of the scale of seriousness in terms of intimidation or harassment, and accepted that you had not gifted her the earrings to consciously harass her.

In the circumstances the panel considered that your admitted actions in relation to charge 1(c) did not constitute serious misconduct.

Charge 1(d) and 1(e)

1. Intimidated and/or harassed Colleague A, in that;

d. You massaged Colleague A during an examination when they were seen as a patient on;

i. 21 March 2022

- ii. 28 August 2021

- e. Colleague A did not consent and/or declined massages on one or more occasions on the above dates

When considering these charges, the panel took account of the Code, in particular:

1.1 'treat people with kindness, respect and compassion

1.2 avoid making assumptions and recognise diversity and individual choice

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

The panel considered that your actions in massaging Colleague A during examinations, whilst Colleague A did not consent and/or declined the massage, was clearly unacceptable.

The panel found that your actions, in relation the charge 1(d) and 1(e) did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

However, the panel did note your evidence in which you stated that you had never intended to harass or intimidate Colleague A. This panel considered that this was plausible and accepted this assertion. The panel noted Colleague A's response when asked about her perception of the massage that she said that she did not consider it to be sexual. Indeed, in her oral evidence, she expressly stated that she had never considered the massage to be sexual.

The panel was also mindful of its finding that there was no sexual motivation in relation to this conduct.

The panel also noted that the NMC had not alleged that you were dishonest.

The panel further took account of your assertion that you had hoped to help Colleague A by treating her with traditional Filipino 'hilot' massage, which it again considered to be plausible, given the evidence it had heard which indicated that Colleague A had '*complained of body aches*'. It also noted that Colleague A, in her oral evidence, had accepted that you had massaged her during an examination with the aim of helping her in that you believed it would relieve stress and strain, and that you '*were not doing it in a sexual way*'.

The panel also noted your assertion that you had not intended to ignore matters of consent, and should have gained Colleague A's explicit informed consent, and had apologised.

Nonetheless, although the panel accepted that you had not intended to harass or intimidate Colleague A, and noted your explanation for having massaged Colleague A during an examination, it considered that the simple fact that you had admitted to massaging Colleague A during an examination, when she did not consent and/or declined, must amount to serious misconduct. The panel noted that the 'hilot' massage was not a treatment within your clinical scope of practice and one for which you accepted you held no formal qualification.

Charge 1(f)

1. Intimidated and/or harassed Colleague A, in that;
 - f. On 22 March 2022 requested for Colleague A to tell Colleague B, that Colleague A would drive you to your home visits.

The panel noted that, although you had admitted this charge and, as such, admitted that your conduct amounted to intimidation and/or harassment, it was cognisant of your assertion that it had not been your intention to harass or intimate Colleague A.

Further, the panel noted that it had found that your explanation that you wanted Colleague A to get some fresh air and you were concerned for her welfare, to be plausible.

The panel also noted that the NMC had not alleged that you were dishonest and could not be believed.

The panel considered that the act of requesting for Colleague A to tell Colleague B, that Colleague A would drive you to your home visits, fell at the lower end of the scale of seriousness in terms of intimidated and/or harassment.

The panel further reminded itself that, although you had admitted that these actions constituted intimidation and/or harassment, you had emphasised that this had never been your intention at the time of the events and that you had Colleague A's welfare in mind.

The panel bore the specific circumstances of this charge in mind, and your explanation that, although you admitted to your actions in requesting for Colleague A to tell Colleague B, that Colleague A would drive you to your home visits, amounted to intimidation and/or harassment, this had not been your intention at the time of the events.

The panel noted your explanation that, although you now see how your actions could have harassed Colleague A, it had not been your intention to harass Colleague A at the time. It found this explanation to be both feasible and plausible. The panel further reminded itself that no sexual motivation had been found.

In the circumstances, the panel found that, on its own and individually, your conduct in relation to this charge did not amount to serious misconduct.

Charges 1(a) to 1(f) collectively

The panel considered that there had been a cumulative effect to charges 1(a) to 1(f) and concluded that your conduct had followed a pattern which was unprofessional, unwise and inappropriate.

The panel also noted that you had admitted that your actions in relation to these charges had amounted to intimidation and/or harassment, albeit with the proviso that this had not been your intention at the time of the events.

Charge 3(b)

3. Did not ask Colleague A's consent to place a stethoscope under their clothing to listen to their chest on;

b. 28 August 2021

The panel considered that, best practice dictated that you should have explicitly asked to place a stethoscope under Colleague A's clothing and noted that Colleague A was made to feel uncomfortable.

The panel considered that this was a professional lapse and negligent.

The panel noted serious misconduct must be more than mere negligence and considered that your failure to ask for explicit consent to place the stethoscope under Colleague A's clothing was a clinical failure rather than misconduct.

The panel further considered your representative's submission that it would have been reasonably clear to a patient that the act of using a stethoscope would involve placing it under clothing to be plausible.

The panel also considered that fellow professionals would not consider this professional lapse to be deplorable.

The panel concluded that, on its own, your conduct in relation to this charge amounted to a professional lapse, but did not constitute serious misconduct.

Charge 4

4. Did not offer Colleague A the option of having a chaperone when assessing them on:

- a. 21 March 2022
- b. 28 August 2021

The panel noted the NHS IC24 guidance document in relation to examinations.

The panel noted that you had accepted that you should have offered Colleague A a chaperone and referenced *NHS IC24 Chaperone policy version 2.5* (Chaperone policy).

However, the panel also noted the Chaperone policy specifically referred to intimate examinations. It found that your assessments of Colleague A on 21 March 2022 and 28 August 2021 did not constitute intimate examinations and were instead examinations of breathing due to Colleague A's flu-like symptoms.

Further, the panel was cognisant that there had been a poster on the wall of the assessment room in which the examination took place which set out chaperone policy and which indicated to Colleague A that a chaperone could always be asked for. It further noted that Colleague A, given her role, was fully aware of the chaperone policy and arrangements.

The panel also bore in mind that you had accepted that your conduct in relation to this charge had fallen short of appropriate standards.

However, the panel determined that your actions in not offering Colleague A a chaperone were not so serious that a fellow practitioner would regard them as deplorable.

In the circumstances, the panel found that your actions in not offering Colleague A the option of having a chaperone when assessing her on 21 March 2022 and on 28 August 2021 did not constitute serious misconduct.

Accordingly, the panel found that your conduct in relation to charges 1(b), 1(b) by reason of 2, 1(d) and 1(e) to be a departure from the Code, as set out in the paragraphs above, and amounted to serious misconduct.

Decision and reasons on impairment

Having found that the facts found proved in relation to charges 1(b), 1(b) by reason of 2, 1(d) and 1(e) amounted to serious misconduct, the panel went on to consider whether, as a result of that misconduct, your fitness to practise was currently impaired.

The panel bore in mind that its task was to consider your current fitness to practise. This involved necessarily looking at your past misconduct and also considering what, if anything you had done to remediate the misconduct and any insight gained.

The panel reminded itself that at this stage of proceedings, there is no burden or standard of proof, and the decision of impairment is a matter for the panel's judgement alone.

With regard to impairment, the panel had regard to the case of *CHRE v NMC and Grant* [2011] EWHC 927 where Dame Janet Smith's observations in the Fifth Report of the

Shipman Inquiry were endorsed. Dame Janet Smith suggested that questions of impairment could be considered in the light of the following considerations:

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

- a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d. [...].'*

The panel also noted paragraph 76 of *Grant* in which Dame Janet Smith stated the following:

'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.'

The panel also considered the principles in the case of *Cohen v General Medical Council* [2008] EWHC 581 (Admin):

'It must be highly relevant in determining if a doctor's fitness to practice is impaired that first his or her conduct which led to the charge is easily remediable, second that it has been remedied; and, third, that it is highly unlikely to be repeated.'

In terms of insight the panel considered *Sawati v GMC* [2022] EWHC 283 (Admin) which defined insight as *'an acknowledgment or appreciation of failings'*. Insight (or lack of it) applies whatever the risk of repetition.

When determining whether the facts found proved amount to impairment, the panel had regard to the terms of the Code, in particular FTP 15(a):

'Examples of conduct which may not be possible to address, and where steps such as training courses or supervision at work are unlikely to address the concerns include:

[...]

- *incidents of harassment, including sexual harassment, and other forms of sexual misconduct, whether it occurs inside or outside professional practice'*

In coming to its decision, the panel also had regard to the Fitness to Practise Library, updated on 27 February 2024, which states:

'The question that will help decide whether a professional's fitness to practise is impaired is:

"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"

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

Having found that charges 1(b), 1(b) by reason of 2, 1(d), and 1(e) proved amounted to serious misconduct, the panel went on to consider whether, as a result of that serious misconduct, your fitness to practise is currently impaired.

The panel noted that you had admitted that your misconduct had involved intimidation and harassment.

It also noted that one of the charges found proved involved sexualised language, namely the charge that you stated *'I bet you cannot wait until Summer arrives so that you can wear your sexy clothes'*. However, it also noted that none of your actions or comments had been found to be sexually motivated.

The panel bore in mind the Code, in particular FTP 15(a), and noted that it can be difficult to remediate charges related to intimidation and/or harassment. However, it acknowledged that the nature of the intimidation and harassment proven was very much at the lower end of the scale of seriousness and accepted that it had not been intended at the time of the events. Further, it considered that whilst harassment is difficult to remediate it is not impossible, and a fully informed member of the public familiar with all of the particular facts of the case, would understand that every case turns on its own particular facts.

In the circumstances, the panel considered that your misconduct, although serious, was remediable.

The panel bore in mind that you had apologised for your actions, expressed profound remorse, admitted that your conduct amounted to harassment, and that you demonstrated very significant insight in your reflections as well as during your oral evidence at the hearing.

It further noted that you had undergone significant remediation in the form of providing very significant written reflections and had put great effort into reflecting on the

inappropriateness of your conduct. It particularly noted the following from your reflection dated 17 June 2024:

'When I reflected on the events, I realised I did not consider about cultural differences, then as I was doing research and reading the NMC code of conduct which included about consent, journals from RCN, NMC Unison and other organizations about crossing boundaries and [...] harassment at work, I then realized that even my intention was pure it was still a form of [...] harassment as it affected her feelings and well-being. I felt really guilty and remorseful with my actions that I wanted to apologize again and again to my colleague, to my manager that I put the department in chaos as my colleague went sick because of me and also, they have to find cover when my shifts were cancelled. I also wanted to apologize to NMC as I breached the code to promote professionalism and trust, I know I have already committed that big mistake. I am also aware that kind of behaviour towards my colleague can be a threat to the public, friends and colleagues and I don't want that to repeated again. I know it already happened but still I wanted to make it right and I do not want that to be happening again.

I know I lack awareness and very little in depth knowledge and to understand fully, I must do trainings [sic] which I already started. I have to understand deeper and wider and absorbed them by heart.'

The panel also noted the following from your reflection statement 'acknowledgement of events', dated 29 September 2025:

'Acknowledgement of Events

I fully acknowledge that during my time working with IC24, my actions towards a colleague were inappropriate, unprofessional, and in breach of the NMC Code. Specifically, I:

- *Gave my colleague massages without her consent.*

- *Made personal comments about her appearance and sent inappropriate messages.*
- *Gave her a personal gift in the workplace.*
- *Suggested that she should drive on visits, which may have made her feel pressured.*

Although my intentions were not sexual, I now accept that my behaviour constituted a serious crossing of professional boundaries and caused harm.

My actions had a significant negative impact. My colleague felt uncomfortable, intimidated, and distressed, and her wellbeing was affected. This also led to disruption within the team, as cover had to be arranged when she went off sick and when my shifts were cancelled.

Impact on others

I recognise that my conduct undermined professionalism and trust in the workplace and had the potential to damage public confidence in nursing. I sincerely apologise to my colleague, to my managers, to the organisation, and to the NMC for my failings.

[...]

Future Practice and Commitment

I am committed to ensuring that my conduct will never place colleagues, patients, or the public at risk again. Moving forward, I will:

- *Always obtain clear consent before any physical contact and never perform treatments outside of professional boundaries.*
- *Communicate with colleagues and patients respectfully and professionally, avoiding personal comments or informal terms.*
- *Avoid giving personal gifts in the workplace.*
- *Maintain strict adherence to the NMC Code and the standards of professionalism expected of a nurse.*
- *Continue engaging in professional development, particularly in areas of ethics, professionalism, and safeguarding.*

Closing Statement

I am deeply remorseful for my actions and the harm they caused. I know I cannot undo the impact of my behaviour, but I am determined to prove that I have learned from this experience and have changed.

I am committed to rebuilding trust and demonstrating, through my conduct, that I can be a safe, professional, and trustworthy nurse. I will continue to uphold the values of the nursing profession and ensure that such behaviour is never repeated.'

The panel also bore in mind that you continue to work as an emergency work practitioner at Urgent Care Centres, Walk-in Centres, and GP out of hours centres and have received very positive testimonials from your colleagues.

Further, the panel took account of your focused undertaking of, and reflections upon, relevant training courses which included the following:

- Sexual Harassment Training for Employees, dated 8 June 2023;
- Probity and Ethics Course, dated 9 July 2023;
- Professional Boundaries in Practice, dated 16 May 2024;
- Consent for Health and Social Care, 10 June 2024.

The panel acknowledged that one of the charges, namely charge 1(b), which had amounted to serious misconduct, was sexual in nature given the sexualised language used. However, it considered that whilst stating *'I bet you cannot wait until Summer arrives so that you can wear your sexy clothes'* was clearly inappropriate and unprofessional, it was very much on the lower end of the scale of seriousness as far as misconduct involving a sexual nature was concerned. The panel was also mindful that this misconduct was *not* found to be sexually motivated.

The panel acknowledged the emotional impact of your misconduct upon Colleague A and was also cognisant of your remorse and numerous apologies.

Further, the panel bore in mind that your misconduct related to a junior colleague in their workplaces which had caused her to feel unsettled at work, through your inappropriate messages, comments and the acts of administering traditional Filipino massage.

The panel considered that your remediation, your significant reflections and your oral evidence at the hearing had focused on the effect of your inappropriate conduct on Colleague A.

The panel considered that your written remediation and oral evidence at the hearing had demonstrated significant insight into the effect that your conduct had on Colleague A, and the effect that it had on the public trust in the profession

Given the amount of time that had elapsed since the last incident, the panel recognised that you had already undertaken a significant amount of personal development work to address your professional practice and interactions with colleagues. It was satisfied that you had already undertaken significant personal and professional reflection, research and training relevant to understanding professional boundaries that a panel might otherwise have directed you to undertake.

The panel accepted that, although you had admitted and accepted that the effect of your conduct had been to intimidate and harass Colleague A, it also accepted that this had not been your intention at the time of the events in question. It also accepted that you had behaved in the way you did out of misplaced friendliness.

The panel considered that your misconduct, although serious and difficult to remediate, had been remediated given the particular and distinct circumstances of the case.

The panel considered of the extensive evidence of insight that you had provided, which included your oral evidence, significant and insightful written reflections and attendance at courses relating to harassment, probity and ethics, professional boundaries, and consent.

The panel was also mindful of the evidence your extensive reading of appropriate articles which examined the appropriateness of 'gift-giving' in the workplaces and the issues that might arise, as well as articles relating to 'unwanted touch' and 'the consequences of unwanted massage in the workplace'. The panel also noted your extensive knowledge of informed consent as a result of your efforts to strengthen your practice.

The panel concluded that the reflective material you produced demonstrated a deep and fundamental understanding of the significance of your actions and sufficient insight into your misconduct. In the panel's assessment you recognised the impact that your actions could have on public confidence in the profession.

Further, the panel considered that the remorse you expressed was genuine and that you had now developed effective insight into the inappropriateness of your conduct.

The panel also noted your full engagement with the regulatory process and your curtailment of your social media use and your ability to recognise your conduct as having been inappropriate, unwise and unprofessional.

The panel considered the context of your misconduct, and determined your behaviour arose during a unique set of background circumstances, namely your misjudged and inappropriate feelings of friendship towards Colleague A, that were highly unlikely to be repeated. It further noted that it had received no evidence of deep-seated attitudinal issues.

The panel also bore in mind the numerous supportive testimonial evidence submitted by colleagues on your behalf.

Your contrition was very apparent, and the panel noted not only that remorse, but also the proactive efforts you have made since to strengthen your professional practice and develop your thinking more broadly as an individual. The panel has taken into account your good character and reputation since joining the register as a qualified nurse in the UK in 2001, and since the index events in question.

The panel considered that you had gone beyond what could reasonably be expected to demonstrate insight, undertake further training, express remorse and remediate your misconduct.

The panel concluded that you had done all you could to demonstrate remediation and insight. In the circumstances, the panel concluded that there was little risk of repetition of your misconduct and there were no public protection concerns

Nevertheless, the panel considered however that your misconduct engaged the overarching objectives of promoting and maintaining public confidence in the nursing profession and of promoting and maintaining proper professional standards and conduct for members of the profession.

The panel also considered that your admission of harassment and/or intimidation, albeit at the lower end of the scale, with the plausible explanation that this had not been your intention, had breached a fundamental tenet and brought the profession into disrepute.

The panel found that you had remediated and shown insight into your misconduct and that you did not pose a future risk to colleagues, patients or the public. However, it considered that as your conduct fell far below the standard expected of a nursing practitioner, public confidence in the nursing profession would be undermined, and there would be a failure to uphold professional standards, if a finding of impairment were not made.

Accordingly, the panel determined that your fitness to practise is currently impaired by reason of misconduct, singularly on the public interest, in order to uphold professional standards.

Sanction

Having found your fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel has taken into account the background to the case and the evidence received during the earlier stages of the hearing. All this information is relevant to reaching a decision on what action, if any, it should take with regard to your registration.

Submissions on sanction

Mr Page submitted that conditions would be neither appropriate nor suitable as the proven facts related to behaviour and attitudinal issues.

Mr Page also submitted that a suspension order might be appropriate where a panel considers that misconduct is not fundamentally incompatible with continued registration, but where the seriousness of the misconduct requires temporary removal from the register.

Mr Page emphasised that Colleague A was vulnerable, and, in the circumstances, suspension would not be appropriate given this factor and the serious misconduct involved in this case.

Mr Page submitted that imposing a striking off order was likely to be appropriate where a registrant's misconduct was fundamentally incompatible with continued registration. He stated that your misconduct was fundamentally incompatible with your continued registration and that a striking off order was necessary to maintain standards.

Mr Page stated that an aggravating feature of this case was that the incidents had taken place from March 2021 to March 2022, and, as such demonstrated a pattern of behaviour and resulted in Colleague A's physical harm. He stated that deep-seated attitudinal issues might be difficult to address and asked whether there might be a risk of repetition.

However, Mr Page also referenced mitigating factors such as cultural differences between you and Colleague A and noted that there had been no further concerns since the incidents occurred.

Mr Page concluded by emphasising that your misconduct related to fundamental concerns relating to professional boundaries and that it was necessary to maintain public confidence in the profession and to send a clear message. Therefore, he submitted that a striking order was both proportionate and appropriate.

Ms Herbert submitted that the NMC strike off bid might have been proportionate had sexual motivation been found and if the panel had disbelieved you, but that this was not the case here.

Ms Herbert stated that the NMC speak about the need to be proportionate but the bid to strike you off was rather a punishment and not proportionate or objective. She stated that the appropriate sanction in this case was the imposition of a caution order.

Ms Herbert submitted that there had been both aggravating and mitigating features in this case. She stated that harassment was serious but, individually, your actions of giving gifts to a colleague, and asking your colleague to be a driver, was not so serious of itself and that this was not the type of harassment that might not be possible to address.

Ms Herbert submitted that it was possible to imagine other serious harassment cases, but not all forms of harassment are the same, and the panel was required to consider the seriousness of the harassment in this case. She stated that the deep tissue massage was the most serious feature of this case but asked that the panel remember that it had already accepted that it was a traditional Filipino massage and the intention of the massage had been to help Colleague A. Further, she stated that Colleague A had accepted that she knew that your aim was to help her.

Ms Herbert submitted that the intention behind your behaviour was not necessarily to harass or intimidate, and that the level of any harassment was towards the lower end of seriousness. She also asked that the panel consider whether you had intended to harass Colleague A or compliment her, and to be mindful that even though harassment had already been admitted, not all harassment is the same.

Ms Herbert stated that there was good mitigation in this case and emphasised that you had no previous disciplinary findings, had made early admissions and demonstrated remorse. Further, she submitted that there was no lack of insight and asked that the panel remember that it had made no findings of sexual motivation and no findings of sexual misconduct. She also stated that, given your full insight and remorse, there was no risk of harm to the public in this case.

Ms Herbert submitted that you had put genuine time and effort into gaining appropriate insight and had cooperated with regulatory proceedings. She stated that you acknowledged the damage to public confidence and admitted that you fell short of appropriate standards.

Ms Herbert submitted that a caution order was appropriate in this case and would mark the seriousness of your misconduct. She stated that conditions would be difficult to formulate and also asserted that suspension was disproportionate, but that if you were to be suspended it should be for the shortest possible period. Ms Herbert also emphasised

that a strike off order would be disproportionate and not take account of all of the circumstances of this case.

Decision and reasons on sanction

The panel accepted the advice of the legal assessor.

The decision as to the appropriate sanction to impose, if any, is a matter for this panel exercising its own judgement. There is no burden or standard of proof at this stage. It recognises that every case will necessarily turn on its own facts.

The panel has borne in mind that in deciding what sanction to impose, it should consider all the sanctions available, starting with the least restrictive.

Throughout its deliberations, the panel has been proportionate, balancing your interests with the public interest.

The panel has taken into account its earlier determinations on the facts and on impairment, the SG and the NMC Code, the submissions of Mr Page on behalf of the NMC, and Ms Herbert's submissions on your behalf.

The panel first considered the aggravating factors:

- Colleague A was a junior colleague and the onus was on you to recognise the existence of a power imbalance and take that into consideration during your interactions with her;
- Your behaviour caused Colleague A to feel uncomfortable and had caused her emotional distress and some physical discomfort.

The panel then considered the mitigating factors in relation to your case:

- The panel found you had made early admissions to many charges and continued to be remorseful since the incident;
- The panel took your cultural background into consideration and experience as a practitioner of Filipino traditional massage;
- The panel took account of your full insight and significant remorse;
- You have undertaken significant training and provided substantial reflections stating you did not intend to cause offence, intimidate or harass Colleague A;
- Your admitted harassment had not been intentional and was at the lower end of the scale of seriousness;
- The panel found no evidence of harmful deep-seated personality or attitudinal issues;
- The panel accepted that your actions in administering traditional Filipino massage therapy to Colleague A had been well intentioned, as Colleague A had acknowledged in oral evidence, albeit inappropriate in a work setting;
- The panel received no evidence of repetition;
- The panel found that there was little risk of repetition;
- You have fully engaged with the regulatory process;
- The panel received evidence that you are highly regarded by your colleagues and current management team.

The panel considered that on balance the mitigating factors in this case were of greater weight than the aggravating factors.

The panel considered each sanction in ascending order of seriousness starting with the least restrictive.

The panel first considered whether to conclude the case by taking no further action.

The panel determined that to take no further action would be inappropriate. The panel did not consider that the circumstances in this case would justify a finding of no further action.

It would not be sufficient, proportionate or in the public interest to conclude the case by taking no action.

The panel then considered whether a caution order would be appropriate in the circumstances.

The panel had regard to the SG, in particular:

'A caution order is only appropriate if the Fitness to Practise Committee has decided there's no risk to the public or to patients requiring the nurse, midwife or nursing associate's practice to be restricted, meaning the case is at the lower end of the spectrum of impaired fitness to practise, however the Fitness to Practise committee wants to mark that the behaviour was unacceptable and must not happen again.'

'Because a caution order doesn't affect a nurse, midwife or nursing associate's right to practise, the Committee will always need to ask itself if its decision about the nurse, midwife or nursing associate's fitness to practise indicated any risk to patient safety.'

The panel found there was no public protection risk in this case. In particular it had found that you had fully remediated and demonstrated full insight. The panel found that you had done everything that could be expected of you to fully remediate since the incident, made early admissions, had displayed remorse and had provided positive testimonials on your subsequent practice.

In the circumstances, the panel determined that a caution order was appropriate and proportionate to protect the wider public interest by marking the seriousness of the misconduct and upholding proper standards.

The panel considered whether it would be appropriate to impose conditions on your registration. It bore in mind that any conditions imposed should be appropriate, proportionate, workable and measurable.

The panel also noted that your misconduct did not involve clinical competence or aspects readily addressed by conditions, and there is no ongoing risk requiring restriction on practice. Therefore, a conditions of practice order was considered to be inappropriate and not workable or measurable.

The panel further determined that it was not necessary to direct a review of your case as it considered that you had fully remediated and that no ongoing risks to the public were identified.

The panel further considered a suspension order and concluded it would be disproportionate and inappropriate. You work in an out of hours setting as an advanced nurse practitioner and the panel noted references from your current colleagues and manager regarding your effectiveness in this role. There is no current risk to patient safety, and the temporary removal from the register would go beyond what is necessary to mark the public interest. The panel found that a suspension order would be disproportionate and disruptive to patient wellbeing and not in the public interest.

The panel determined that a striking off order would be disproportionate in the circumstances.

The panel noted that you had demonstrated comprehensive insight, substantial remorse and strengthened practice.

It further noted that you had fully engaged with the regulatory process from an early stage.

The panel considered that imposing a striking off order would be wholly disproportionate given that it had already found that you had fully remediated your misconduct and had demonstrated full insight and remorse.

The panel determined that a reasonable and fully informed member of the public, familiar with all the circumstances of the case, would regard imposing a caution order on your registration for a period of two years as a sufficient and appropriate marker of the gravity of this particular case.

In addition, the imposition of a caution order for a period of two years represented an appropriate balance between marking the seriousness of your misconduct and providing an opportunity for you to return to practice, recognising that you are an otherwise highly regarded nurse whose misconduct was entirely out of character.

Accordingly, the panel determined to impose a caution order on your registration for a period of two years.

This will be confirmed to you in writing.

That concludes this determination.

