

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

**Substantive Hearing
Monday 22 May 2023 – Monday 5 June 2023**

Virtual Hearing

Name of registrant:	Mohamed Sesay
NMC PIN:	01A0235E
Part(s) of the register:	Registered Nurse Adult Nurse – February 2008
Relevant Location:	London
Type of case:	Misconduct
Panel members:	Avril O'Meara (Chair, Lay member) Susan Tokley (Registrant member) Richard Youds (Lay member)
Legal Assessor:	Tracy Ayling
Hearings Coordinator:	Chantel Akintunde
Nursing and Midwifery Council:	Represented by Leonard Wigg, Case Presenter
Mr Sesay:	Present and unrepresented at the hearing (special counsel Manus Egan of Thomas More Chambers instructed on Mr Sesay's behalf for the purpose of cross-examining vulnerable witnesses - 23 May to 24 May 2023 and 26 May 2023)
No case to answer	Charges 2, 4 and 5
Facts proved:	Charges 1(a), 1(b), 1(c)(i), 1(c)(ii), 1(e), 3 and 9
Facts not proved:	Charges 1(d), 6, 7 and 8
Fitness to practise:	Impaired

Sanction: **Conditions of practice order (12 months)**

Interim order: **Conditions of practice order (18 months)**

Details of charge (as amended)

That you, a registered nurse:

1. *Between 1 November 2017 and August 2018 on 'Ward One':*
 - a) *On one or more occasions stroked Colleague A's arm.*
 - b) *On one occasion, touched Colleague A's ear.*
 - c) *On one occasion:*
 - i) *Touched Colleague A inappropriately.*
 - ii) *After being told by Colleague A not to touch her, you said 'oh you should be friendlier' or words to that effect.*
 - d) *On one occasion you said to Colleague A 'what do you mean my thing does not work, look at me, how can you say my thing does not work' or words to that effect.*
 - e) *On one occasion you attempted to sit too close to Colleague A by wheeling your chair close to her.*
2. *On one or more occasions on 'Ward One', you brushed your arm against Colleague B's breast.*
3. *On one or more occasions on 'Ward One', you would attempt to sit too close to Colleague C.*
4. *Between January 2018 and April 2018 on 'Ward One':*
 - a) *On one occasion you stood too close to Colleague D whilst she was seated.*
 - b) *On one occasion, you touched Colleague D's knee.*
5. *On one or more unknown dates, failed to respect the professional and/or personal boundaries of colleagues on 'Ward Two'.*
6. *On an unknown date, on one occasion on 'Ward One' you invaded the personal space of Colleague E.*

7. *Your conduct in one or more of Charges 1a – e, 2, 3, 4a & b, and 6 was sexually motivated in that you sought sexual gratification.*

8. *By your conduct at any one or more of Charges 1 – 4 and 6 above, you sexually harassed your colleagues in that:*

a) It was unwanted; and

b) It was sexual in nature; and

c) It had the purpose or effect of;

i. violating your colleagues' dignity; or

ii. creating an intimidating, hostile, degrading, humiliating or offensive environment for your colleagues.

9. *Your conduct in Charges 1a – e, 2, 3, 4a & b and 6, failed to respect the professional and/or personal boundaries of colleagues on Ward One.*

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

At the outset of the hearing, Mr Wigg made a request that this hearing be held in private in its entirety on the basis that this case involves allegations of a sexual nature. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Wigg noted that two of the witnesses scheduled to attend this hearing are the complainants to some of the allegations in this case. He submitted that it would therefore be appropriate to protect their identities during the hearing should there be any observers present.

You indicated that you had no objections to the NMC's application.

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

The panel determined that the oral evidence of Colleague A and Colleague E will be held in private to protect their identities. The remainder of the hearing is to be held in public, with the direction from the panel that any reference to the names of the individuals involved in this case, whether they are witnesses or not, be anonymised whilst in public session by use of appropriate identification keys (e.g. Colleague A, Colleague B etc).

Decision and reasons on application to allow special measures for the hearing

The panel heard an application made by Mr Wigg under Rule 23(4) to allow special counsel on your behalf to cross-examine two of the witnesses the NMC intends to call to give oral evidence during this hearing.

Rule 23(4) states:

(4) Where—

(a) the allegation against a registrant is sexual in nature;

(b) a witness is the alleged victim; and

(c) the registrant is not represented,

she shall not be allowed to cross-examine the witness directly in person.

Mr Wigg submitted that the NMC are seeking to rely on the evidence of Colleague A and Colleague E in the form of live testimony. He submitted that both witnesses are the complainants to the allegations that form charges 1 and 6, which are sexual in nature, and these witnesses are therefore vulnerable under Rule 23(1)(e).

Mr Wigg submitted that, as per Rule 23(4), you are not permitted to cross-examine these vulnerable witnesses yourself. However, he noted that you have not arranged for legal representation on your behalf for this hearing. As a result, Mr Wigg submitted that

the NMC have taken steps to secure special counsel to cross-examine these witnesses on your behalf.

You indicated that you did not oppose the NMC's application.

The panel heard and accepted the advice of the legal assessor who advised that under Rule 23, the panel may adopt measures it considers necessary to enable it to receive evidence from vulnerable witnesses.

The panel were satisfied that the criteria set out under Rule 23 had been met in this instance. Given the sexual nature of the case and the vulnerability of Colleague A and Colleague E as the alleged victims of some of the allegations, the panel decided to accept the NMC's application to allow special counsel on your behalf to cross-examine these two witnesses.

Decision and reasons on application to admit hearsay evidence

The panel heard an application made by Mr Wigg under Rule 31 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended (the Rules) to allow the witness statements of Colleague C and Colleague G into evidence, along with exhibits RG3, RG4a, RG5, RG6, RG7, RG8, SP1 and the hearsay evidence of Colleague H.

Mr Wigg submitted that the NMC has made several attempts to secure the attendance of Colleague C and Colleague G, but to no avail. He submitted that Colleague C has indicated that she is unable to participate in the hearing due to health issues, and that Colleague G has been non-responsive to communications from the NMC thereby disengaging from these proceedings.

Mr Wigg noted that Colleague G's witness statement is unsigned. He submitted that several attempts have been made to obtain Colleague G's signature, but to no avail.

Mr Wigg submitted that exhibits RG3, RG4a, RG5, RG6, RG7, RG8 and SP1 are formal interview notes between Colleague F and several individuals (Colleague B, Colleague

C, Colleague D, Colleague G and you) obtained during the Trust's local investigation of the allegations, along with Colleague F's investigation report.

Mr Wigg submitted that the NMC has been unable to obtain witness statements from Colleague B and Colleague D. He submitted that the NMC was unable to locate contact details for Colleague D, and that Colleague B has been unresponsive to communications from the NMC.

Mr Wigg submitted that the hearsay evidence of Colleague H contains a telephone note dated 8 December 2021, along with a follow up email dated 9 December 2021. He submitted that Colleague H was not interviewed by Colleague F as part of the Trust's local investigation. Nevertheless, Mr Wigg submitted that Colleague H was contacted by the NMC and has provided comments which the NMC consider it necessary to include as part of its case. He noted that the NMC has not sought a witness statement from Colleague H.

Mr Wigg referred the panel to the principles outlined in the case of *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin), and also referred to the case of *El-Karout v NMC* [2019] EWHC 28.

Mr Wigg submitted that it is the NMC's position that all the evidence referred to in this application is relevant, it would be fair to admit it, and it will not prejudice you in any way should it be admitted.

Mr Wigg submitted that exhibits RG3, RG4a, RG5, RG6, RG7 and SP1 contain information relating to the charges and, in respect of some of the charges, this is the sole and decisive evidence. He submitted that this evidence can also be tested in cross examination of Colleague F, who has exhibited these interview notes in her witness statement, and who will give oral evidence during these proceedings.

Mr Wigg submitted that exhibit RG8 contains information relating to the charges, gathered by Colleague F during the Trust's local investigation. He submitted that this

evidence can also be tested in cross examination of Colleague F who has exhibited this report in her witness statement.

Mr Wigg submitted that Colleague H's hearsay evidence contains information relating to the charges, and to some extent is also supportive of your case. Whilst you will not have the benefit of cross examining this individual, Mr Wigg submitted that you are entitled to make submissions as to the weight that should be attached to this evidence.

Mr Wiggs submitted that the evidence of Colleague C, Colleague G and Colleague H, along with the exhibits mentioned, all speak to charges 2, 4(a), 4(b) and 5. Therefore, should the panel reject the NMC's application in its entirety, these charges are likely to fall away due to insufficient evidence.

Mr Wigg therefore invited the panel to permit this application in respect of the evidence outlined in his submissions.

You submitted that no good reason has been provided by the NMC for the non-attendance of Colleague C and Colleague G. You also believe that the NMC has not made sufficient attempts to secure the attendance of Colleague B, Colleague D and Colleague H, who have been referenced in the exhibits provided by Colleague F in support of her statement. You indicated that it would be unfair for the NMC to rely on the evidence of such witnesses and individuals as it would not allow you the opportunity to test their evidence through cross examination.

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 gave this application serious consideration and determined the following in respect of each document or statement that the NMC has applied to admit in evidence:

Colleague G's witness statement and Exhibit RG6:

The panel determined that Colleague G's evidence is relevant. This is because it gives supporting information pertaining to charge 5, and it is not the sole and decisive evidence. Colleague G, in both his statement and local interview, comments on your usual demeanour/behaviour within Ward Two, and on your interactions with himself and other colleagues. However, the panel noted that Colleague G's statement is unsigned, meaning that he has not confirmed the contents of his statement to be true to the best of his knowledge. Whilst the panel accept that the NMC has made reasonable attempts to secure Colleague G's attendance, to no avail due to his unresponsiveness, his absence means that his evidence cannot be tested. This in turn puts you at a disadvantage. Taking all this into account, the panel determined that it would be unfair to admit Colleague G's witness statement and exhibit RG6.

Colleague C's witness statement:

The panel determined that Colleague C's evidence is relevant. This is because it gives supporting information pertaining to charges 2, 3, 4(a) and 4(b), and it is not the sole and decisive evidence. Colleague C, in both her statement and local interview, comments on your interaction with herself and with other colleagues. The panel noted that Colleague C has signed her statement, confirming its contents and that of the local interview notes (exhibit RG4a). The panel accepted that the NMC has made reasonable attempts to secure Colleague C's attendance to no avail. It took account of the email from Colleague C dated 19 May 2023 where she states:

'I'm sorry, I will not be attending the hearing. [PRIVATE]...'

Whilst the panel has received no medical evidence from Colleague C to support this, it was nevertheless satisfied with her reason for non-attendance, particularly as Colleague C had been engaging with the NMC during these proceedings. The panel considered that Colleague C's absence would put you at some disadvantage, however, it noted that you will have the opportunity to test her evidence with some of the witnesses scheduled to give oral evidence during this hearing. Taking all this into account, the panel determined that it would be fair to admit Colleague C's witness statement.

Exhibit RG4a and SP1:

The panel noted that these two exhibits are the same as they contain Colleague C's local investigation interview notes, to which Colleague C in her witness statement confirmed its contents to be accurate. The panel decided that this evidence is relevant for the same reasons as provided in relation to Colleague C's witness statement. It also decided that the evidence is capable of being tested in Colleague F's oral evidence. The panel therefore determined that it would be fair to admit these two exhibits into evidence.

Exhibit RG3:

The panel determined that the evidence contained in exhibit RG3 is relevant. This is because it gives supporting information pertaining to charge 2, and it is not the sole and decisive evidence. Colleague B, in her local interview, comments on what she was told by other people with regard to your demeanour/behaviour on the wards when interacting with others. The panel noted that the NMC has been unable to obtain a witness statement from Colleague B to confirm the accuracy of her local interview notes due to her unresponsiveness. As a result, there is no opportunity to test this evidence, which also puts you at a disadvantage. Taking all this into account, the panel determined that it would be unfair to admit exhibit RG3 into evidence.

Exhibit RG5:

The panel determined that the evidence contained in exhibit RG5 is relevant. This is because it gives supporting information pertaining to charges 4(a) and 4(b), and is the sole and decisive evidence. The panel noted that the NMC have been unable to obtain a witness statement from Colleague D to confirm the accuracy of her local interview notes due to being unable to obtain her contact details. As a result, there is no opportunity to test this evidence, which also puts you at a disadvantage. Taking all this into account, the panel determined that it would be unfair to admit exhibit RG5 into evidence.

Exhibit RG7:

The panel noted that this evidence is a note of an interview conducted by Colleague F with you during the Trust's local investigation. This contains your earliest response to the allegations. As both you and Colleague F are available and will be participating in these proceedings in person, the panel are uncertain as to why the NMC have included this as part of their application. Nevertheless, the panel determined that such evidence is relevant and that it would be fair to admit it into evidence.

Exhibit RG8:

The panel determined that the evidence contained in exhibit RG8 is relevant. This is because it speaks to several charges, and is not the sole and decisive evidence to any of the charges. The panel found that the investigation report, which was completed by Colleague F, is capable of being tested against all the witnesses scheduled to give oral evidence during this hearing. However, in light of its decision to not admit Colleague G's witness statement, exhibits RG3, RG5 and RG6, the panel decided that any information regarding Colleague G, Colleague B and Colleague D in the investigation report should be redacted. On this basis, the panel determined that it would then be fair to admit this exhibit into evidence.

Colleague H's hearsay evidence:

The panel determined that the evidence contained in Colleague H's hearsay evidence is relevant. This is because it gives supporting information pertaining to charge 5 and is the sole and decisive evidence. The panel noted that the NMC has been unable to obtain a witness statement from Colleague H. However, the panel has taken into account that Colleague H has emailed the NMC to confirm that the contents of the telephone discussion she had with the NMC are accurate. Whilst there is no opportunity for this evidence to be tested, the panel determined that some of the evidence provided by Colleague H was favourable to you and, in all the circumstances, it would be fair to admit the telephone note and follow up email into evidence.

In summary therefore, for the reasons mentioned above, the panel decided to accept the application in respect of Colleague C's witness statement, exhibits RG4a, RG7 and SP1, the hearsay evidence of Colleague H, and exhibit RG8 (provided that redactions are made in accordance with the panel's decision as specified). The panel determined that it would give what it deemed appropriate weight to this evidence once it has heard and evaluated all the evidence before it.

The panel rejected the application in respect of Colleague G's witness statement and exhibits RG3, RG5 and RG6.

Decision and reasons on application to amend the charge

The panel heard an application made by Mr Wigg on behalf of the NMC, to amend the wording of charges 8(a) to (c) as follows:

8. By your conduct at any one or more of Charges 1 – 4 and 6 above, you sexually harassed your colleagues in that:

*a) It was unwanted; **and***

*b) It was sexual in nature; **and***

c) It had the purpose or effect of;

i. violating your colleagues' dignity; ~~and/or~~

ii. creating an intimidating, hostile, degrading, humiliating or offensive environment for your colleagues.

Mr Wigg submitted that the proposed amendment would provide clarity to the charges, to ensure that it is in line with section 26 of the Equality Act 2010 which defines the word 'sexual harassment'. He noted that the NMC need to prove charges 8(a), 8(b) and either of the subsections under 8(c) in order to prove charge 8 in its entirety.

You indicated that you had no objections to the NMC's application.

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

The panel was of the view that such an amendment, as applied for, was in the interests of justice. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure that it accurately reflects the definition of 'sexual harassment' as per section 26 of the Equality Act, and overall fairness.

Decision and reasons on application to allow special measures for the hearing

On Day 2 of the hearing, the panel heard an application made by Mr Wigg under Rule 23(2) to direct that you be required to switch off your camera during the course of Colleague A's oral evidence.

Mr Wigg submitted that Colleague A has requested that she not see you during the course of her oral evidence. He submitted that, to accommodate this, it would involve you having to keep your camera off for the duration of Colleague A's oral evidence. Mr Wigg submitted that given the limitations of implementing screens during virtual hearings, Colleague A has been advised and has accepted that you would still be able to see her with your camera off as she will be required to keep her camera on in the hearing.

Mr Wigg submitted that given the sexual nature of the case, and Colleague A being the complainant to some of the allegations, Colleague A may be reluctant to give oral evidence if this application is refused. However, if such measures are implemented, Mr Wigg submitted that this would enable Colleague A to give her best evidence during the hearing. He invited the panel to bear this in mind when making its deliberation on this application.

You indicated that you did not oppose the NMC's application.

The panel heard and accepted the advice of the legal assessor who advised that under Rule 23, the panel may adopt measures it considers necessary to enable it to receive evidence from vulnerable witnesses.

The panel took into account the sexual nature of the case and the vulnerability of Colleague A as the alleged victim to some of the allegations. It noted that Colleague A has indicated that she would feel more comfortable if such measures were implemented. The panel determined to accept the NMC's application to direct that you have your camera turned off and remain that way for the duration of Colleague A's oral evidence. The panel considered this to be reasonable and found that this was necessary to aid Colleague A in giving her best evidence.

Decision and reasons on application to offer no evidence

On Day 3 of the hearing, the panel heard an application made by Mr Wigg to offer no evidence in respect of charges 2 and 4 on the grounds that there is no longer a realistic prospect of proving these charges.

Mr Wigg submitted that, following the panel's decision to exclude Colleague G's witness statement and exhibits RG3, RG5 and RG6, it has no further evidence to offer in support of the allegations contained in these two charges. As a result, he submitted that it is the NMC's position not to proceed further with charges 4 and 5.

Mr Wigg therefore invited the panel to remove these two charges.

You indicated that you did not oppose the NMC's application.

The panel heard and accepted the advice of the legal assessor, who referred the panel to the NMC guidance titled '*Offering no evidence – ref DMA-3*'. It was noted that this guidance offers no indication as to the procedure the panel should adhere to in consideration of this application. The legal assessor referred the panel to the judgment in the case of *PSA v NMC & X* [2018] EWHC 70 (Admin) and, in light of this, advised

that the panel should adjourn this application until the NMC has opened its case and it has heard all the evidence the NMC intends to rely on.

The panel carefully considered the NMC guidance on offering no evidence.

The panel considered whether it should direct the NMC to take further steps to secure the attendance of Colleague B and Colleague D in order for their evidence to be relied on in this case in respect of charges 2 and 4. It was satisfied that the NMC had made sufficient efforts to secure these witnesses, but to no avail. It noted that one of the witnesses is not a registered nurse and therefore not obliged to cooperate in these proceedings. Whilst the panel bore in mind its decision to reject the NMC's hearsay application in respect of Colleague B and Colleague D's evidence, it is aware that the NMC will be presenting evidence from other individuals who worked on Ward One during the time of the allegations set out in charges 2 and 4.

Taking the above into account, the panel determined that it was necessary to wait for the NMC to open its case and hear its evidence from witnesses before it considered whether to remove any of the charges.

The panel therefore decided to reject this application.

Decision and reasons on application to admit hearsay evidence

On Day 3 of the hearing, the panel heard an application made by Mr Egan, on your behalf, under Rule 31 of the Rules to admit the hearsay evidence of Colleague M.

Mr Egan submitted that the evidence of Colleague M contains a witness statement from an NMC investigator, an email from the NMC to Colleague M dated 7 July 2021 (exhibit NB/1), and a local investigation interview note between Colleague F and Colleague M dated 13 November 2018 (exhibit NB/2).

Mr Egan submitted that the witness statement formally exhibits and confirms the content of NB/1 and NB/2. He noted that the email in NB/1 details a telephone discussion between the NMC and Colleague M regarding the allegations.

Mr Egan submitted that during Colleague A's cross examination, she stated that Colleague M did witness the earlobe incident set out in charge 1(b) and reported it to Colleague E. However, he submitted that in her witness statement dated 28 January 2022, Colleague A stated that Colleague M 'may' have witnessed the incident. On the other hand, Mr Egan submitted that in exhibit NB/2, Colleague M in her local interview indicated that she did not witness the incident, but rather, Colleague A told her about it which prompted her to report it to Colleague E.

Mr Egan submitted that, given the apparent inconsistencies in Colleague A's evidence, which only arose during the course of her oral evidence (on Day 2 of the hearing), exhibit NB/2 now becomes relevant to this case. He therefore submitted that it would be fair to allow Colleague M's hearsay evidence to be admitted in order for this to be put to Colleague A in cross-examination and test her own evidence in respect of charge 1(b).

In light of his submission, Mr Egan submitted that it would be fair and relevant to admit the hearsay evidence of Colleague M and invited the panel to take this view.

Mr Wigg submitted that the NMC opposes this application.

Mr Wigg submitted that the hearsay evidence of Colleague M falls into the same category as the evidence the panel rejected in the NMC's hearsay application made earlier in these proceedings, namely Colleague G's witness statement and exhibits RG3, RG5 and RG6.

Mr Wigg submitted that Mr Egan intends to use exhibit NB/2 to contradict Colleague A's evidence in respect of the earlobe incident. He submitted that the local interview with Colleague M took place on 13 November 2018, whereas the local interview with Colleague A took place on 20 November 2018. Mr Wigg submitted that any contradictions in Colleague A's account of the earlobe incident can be established

directly with her in cross-examination, without the need to refer to exhibits NB/1 and NB/2.

Mr Wigg submitted that if the panel were to admit Colleague M's hearsay evidence, this would prejudice the NMC's case, particularly as there is no opportunity to test this evidence with Colleague M directly. He submitted that several attempts have been made by the NMC to secure Colleague M's participation in these proceedings, but to no avail.

Mr Wigg therefore submitted that it would be unfair to admit the hearsay evidence of Colleague M and invited the panel to reject the application.

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 gave this application serious consideration. The panel noted that Colleague M is not a witness in this case and it has not received a witness statement to confirm the accuracy of the information contained in exhibits NB/1 and NB/2. The panel accepted that the NMC has made attempts to secure this witness's participation in these proceedings. As a result, there is no opportunity to test this evidence with Colleague M and this puts the NMC at a disadvantage.

The panel determined that the evidence contained in Colleague M's hearsay evidence is relevant. This is because it gives supporting information pertaining to charges 1(b) and 1(c)(i), and relates to the credibility of Colleague A's evidence. However, it is not the sole and decisive evidence in relation to these charges.

During Colleague A's cross-examination, the panel noted that she appeared to change her position as to whether Colleague M witnessed the earlobe incident. However, Colleague M in her local interview notes indicated that she did not witness the incident, but rather she was told of the incident by Colleague A. In light of this discrepancy, the

panel decided it is reasonable and fair for both you and the NMC to explore this further with Colleague A during the course of her oral evidence.

In light of the above, the panel determined that it would be fair to admit Colleague M's hearsay evidence, which contains an NMC investigator's witness statement and exhibits NB/1 and NB/2.

The panel therefore decided to accept this application.

Decision and reasons on application to allow special measures for the hearing

On Day 3 of the hearing, Mr Wigg informed the panel that he would like to extend the Rule 23(2) application for special measures, made earlier on in these proceedings, in respect of Colleague E's oral evidence. This is to direct that you be required to switch off your camera during the course of Colleague E's oral evidence.

Mr Wigg submitted that Colleague E has indicated that she would feel more comfortable if she did not see you during the course of her oral evidence. Mr Wigg submitted that given there is an allegation of a sexual nature in relation to Colleague E, it would be reasonable and proportionate to have you keep your camera off for the duration of Colleague E's oral evidence to enable her to give her best evidence.

You indicated that you did not oppose the NMC's application.

The panel heard and accepted the advice of the legal assessor who advised that under Rule 23, the panel may adopt measures it considers necessary to enable it to receive evidence from vulnerable witnesses.

The panel took into account the allegation of a sexual nature and the vulnerability of Colleague E as the alleged victim to one of the allegations. It noted that Colleague E has indicated that she would feel more comfortable giving evidence if such measures were implemented. The panel determined to accept the NMC's application to direct that you have your camera turned off and remain that way for the duration of Colleague E's

oral evidence. The panel considered this to be reasonable and found that this was necessary to aid Colleague E in giving her best evidence.

Decision and reasons on application to amend the charge

On Day 5 of the hearing, the panel heard an application made by Mr Wigg on behalf of the NMC to amend charge 1 as follows:

*1. Between 1 November 2017 and ~~May~~ **August** 2018 on 'Ward One':*

Mr Wigg submitted that following the oral evidence it heard from the witnesses, and an email dated 22 August 2018 from Colleague A to Colleague E, it has been established that the allegations that form charges 1(a) to (e) occurred between November 2017 to August 2018, rather than May 2018. Therefore, he submitted that the correction to the date will ensure accuracy.

You indicated that you had no objections to the NMC's application.

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

The panel was of the view that such an amendment, as applied for, was in the interest of justice. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure accuracy.

Decision and reasons on application for no case to answer

On Day 5 of the hearing, and following the close of the NMC's case at the facts stage, the panel directed that the NMC make half-time submissions on whether it has presented sufficient evidence in support of any of the charges in this case. This direction was made under Rule 24(7) which states:

(7) Except where all the facts have been admitted and found proved under paragraph (5), at the close of the Council's case, and—

(i) either upon the application of the registrant, or

(ii) of its own volition,

the Committee may hear submissions from the parties as to whether sufficient evidence has been presented to find the facts proved and shall make a determination as to whether the registrant has a case to answer.

Mr Wigg referred the panel to the test and principles outlined in the case of *R v Galbraith* [1981] 1 WLR 103.

Mr Wigg submitted that it is the NMC's position that the evidence it has presented in this case is adequate and supports a case to answer in respect of all the charges, with the exception of charges 2 and 4.

With regard to charges 2 and 4, Mr Wigg submitted that the NMC accepts there is no admissible evidence in support of these charges, and that the evidence remaining is insufficient to find these charges proved.

With regard to charges 1 and 6, Mr Wigg submitted that both the complainants to these charges have provided oral evidence and have attested to their accounts in their witness statements during cross-examination. However, he noted that the only issue the panel may wish to consider is the potential reliability of such evidence. Nevertheless, Mr Wigg submitted that it is the NMC's position that, taken at its highest, the evidence is sufficient in finding the charges proved.

With regard to charge 3, Mr Wigg submitted that although the complainant Colleague C has not given oral evidence to attest to her witness statement, this incident was witnessed by Colleague E who consistently confirmed her account in oral evidence. Mr Wigg submitted that, although it could be argued that this charge falls into the second category of the Galbraith test, taken at its highest, the evidence is indeed sufficient in finding this charge proved.

With regard to charge 5, Mr Wigg submitted that this is supported by the hearsay evidence of a telephone note between the NMC and Colleague H. He submitted that, whilst this evidence cannot be tested due to the unavailability of Colleague H as a witness in these proceedings, the panel nevertheless found the evidence to be admissible as it directly spoke to the charge. Mr Wigg therefore submitted that this charge is capable of being found proved.

With regard to charges 7 to 9, Mr Wigg submitted that if the panel were to find no case to answer in respect of charges 1, 3 and 6, then charges 7 to 9 will automatically fall away. However, he submitted that the panel may draw inferences from the evidence available before it in determining whether these charges are capable of being found proved.

In light of his submissions, Mr Wigg invited the panel to find no case to answer solely in respect of charges 2 and 4.

You told the panel that you agreed with the NMC that there is no case to answer in respect of charges 2 and 4. You stated that you oppose the NMC's submissions that there is a case to answer in respect of charges 1 and 6, 3, 5 and 7 to 9. You believe that the NMC has provided insufficient evidence in support of these charges.

The panel heard and accepted the advice of the legal assessor, who referred to the case of *Galbraith* [1981].

The panel carefully considered the submissions from you and the NMC in determining whether there remains a case to answer in respect of any of the charges, following the documentary evidence it has received and the oral evidence it has heard from witnesses in the NMC's case.

The panel decided on each charge as follows:

Charge 1

The panel determined that there is sufficient evidence in support of this charge at this stage. It has before it the witness statement from Colleague A, exhibit MF1, and the oral evidence it heard from Colleague A, Colleague E and Colleague F.

Charge 6

The panel determined that there is sufficient evidence in support of this charge at this stage. It has before it the witness statement from Colleague E, exhibits RG4B and RG8, and the oral evidence it heard from Colleague E and Colleague F.

Charges 2 and 4

Following its decision to reject the NMC's hearsay application in respect of Colleague G's witness statement and exhibits RG3, RG5 and RG6, the panel determined that there was no evidence remaining in support of these two charges, and therefore no case to answer.

Charge 3

The panel has before it the witness statement from Colleague C, exhibits SP1 and RG8, and the oral evidence it heard from Colleague A, Colleague E and Colleague F. Taking this evidence at its highest, the panel determined that it was not tenuous, but rather, on one possible view of the facts, there is evidence on which the panel could properly come to the conclusion that the allegation can be proved.

Charge 5

The panel has before it the hearsay evidence of Colleague H which consists of a telephone note and follow up email between her and the NMC. Taking this evidence at its highest, the panel determined that it was weak, vague and overall insufficient in support of this charge, and it is satisfied that there is no case to answer.

Charges 7 to 9

The panel determined that there is sufficient evidence in support of these charges at this stage. It has before it the evidence from Colleague A, Colleague C and Colleague E that the alleged behaviour in charges 1, 3 and 6 was unwanted and also (in relation to Colleague A) of a sexual nature. The panel also determined that it is only following consideration of charges 1, 3 and 6 that it is properly placed to determine whether charges 7 to 9 are found proved.

In summary therefore, for the reasons mentioned above, the panel decided that there is no case to answer in respect of charges 2, 4 and 5. However, it was satisfied that there is a case to answer in respect of charges 1, 3, 6 and 7 to 9.

Background

The charges arose whilst you were employed as a Band 6 registered nurse at Whipps Cross Hospital (the Hospital), part of Barts Health NHS Trust (the Trust). It is alleged that whilst working at the Hospital from 2017 to 2018, you breached the professional and personal boundaries of several colleagues by either acting inappropriately towards them or sexually harassing them.

Between November 2017 and August 2018, it is alleged that whilst working on Ward One, you acted inappropriately towards Colleague A in a sexual manner by:

- stroking her arm on one or more occasions;
- touching her earlobe on one occasion;
- touching her inappropriately on one occasion;
- telling her *“oh you should be friendlier”* when she asked you to refrain from touching her on one occasion;
- telling her *“what do you mean my thing does not work, look at me, how can you say my thing does not work”* on one occasion; and
- attempting to sit too close to her by wheeling your chair close to her on one occasion.

Furthermore, between November 2017 and August 2018 on one or more occasions, it is alleged that whilst working on Ward One, you acted inappropriately towards Colleague B and Colleague C in a sexual manner by:

- brushing your arm against Colleague B's breast; and
- attempting to sit too close to Colleague C.

Between January 2018 and April 2018, it is alleged that whilst working within Ward One on separate occasions, you stood too close to Colleague D whilst she was seated and touched her knee.

On one or more unknown dates, whilst working on Ward Two, it is alleged that you overstepped professional and/or personal boundaries with colleagues.

On an unknown date on one occasion, whilst working on Ward One, it is alleged that you invaded Colleague E's personal space.

During the Trust's investigation into this matter, you resigned from your role and left the Trust in December 2018.

Decision and reasons on facts

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel heard live evidence from the following witnesses called on behalf of the NMC:

- Colleague A: Pharmacist at Whipps Cross Hospital, part of Barts Health NHS Trust;

- Colleague E: Ward Manager at Whipps Cross Hospital, part of Barts Health NHS Trust, at the time of the incidents;
- Colleague F: Senior Nurse at Whipps Cross Hospital, part of Barts Health NHS Trust, at the time of the incidents.

The panel also heard evidence from you under affirmation.

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

- Revd 1: Minister at United Reformed Church.

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, along with the oral submissions from you and the NMC.

The panel determined the following in respect of each charge:

Charge 1(a)

- *Between 1 November 2017 and August 2018 on 'Ward One':*
 - a) *On one or more occasions stroked Colleague A's arm*

This charge is found proved.

In your local interview on 27 November 2018, you denied ever stroking Colleague A's arm. However, in oral evidence, you admitted to either holding or touching Colleague A's arm whilst you were both in the storage room on one occasion.

Colleague A in oral evidence described to the panel how you used your hand to stroke up and down her arm in slow motion, causing her to pull away from you and asking that you stop.

The panel took note that Colleague A in oral evidence described you as being a 'tactile' person. She stated that about 75 to 80% of the time that you worked together you would be tactile towards her. As a result, Colleague A described how she would often try to avoid you whilst on shift up until she was rotated out of the Hospital. This is supported by Colleague E in her witness statement and oral evidence. In her witness statement, she stated:

"[Colleague A] often used to ask if the Registrant was on duty"

In your oral evidence, you explained that the culture within the Hospital was friendly. You said that you have on occasions touched colleagues in a friendly manner, but that if someone told you not to touch them you would comply immediately. You also stated that you considered Colleague A as a daughter [PRIVATE].

The panel found Colleague A to be consistent in her evidence in stating that you stroked her arm. In Colleague A's email to Colleague E dated 22 August 2018, she stated:

"Unwanted touching of arms, hands, and ears on numerous occasions"

In Colleague A's local interview in November 2018, she explained:

"...about instances of touching and hand holding, stroking her arm and on one occasion rubbing her earlobe..."

In Colleague A's witness statement, she stated:

"...He wasn't someone who would hide that he was doing this, he would stroke your arm as he was talking to you. He was a very tactile person and you would

walk into the ward and he was stroking your arm as he was telling you about the discharges and I would move my arm away but then he didn't get it and would do it again. The stroking was like a slow movement on your forearm which I found odd anyway."

The panel also considered that Colleague A remained consistent under cross-examination. The panel also noted that Colleague A had not reported your behaviour herself, but rather she was approached by Colleague E following concerns raised by another colleague. The panel did not consider that the allegations she made were fabricated, as you have suggested. The panel also believed that your 'tactile' and 'friendly' nature, as indicated in your oral evidence, may have resulted in you being 'over familiar' with some of your colleagues, Colleague A in particular.

Based on the above, the panel preferred Colleague A's evidence and determined that, on a balance of probabilities, it is more likely than not that you stroked Colleague A's arm on more than one occasion.

Charge 1(b)

1. Between 1 November 2017 and August 2018 on 'Ward One':

b) On one occasion, touched Colleague A's ear.

This charge is found proved.

The panel determined that Colleague A had given a consistent and credible account of a time when you touched her ear. The panel accepted that Colleague A did not provide much detail around the incident but noted that she believed it had happened towards the end of her rotation at the Hospital, and that it was an incident that "stood out" in her mind.

Colleague A stated that she believed that you touching her ear was witnessed by another colleague (Colleague M). The panel took into account the local interview of Colleague M

in November 2018, and noted that Colleague M was not able to say where you had touched Colleague A. Therefore, the panel considered that it is unlikely that Colleague M had witnessed anything directly. However, the panel considered that Colleague A may have been mistaken in her belief and decided that it did not impact on her credibility.

The panel accepted that Colleague A had referred to “ears” in the general outline of her concerns about you following an informal meeting she had with Colleague E in August 2018, and had provided further details in her local interview with Colleague F in November 2018. In her witness statement and in oral evidence under cross examination, Colleague A’s account of the incident had remained consistent.

The panel preferred Colleague A’s evidence to you own. It accepted that you touching Colleague A’s ear might not be a standout incident for you, but would be for her and one which she would remember.

Due to your tactile behaviour and viewing Colleague A like a daughter, the panel believed that you had become ‘over familiar’ with Colleague A and it determined that, on a balance of probabilities, it is more likely than not that you touched Colleague A’s ear on one occasion.

Charge 1(c)(i)

1. Between 1 November 2017 and August 2018 on ‘Ward One’:

c) On one occasion:

i) Touched Colleague A inappropriately.

This charge is found proved.

In oral evidence, Colleague A stated that she could not now recall details of how you touched her, only that she told you not to touch her and you responded saying she should be more friendly.

However, the panel acknowledged that in Colleague A's email dated 22 August 2018, she stated she experienced *"unwanted touching of arms, hands, and ears on numerous occasions"*. Further, in Colleague A's local interview it stated: *"[Colleague A] also recalled that when she pulled her hand away from [you] on one occasion he had told her that she needed to be more friendly..."*

In her witness statement, Colleague A provided further detailed about the location the incident had occurred but she could not recall where you had touched her stating that this incident had taken place at the nurses' station:

"One day I remembered going into the Nurse's office and Mr Sesay came in to look at a patient board and I can't remember how he touched me but I said don't do that and he said 'oh you should be friendlier'. I said I am a friendly person I just don't like that."

The panel determined that Colleague A had been largely consistent and clear in her evidence, even under cross-examination, that you had said these words (or words to that effect) following an incident where you had inappropriately touched her. The panel considered the fact that Colleague A was unsure of exactly where she was touched in her witness statement and oral evidence did not undermine her account of the incident or her credibility. Five years had passed since the incident and it was Colleague A's evidence that you had touched her frequently during her time on Ward One. The panel accepted Colleague A's evidence that she had made some attempts, verbal and non-verbal, at indicating to you that she wanted you to stop your behaviour (e.g. by pulling her hand or arm away or saying *"don't do that"*).

The panel also noted its findings in relation to charges 1(a) and 1(b). It considered that the evidence from Colleague A in relation to charge 1(a) (where it found that you had stroked Colleague A's arm on more than one occasion) was consistent with its findings in relation to this charge.

The panel took into account that you denied ever touching Colleague A inappropriately. However, the panel was satisfied that you had become over familiar with Colleague A

and it was satisfied that, on a balance of probabilities, it is more likely than not that you did touch Colleague A inappropriately

Charge 1(c)(ii)

1. *Between 1 November 2017 and August 2018 on 'Ward One':*

c) *On one occasion:*

ii) *After being told by Colleague A not to touch her, you said 'oh you should be friendlier' or words to that effect.*

This charge is found proved.

Colleague A in oral evidence told the panel that you made this comment *'oh you should be friendlier'* in response to her telling you not to touch her following the conduct in charge 1(c)(i). The panel noted that following comment Colleague A also made in her oral evidence:

"...for me the part that sticks out is that he is telling me that I should be complicit in this and a part of it. I felt like I would always move away and he would say 'why are you not more welcoming' almost like it was my fault, that I should be nicer, engaging with him, friendly"

The panel noted that this specific comment Colleague A claims you made is also mentioned in her local interview in November 2018, as quoted in its findings for charge 1(c)(i) above, and in her witness statement.

In your oral response to this allegation, you denied making this comment. In your submissions you described yourself as a 'friendly' and 'jokey' person.

Based on the above, the panel were satisfied that, on a balance of probabilities, it is more likely than not that, after being told by Colleague A not to touch her, you said *'oh you should be friendlier'* or words to that effect.

Charge 1(d)

1. *Between 1 November 2017 and August 2018 on 'Ward One':*

d) On one occasion you said to Colleague A 'what do you mean my thing does not work, look at me, how can you say my thing does not work' or words to that effect.

This charge is found NOT proved.

Both you and Colleague A provided the panel with the context behind this incident. It was explained that Colleague A had asked if she could use your 'CRS' card to access some information on the Trust's system. After attempting to use your card, Colleague A told you that it did not work for her.

Colleague A in oral evidence said that she heard you say the phrase using the word 'thing' and that you repeated the phrase at least once using the words 'look at me'. In oral evidence (but not in her previous documentary evidence), Colleague A said that you were looking down whilst making this comment. She further stated that she believed it was a comment of a sexual nature. However, in oral evidence Colleague A also accepted that she may have misheard what you said.

The panel noted that you denied this allegation and, prior to this hearing, you did not provide any detail around what you had said at the time of the incident. You only mentioned the potential confusion around the word 'pin' not 'thing' during your oral evidence. You told the panel that you said the word 'pin' not 'thing', and that Colleague A must have misinterpreted what you said because of your accent. However, the panel did not deem this a change in your position in respect of this incident, but rather you providing more detail during the hearing.

The panel bore in mind that the burden of proof is on the NMC to prove this charge. It took account of the probability that you actually said the word 'pin' rather than 'thing' and

the context behind this. The panel was not satisfied that you had used the word 'thing'. Based on this, the panel did not find this charge proved.

Charge 1(e)

Between 1 November 2017 and August 2018 on 'Ward One':

e) On one occasion you attempted to sit too close to Colleague A by wheeling your chair close to her.

This charge is found proved.

The panel noted that Colleague A makes no specific reference to the chair wheeling incident in her email dated 22 August 2018. However, the panel accepted Colleague A's evidence that the email was only intended to be a summary of her concerns and that she stated:

'Generally feeling uncomfortable on the ward with what I perceived to be a deliberate invasion of my personal space'.

In oral evidence, Colleague A stated that she had provided further details in her local interview in November 2018. The panel noted that in her local interview, Colleague A stated:

'... there had been an occasion when she had been sat on one side of the small nurses' station and they had been discussing an issue, he strated[sic] to wheel his chair closer and she had told him to move his chair away as there was no need for them to be close together.'

In her witness statement, Colleague A provided the following:

'I would always call Mr Sesay out on his behaviour for example, when he would wheel his chair over I would say why have you done that, you don't need to be in

that space...'

In oral evidence, Colleague A described to the panel how you wheeled your chair over to her, leaving about six inches of space between you.

You told the panel that it would have been impossible for you to have wheeled your chair over to Colleague A as it would have prevented you from working at your computer.

The panel preferred Colleague A's evidence as it was consistent and credible. It had heard evidence of the layout of the nurses' station and it was not satisfied that it was physically impossible to move a chair nearer to someone who was working there. The panel considered that moving a chair did not require a computer to be moved also.

Based on the above, the panel determined that, on a balance of probabilities, it is more likely than not that you attempted to sit too close to Colleague A by wheeling your chair close to her on one occasion.

Charge 3

On one or more occasions on 'Ward One', you would attempt to sit too close to Colleague C

This charge is found proved.

The panel noted the following in Colleague C's local interview in November 2018:

"She explained she had been sitting in the small nursing office and Mohammed Sesay [you] had come sat very close to her...She explained how you can tell when a person is deliberately too close. [Colleague C] explained that she would tell him clearly in a raised voice that this was 'my space and that is your space'. She explained that it happened on a number of occasions and she kept repeating for him to stay in his space and the deliberate closeness stopped."

In oral evidence, you denied attempting to sit too close to Colleague C.

Although Colleague C did not provide oral evidence, the panel was satisfied that her local interview and witness statement gave a clear account of a number of occasions where you had attempted to sit or had sat very close to her. The panel determined that, given its findings in respect of charge 1(e), this establishes a pattern of behaviour of you deliberately invading the personal space of your colleagues by way of attempting to sit too close to them.

Based on the above, the panel determined that, on a balance of probabilities, it is more likely than not that you attempted to sit too close to Colleague C on more than one occasion.

Charge 6

On an unknown date, on one occasion on 'Ward One' you invaded the personal space of Colleague E.

This charge is found NOT proved.

Colleague E in her witness statement dated 8 January 2021 stated:

'I have never witnessed anything personally or experienced inappropriate comments of a sexual nature or any unwanted touching from the registrant.'

However, in her supplementary witness statement provided earlier this year, Colleague E stated:

'At the nurses station, [you] was holding something which I cannot recall the exact object, but I recall feeling uncomfortable as he was invading my personal space and brushed against me a point during this interaction. I felt that his action was deliberate and that he was invading my personal space

which he could have been aware off.'

In her local interview in November 2018, Colleague E stated:

'...[Colleague E] described showing him something, she explained that he was sat extremely physically close to her so that she felt like he was going to sit on her lap...'

In oral evidence, Colleague E explained that this incident came about as a result of her asking you to take a look at a document. She stated that this led to you invading her personal space and recalls you brushing against her knee whilst in her space.

In oral evidence, you denied this charge. You said that Colleague E had called you over to take a look at a document on her computer.

The panel accepted that Colleague E had invited you to view a document on her computer. However, the panel found Colleague E's account of this incident as set out in her local interview, supplementary statement and oral evidence to be inconsistent.

The panel took into account your evidence and Colleague E's evidence that you had a difficult professional relationship during your time on Ward One. The panel noted that Colleague E accepted that the 'brushing' of your knee against her own may have been accidental in nature and her feeling about this may have been influenced by the tension between you both at the time.

The panel bore in mind that the burden of proof is on the NMC to prove this charge. It took account of the inconsistencies in Colleague E's account of this incident, the fact that Colleague E had probably initiated your close proximity to her, and the difficult relationship between you and Colleague E prior to this incident stemming from her job promotion. Based on this, the panel were not satisfied that it could find this charge proved.

Charge 9

Your conduct in Charges 1a – e, 2, 3, 4a & b and 6, failed to respect the professional and/or personal boundaries of colleagues on Ward One

This charge is found proved.

As advised by the legal assessor, the panel next considered charge 9.

The panel considered each of the proven charges individually, namely charges 1(a) to (c), 1(e) and 3, in determining whether there was a failure to respect professional and personal boundaries of colleagues.

In respect of charges 1(a) to (c), as these relate specifically to your interaction with Colleague A, the panel decided to consider them together.

In his submissions, Mr Wigg invited the panel to consider '*The Code: Professional standards of practice and behaviour for nurses, midwives and nursing associates (2015, updated 2018)*' (the Code). The panel found that your conduct in these charges was in breach of the following sections of the Code:

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

The panel determined that a pattern of behaviour had been established, whereby you appear to be unaware of the concept of 'personal space'. As a result, you have and are known to have the tendency, unbeknown to you, to invade the personal space of colleagues you were over familiar with on several occasions.

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

The panel considered the evidence from Colleague A of how your behaviour towards her made her feel on several occasions:

“...for me the part that sticks out is that he is telling me that I should be complicit in this and a part of it. I felt like I would always move away and he would say ‘why are you not more welcoming’ almost like it was my fault, that I should be nicer, engaging with him, friendly”

“...[Colleague A] explained that she felt ‘cringe’ about his comments and that she could not look at him...she did not have that sort of relationship with [you] where this would have been an appropriate comment...”

“[Colleague A] explained that she was able to speak to [you] as a professional but wondered if this meant he was not able to separate the two and she wondered if had believed that he thought that they had the sort of relationship where this was behaviour would be appropriate. She explained that there were times when he would be normal and not cross the line. She wondered if he did not understand boundaries”

The panel determined that you appear to not recognise or fully comprehend the distress your over familiar behaviour of touching people, and your tendency to invade people’s personal spaces, may have had on your colleagues, despite them voicing this to you on a number of occasions.

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

The panel determined that there would have been an expectation from you to set an example of good professional behaviour as a registered Band 6 Nurse.

As a result, the panel found that your conduct in charges 1(a) to (c) failed to respect the professional boundaries of colleagues on Ward One. It was also satisfied that your conduct failed to respect the personal boundaries of colleagues.

In respect of charges 1(e) and 3, given the similarity of these incidents which involve sitting too close to your colleagues, the panel decided that it was appropriate to consider these charges together.

In considering the Code, the panel found that your conduct in these two charges also breached the Code, specifically:

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

The panel has set out above how Colleague A says your behaviour made her feel. The panel also considered evidence from Colleague C of how your behaviour towards her made her feel:

“[Colleague C] explained that she had dealt with the behaviour herself as she was quite a strong individual. She explained how she had been sitting in the small nursing office and Mohammed Sesay [you] had come sat very close to her. She explained that the space was quite cramped and that she worked in there with other staff but she had not experienced an issue with other staff in the same way. She explained how you can tell when a person is deliberately too close. [Colleague C] explained that she would tell him clearly in a raised voice that this was ‘my space and that is your space’. She explained that it happened on a number of occasions and she kept repeating for him to stay in his space and the deliberate closeness stopped.”

The panel determined that you appear to have a lack of awareness and understanding of how your behaviour (including inappropriate touching and attempting to sit too close to them) has impacted on your colleagues and the distress and upset it has caused them.

As a result, the panel found that your conduct in charges 1(e) and 3 failed to respect the professional boundaries of colleagues on Ward One. It was also satisfied that your conduct failed to respect the personal boundaries of colleagues.

Charge 7

Your conduct in one or more of Charges 1a – e, 2, 3, 4a & b, and 6 was sexually motivated in that you sought sexual gratification

This charge is found NOT proved.

In respect of the ‘sexually motivated’ element of charge 7, the panel had regard to the advice of the legal assessor who advised that “*The case law says a sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a future sexual relationship.*”

The panel noted that Colleague A in oral evidence said that she did not know the intention behind your behaviour, and that you did not try to romantically pursue her, for example by asking for her number.

You also denied any sexual motivation in respect of these proven charges. You stated that you are [PRIVATE], well respected in your community, and a member of the church. This was supported by Revd 1 in his oral evidence.

Overall, the panel found there to be insufficient evidence that there was any sexual motivation behind your inappropriate behaviour. The panel was not satisfied that you were trying to pursue a sexual relationship with either Colleague A or Colleague C.

In respect of the ‘sexual gratification’ element of charge 7, the panel bore in mind the advice of the legal assessor, who referred to the legal definition of ‘sexual’ under section 78 of the Sexual Offences Act 2003, which states:

‘... touching or any other activity is sexual if a reasonable person would consider that—

(a) whatever its circumstances or any person's purpose in relation to it, it is because of its nature sexual, or

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

The panel considered each proven charge, namely charges 1(a) to (c), 1(e) and 3, individually.

With regard to charges 1(a) and (b), which involved the stroking of Colleague A's arm and the touching of her ear, whilst such actions could reasonably be considered sexual depending on the intent behind it, the panel found that there was insufficient evidence to suggest that, in these separate incidents, the conduct was sexual. The panel noted that Colleague A, in oral evidence, said *"I couldn't say whether it was sexual in nature, I have no idea what he was thinking"*, and she also stated in her local interview that she did not consider you to be a bad person.

The panel determined that your inappropriate behaviour was due to you being 'friendly' and 'tactile' and overfamiliar with Colleague A.

With regard to charges 1(c)(i) and (ii), given the lack of detail around the conduct which led to the comment, the panel was not satisfied that this conduct was sexual.

With regard to charge 1(e), the panel considered that the action of rolling your chair over to someone is not sexual, and given the information provided by Colleague A, the panel was satisfied that this conduct was not sexual.

With regard to charge 3, there is no indication in Colleague C's evidence that your behaviour towards her was in any way sexual in nature, rather it was clearly indicated that you had breached professional and personal boundaries with her. The panel was satisfied that this conduct was not sexual.

Based on the above, the panel found this charge in its entirety not proved.

Charge 8

By your conduct at any one or more of Charges 1 – 4 and 6 above, you sexually harassed your colleagues in that:

- a) It was unwanted; and*
- b) It was sexual in nature; and*
- c) It had the purpose or effect of;*
 - i. violating your colleagues' dignity; or*
 - ii. creating an intimidating, hostile, degrading, humiliating or offensive environment for your colleagues.*

This charge is found NOT proved.

The panel noted that there is clear evidence that the conduct found proved was unwanted as per charge 8(a) based on the evidence it considered from Colleague A and Colleague C. However, in order for charge 8 to be found proved in its entirety, the panel would need to find charge 8(b) also proved. Having found none of the proved charges were sexually motivated by way of you seeking sexual gratification as set out in charge 7, the panel determined that charge 8 cannot be found proved.

Fitness to practise

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

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

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

Submissions on misconduct and impairment

Following the panel's decision in finding charges 1(a), 1(b), 1(c)(i), 1(c)(ii), 1(e), 3 and 9 proved, Mr Wigg invited the panel to find that your conduct amounts to misconduct, and that your fitness to practise is currently impaired as a result.

Mr Wigg informed the panel that, during the NMC's investigation of your case, you were subjected to an interim conditions of practice order. However, he advised that this interim order was revoked in June 2021.

Mr Wigg referred the panel to the character reference letter from Homerton Hospital NHS Foundation Trust dated 30 January 2023. He submitted that this is the most recent piece of evidence you have provided that speaks to your nursing practice, however, it is unclear whether the author of this letter was fully aware of the charges you face in this case.

Mr Wigg then referred the panel to its findings on facts in respect of charge 9, whereby it found that sections 20.3, 20.5 and 20.8 of the Code had been engaged. He submitted that the panel have already made it clear that your behaviour, as set out in charges 1(a), 1(b), 1(c)(i), 1(c)(ii), 1(e) and 3, breached professional boundaries and amounted to misconduct. In light of this, and despite the positive character references you have provided and the revoked interim order on your practice, he submitted that it is the NMC's position that your behaviour amounts to misconduct.

With regard to impairment, Mr Wigg highlighted the following in the panel's findings on the facts:

'The panel determined that you appear to not recognise or fully comprehend the distress your over familiar behaviour of touching people, and your tendency to invade people's personal spaces, may have had on your colleagues, despite them voicing this to you on a number of occasions.'

'The panel determined that you appear to have a lack of awareness and understanding of how your behaviour (including inappropriate touching and attempting to sit too close to them) has impacted on your colleagues and the distress and upset it has caused them.'

Mr Wigg submitted that you have provided the panel with no evidence that these issues concerning your practice have been addressed or remediated in anyway. He therefore submitted that it is the NMC's position that your fitness to practise is currently impaired by reason of misconduct.

In response to panel questions, Mr Wigg clarified that, as the panel in its findings on the facts found that sections 20.3, 20.5 and 20.8 of the Code has been engaged, the NMC seeks to rely on this in submitting that misconduct in your case has been established.

You told the panel that you have practised as a registered nurse for over 25 years. You stated that you did not intentionally mean to disrespect your colleagues, and that you apologise if your jokes and jovial personality made your colleagues feel uncomfortable. However, you noted that the concerned colleagues in this case would joke and laugh around with you during the time of the incidents. Nevertheless, you told the panel that you have learnt your lesson from this matter, and will ensure in the future to maintain professional boundaries with your colleagues in your practise.

You stated that you and your family have suffered financially, emotionally and mentally over the years as a result of this matter. [PRIVATE]

You said that you have no intention of coming before a Fitness to Practice committee panel again.

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

Decision and reasons on misconduct

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code. The panel noted that in its findings on the facts your conduct breached the following sections of the Code:

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

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

In determining whether your behaviour amounts to misconduct, the panel decided to consider the proven charges individually and collectively as follows:

In respect of charge 1(a), the act of you stroking Colleague A's arm was repeated on multiple occasions over several months. The panel determined that repeatedly stroking/touching a colleague's arm without their consent is a serious falling short of the conduct expected of a registered nurse, and that this behaviour on its own amounts to misconduct.

In respect of charge 1(b), the panel considered that the act of touching a colleague's ear within the workplace setting is unusual. It found that this behaviour amounted to a breach of personal and professional boundaries. It therefore determined that this

behaviour falls seriously short of conduct expected of a registered nurse and on its own amounts to misconduct.

In respect of charges 1(c)(i) and 1(c)(ii), the panel considered that your comment '*oh, you should be more friendly*' followed after you had inappropriately touched Colleague A and after she had told you not to touch her. The panel viewed this behaviour as a clear violation of Colleague A's personal and professional boundaries which she openly voiced to you. It therefore determined that this behaviour fell significantly short of the behaviour expected of a registered nurse and was sufficiently serious on its own to amount to misconduct.

In respect of charge 1(e), the panel found that the act of wheeling your chair over to someone in itself is not sufficient to amount to misconduct. However, taking into account the context of the other proven charges, particularly charge 3, the panel considered that this behaviour, on this occasion, amounts to misconduct.

In respect of charge 3, the panel noted that you repeatedly chose to sit too close to Colleague C on a number of occasions, despite her repeatedly telling you not to do this. The panel viewed this behaviour as you having a complete lack of respect for the boundaries of your colleague. It therefore determined that this behaviour is sufficiently serious and falls significantly short of the behaviour expected of a registered nurse, and on its own amounts to misconduct.

In respect of charge 9, the panel considered that there were repeated occasions of you either touching or sitting too close to colleagues over several months, despite being asked to refrain from this. The panel viewed this as a complete disregard for the personal and professional boundaries of your colleagues who should not have to be subjected to such behaviour within the workplace. It therefore determined that this behaviour is sufficiently serious and falls significantly short of the behaviour expected of a registered nurse, and on its own amounts to misconduct.

Overall, the panel determined that your behaviour clearly breached professional and personal boundaries with colleagues. It considered that a senior and experienced nurse

such as yourself would be expected to maintain and uphold the proper standards of the nursing profession whilst in the workplace. However, in this case, specifically when it came to Colleague A who was a junior and less experienced staff member, you failed to conduct yourself in a professional manner. As a result, the panel found that, individually and collectively, your behaviour did fall seriously short of the conduct and standards expected of a registered nurse and amounted to misconduct.

Decision and reasons on impairment

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

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. 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 *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) in reaching its decision. In paragraph 74, she said:

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

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

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

The panel found that limbs b) and c) of the test mentioned above has been met in this case. The panel has heard no evidence that any patients were affected as a result of your behaviour. Nevertheless, It found that your misconduct did breach the fundamental tenets of the nursing profession, specifically that you failed to act in a professional manner. As a result, your behaviour in breaching boundaries with your colleagues has brought the reputation of the nursing profession into disrepute.

However, the panel was satisfied that the misconduct in this case is remediable and therefore capable of being addressed.

In considering whether you have demonstrated any insight and/or taken any steps to address the concerns around your misconduct, the panel took into account your oral evidence, your submissions and the bundle you provided which included a number of character references. The panel determined that you have shown limited remorse for

the incidents during your oral submissions, and that you have shown limited insight into the impact your misconduct had on your colleagues, particularly Colleague A and Colleague C, on public perception of the nursing profession and the NMC as its regulator. Furthermore, you have provided no evidence of steps you have taken to strengthen your practice in the areas of concern, for example training courses.

The panel acknowledged the most up-to-date employment character references you have provided from Homerton Healthcare NHS Foundation Trust, dated 23 May 2022 (from the Ward Manager) and dated 30 January 2023 (from the Matron/Lead Nurse). However, the panel noted that it is not clear whether these referees were fully aware of the nature of the charges.

The panel also noted that there is no evidence of the misconduct found proved being repeated since these incidents. However, due to your lack of insight into your behaviour and there being no evidence of remediation from you, the panel determined that there is a real risk of this behaviour being repeated. It therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that there would be public expectation for staff within the profession to work without the fear of having their boundaries breached, and would therefore expect this kind of behaviour to be marked as unacceptable. It concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case. The panel therefore finds that your fitness to practise is also impaired on the grounds of public interest.

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

Sanction

The panel has considered this case carefully and has decided to make a conditions of practice order for a period of 12 months. The effect of this order is that your name on the NMC register will show that you are subject to a conditions of practice order and anyone who enquires about your registration will be informed of this order.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

Submissions on sanction

Following the panel's decision in finding that your fitness to practise is currently impaired by reason of misconduct, Mr Wigg invited the panel to consider imposing a striking off order.

Mr Wigg submitted that the misconduct in this case is serious as it involves stroking of a colleagues' arm, the touching of a colleagues' ear, sitting too close to colleagues and making an inappropriate comment towards a colleague. He submitted that this behaviour amounted to multiple breaches of the Code and falls seriously short of the standards expected of a registered nurse, as noted in the panel's findings on misconduct and impairment. Mr Wigg further submitted that the panel has made it clear in its findings that you appear to not fully understand the impact your behaviour had on colleagues at the time.

With regard to aggravating factors the panel should consider, Mr Wigg submitted that these are: the nature of the misconduct; an established pattern of behaviour over a prolonged period of time; and your lack of insight.

Mr Wigg referred the panel to the NMC guidance on sanction. He submitted that a caution order would be inappropriate in this case.

With regard to a conditions of practice order, Mr Wigg submitted that given the seriousness of the panel's findings, there are no workable conditions that could be formulated that would remediate the concerns. He therefore submitted that such an order would not be suitable in this case.

With regard to a suspension order, Mr Wigg submitted that this is not a single instance of misconduct as there have been several incidents of similar misconduct. He submitted that harmful deep seated attitudinal problems can be inferred from your misconduct, and he pointed out that you were asked by a complainant not to touch her but you continued your inappropriate behaviour regardless. Mr Wigg submitted that, although there is no evidence of previous similar issues being raised, the misconduct is too serious for any allowances to be made. He also submitted that you have provided no evidence of remediation, despite the panel's findings that the misconduct in this case is remediable.

In light of the above, Mr Wigg submitted that the NMC's position is that the only appropriate sanction in this case is that of a striking off order.

In response to panel questions, Mr Wigg confirmed that the NMC does not consider that there are mitigating factors for consideration.

You told the panel that you are sorry for how your colleagues felt about your behaviour and will ensure that this does not happen again. You asked the panel to take into account your unblemished nursing practice, and noted that this is the first time concerns have been raised regarding your practice.

You stated that since June 2021, you have taken steps to address the concerns surrounding your practice. You explained that at your current workplace, you have attended departmental sessions related to respect and dignity at work. You said you are practising maintaining personal and professional boundaries at work, and you are regularly reflecting on the Code with regard to professional conduct. You also confirmed

that you have completed all mandatory training at Homerton Hospital, along with CPR training and care management training.

You told the panel that you have learnt from your mistakes, that you are sorry, and that you will ensure this will never happen again. You said that your nursing practice is your main and only source of financial income [PRIVATE]. You stated that you are currently employed as an agency nurse at Homerton Hospital, working two to three shifts a week depending on your health and what shifts are available at the time. You further stated that the sisters at Homerton Hospital consider you as a 'good worker' and know how hard you have worked to maintain boundaries with colleagues at work, hence why they provided you with character references.

You indicated that, if conditions were imposed on your practice, you would comply with such conditions and that your employer would be willing to support you.

In response to panel questions, you clarified that in your current employment, you work long day shifts as a Band 5 agency nurse and that your tasks include medication administration and patient personal care. You explained that you initially started on the elderly patient ward at Homerton Hospital, then in August 2022 you were moved to the respiratory ward, and since November 2022 you are working on the post-operative surgical ward.

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 in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- You have demonstrated a lack of insight into your misconduct and the impact this had on your colleagues;
- There is a pattern of misconduct which occurred over several months; and
- You abused your position as a senior and experienced registered nurse (although the panel noted that you did not have management over any of the colleagues involved in this matter).

The panel also took into account the following mitigating feature:

- You have demonstrated remorse for your misconduct.

The panel first considered whether to take no action but concluded that this would be inappropriate as it would not address the concerns identified in this case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice order would be the sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel noted that there have been no reports of similar behaviour being repeated since the incidents. The panel considered that imposing conditions such as thorough retraining, supervision and regular meetings

with your line manager or mentor would be effective in helping you to work on strengthening your practice, and at the same time mitigate the risks identified and protect the public.

Balancing all of these factors, the panel determined that that the appropriate and proportionate sanction is that of a conditions of practice order.

The panel was of the view that to impose a suspension order or a striking-off order would be disproportionate and would not be a reasonable response in the circumstances of your case. It took into account that there have been no reports of similar incidents/regulatory concerns occurring either prior to the incidents, or since the incidents. It also considered that there is no evidence of deep seated attitudinal problems. The panel therefore concluded that a conditions of practice order is appropriate and proportionate and will mark the importance of maintaining public confidence in the profession, and will send to the public and the profession a clear message about the standards of practice required of a registered nurse. The panel came to the conclusion that the conditions set out below are workable and measurable, and it noted that you are willing to comply with any conditions imposed.

In making this decision, the panel carefully considered the submissions of Mr Wigg in relation to the sanction that the NMC was seeking in this case. However, the panel determined that a lesser sanction in this instance has been identified that could suitably address the concerns around your practice, and at the same time ensure that the public remain protected.

The panel determined that the following conditions are appropriate and proportionate in this case:

'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.

1. *You must not be the Nurse in Charge of any shift.*
2. *You must ensure that you are indirectly supervised any time you are working. Your supervision must consist of working at all times on the same shift as, but not always directly observed by, another registered nurse.*
3. *You must have a personal development plan (PDP). This PDP must include:*
 - *training on professional boundaries with a certified provider. Such training must be face-to-face and involve you undergoing a formal assessment on the learning you have gained; and*
 - *keeping a written reflective diary noting down any issues that you have encountered in the workplace regarding managing professional boundaries and how you have sought to address them.*
4. *You must meet with your line manager, mentor or supervisor on a monthly basis to discuss your progress on your PDP in the areas mentioned in condition 3 above.*
5. *You must obtain a report from your line manager, mentor or supervisor commenting on your professional practice and on your progress with your PDP in the areas mentioned in condition 3 above prior to any review hearing.*
6. *You must keep the NMC informed about anywhere you are working by:*
 - a) *Telling your case officer within seven days of accepting or leaving any employment.*

- b) *Giving your case officer your employer's contact details.*
7. *You must keep the NMC informed about anywhere you are studying by:*
- a) *Telling your case officer within seven days of accepting any course of study.*
 - b) *Giving your case officer the name and contact details of the organisation offering that course of study.*
8. *You must immediately give a copy of these conditions to:*
- a) *Any organisation or person you work for.*
 - b) *Any agency you apply to or are registered with for work.*
 - c) *Any employers you apply to for work (at the time of application).*
 - d) *Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*
 - e) *Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity*
9. *You must tell your NMC case officer, within seven days of your becoming aware of:*
- a) *Any clinical incident you are involved in.*
 - b) *Any investigation started against you.*
 - c) *Any disciplinary proceedings taken against you.*
10. *You must allow your NMC case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:*

- a) *Any current or future employer.*
- b) *Any educational establishment.*
- c) *Any other person(s) involved in your retraining and/or supervision required by these conditions*

The period of this order is for 12 months. The panel determined that this would allow you sufficient time to work on engaging with these conditions whilst in practice.

Before the order expires, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- Your attendance at a future hearing;
- A written reflective piece;
- Up-to-date character references and testimonials from paid and/or unpaid employment, specifically from colleagues that you work with, attesting to your nursing practice; and
- Evidence of relevant training you have completed (e.g. certificates).

Interim order

As the conditions of practice 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 interest until the conditions of practice sanction takes effect.

Submissions on interim order

Mr Wigg submitted that the NMC is seeking the imposition of an interim conditions of practice order for a period of 18 months on the grounds of public protection and public interest.

Mr Wigg submitted that following the panel's decision to impose a substantive order, this decision procedurally will not take effect until after the 28-day appeal period. He submitted that it is the NMC's position that an interim order is necessary to cover this appeal period and to protect the public during this time.

Mr Wigg therefore invited the panel to impose an 18 month interim conditions of practice order on the same terms as the substantive conditions of practice order.

You told the panel that you did not wish to make any submissions at this stage.

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

Decision and reasons on interim order

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

The panel concluded that an interim suspension order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing a substantive order. The panel therefore decided to impose an interim conditions of practice order, on the same terms as the substantive conditions of practice order, for a period of 18 months on the grounds of public protection and public interest. The panel determined that this would ensure that the public is suitably protected during the appeal period.

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

That concludes this determination.