

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

**Substantive Hearing
Monday, 5 August 2024 – Friday, 16 August 2024
Friday, 27 September 2024 (In Camera)
Wednesday, 4 December 2024 – Friday, 6 December 2024**

Virtual Hearing

Name of Registrant: **Tasleem Akhtar**

NMC PIN: 87C0838E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing (Level 1) – 23 May 1990

Relevant Location: West Midlands

Type of case: Misconduct

Panel members: Anthony Mole (Chair, Lay member)
Rebecca Aylward (Registrant member)
Chantelle Whitehead (Lay member)

Legal Assessor: Charles Parsley

Hearings Coordinator: Zahra Khan

Nursing and Midwifery Council: Represented by Uzma Khan, Case Presenter (5
– 16 August 2024)
Represented by Beverley Da Costa, Case
Presenter (4 – 6 December 2024)

Mrs Akhtar: Not present and not represented at the hearing

Facts proved: Charges 1, 3b, 4b, 6a, 6b, 6c, 6d, 7a, 7b, 7c, and
7d

Facts not proved: Charges 2a, 2b, 3a, 4a, 5a, 5b, 5c, and 5d

Fitness to practise: **Impaired**

Sanction:

Suspension order (9 months) with a review

Interim order:

Interim suspension order (18 months)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Akhtar was not in attendance and that the Notice of Hearing letter had been sent to Mrs Akhtar's registered email address by secure email on 24 June 2024.

Ms Khan, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Akhtar's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence. The panel was informed that Mrs Akhtar had been sent the link to enable her to join the hearing remotely.

In light of all of the information available, the panel was satisfied that Mrs Akhtar has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mrs Akhtar

The panel next considered whether it should proceed in the absence of Mrs Akhtar. It had regard to Rule 21 and heard the submissions of Ms Khan who invited the panel to continue in the absence of Mrs Akhtar. She submitted that Mrs Akhtar had voluntarily absented herself.

Ms Khan submitted that there had been some limited engagement by Mrs Akhtar with the NMC. However, there had been no engagement in relation to this hearing and, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion. In response to the panel's observations, Ms Khan also submitted there were a number of witnesses available to give evidence at the hearing some of whom required support. She submitted to the panel that there was a public interest in expeditiously dealing with the allegations brought by the NMC and any adjournment would cause considerable inconvenience to the witnesses and may affect their memory and ability to recall events, in particular, as the charges date back to 2019.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*' as referred to in the case of *R v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel decided to proceed in the absence of Mrs Akhtar. In reaching this decision, the panel has considered the submissions of Ms Khan and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mrs Akhtar;
- Mrs Akhtar has not engaged with the NMC and has not responded to any of the emails sent to her about this hearing;
- There is no reason to suppose that adjourning would secure Mrs Akhtar's attendance at some future date;
- Six witnesses are due to attend over the course of this hearing to give live evidence;

- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred in 2019;
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mrs Akhtar in proceeding in her absence. Although the evidence upon which the NMC relies has been sent to her at her registered address, Mrs Akhtar has made no response to the allegations. She will not be able to challenge the evidence relied upon by the NMC and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Further, the limited disadvantage is the consequence of Mrs Akhtar's decisions to absent herself from the hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

In these circumstances, the panel decided that it is fair to proceed in the absence of Mrs Akhtar. The panel will draw no adverse inference from Mrs Akhtar's absence in its findings of fact.

Application from the case presenter to stand down on Day 1 and resume on the morning of Day 2

Ms Khan submitted that her application today is to stand matters down until tomorrow morning. She reminded the panel that this hearing is listed for ten days. She informed the panel because of the late receipt of the case papers she had limited opportunity to review the case papers.

Ms Khan told the panel that the witness statements had been provided to the panel without any redactions. She considered that some redactions were required prior to the commencement of the hearing. Ms Khan submitted that the redactions were required to a small number of paragraphs in the patients' statements, police statements and reference to such matters in the police interview in the exhibit bundle. The paragraphs identified by Ms Khan were hearsay and could not be verified, put in context nor challenged. It would not be fair to Mrs Akhtar for these matters to be included.

Ms Khan told the panel she had been in contact with the NMC case team and the redacted witness statements and evidence will be available in readiness for tomorrow morning's hearing.

On a separate note, Ms Khan recognised that there is no statement which exhibits or produces the interview between the police and Mrs Akhtar, nor is the interview signed and agreed as an accurate record by any of the parties involved. Ms Khan informed the panel that the interviewing officers' identity and details have been redacted. She submitted that this evidence or the information within the interview contains the only response or account of Mrs Akhtar in respect of these proceedings, and bearing in mind that she has not attended today, it is only fair that the panel has access to that information, which needs to be exhibited properly to enable the panel to give it its appropriate weight.

Ms Khan stated that she is not submitting that this interview is excluded, but as well as being correctly exhibited it also requires redactions based on the hearsay contained within the statements that has been referenced in the interviews. She told the panel that she has asked for this interview to be properly produced and that efforts are being made in order to identify the officer and then provide an exhibiting statement in respect of that particular document.

Ms Khan appreciated that these matters ought to be dealt with prior to the first day of the hearing, but that these situations do arise. She submitted that it is only right and fair to all parties involved, including those that are not present, that the hearing is still conducted in

compliance with the rules and that everything is dealt with fairly and properly and in the interests of justice.

Ms Khan informed the panel that witnesses have been notified as soon as possible that there are potential delays.

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

The panel accepted the NMC request to allow it time to remove the hearsay evidence as described and correctly exhibit the interview of the registrant and serve the correct documentation on the panel.

The panel noted that as a professional body it is able to disregard any inadmissible material that it has already seen. While it will rely on and consider only the admissible evidence that is presented by the NMC, both in oral and written form, it was appropriate that the written evidence formally admitted should not include inadmissible matters to avoid any suggestion that it might have had a subconscious influence on the determination. The panel further accepted the NMC request that it would delay evidence from witnesses until agreed statements had been presented on the panel.

The panel adjourned the hearing on Day 1 with a view to resume at 09:15 on Day 2.

Resuming on the morning of Day 2

Ms Khan informed the panel that the amended bundles were not available as expected. The redactions as agreed had not been undertaken by the NMC as the papers had now been examined by the reviewing lawyer for the NMC, who had been on annual leave yesterday. They had instructed her that the NMC would not agree to make the redactions and the evidence should not be redacted, she therefore took instructions and made a hearsay application.

Hearsay application by Ms Khan

Ms Khan submitted that, after having further discussions with the reviewing lawyer this morning, the panel should proceed today using the original unredacted evidence. She submitted to the panel that whilst the evidence may be hearsay, it does not automatically mean that it is inadmissible and should be excluded from the evidence the panel will consider. She submitted that the key question for the panel is whether the evidence the NMC seeks to include is relevant and fair.

As an example, Ms Khan directed the panel to paragraph 10 of Patient A's statement. She informed the panel that this is a discussion that Patient A had with a third party. She submitted that the NMC do not rely upon the fact of that second sentence, which states '*... They said it was not normal and that I needed to report it*'. Ms Khan submitted that this is evidence of how the complaint was reported by the patient and was not the evidence that the NMC wished to rely on. Ms Khan reminded the panel that all four patients were scheduled to give evidence to the hearing and witnesses are also due to be called to give evidence of the policies in place at the time of the events in question. As such, Ms Khan submitted that in all of the charges the NMC had direct witnesses to the events in dispute and the hearsay was no more than supportive evidence that generally put the reasons for reporting the examinations into context. Ms Khan submitted that the NMC seek to rely upon what each of the patients say occurred during their examination and the supporting policies.

Ms Khan submitted that the charges are based entirely upon the patient's own account and what he says that occurred in the examination. She submitted that the NMC is not relying upon what Patient A might have been told but that it is instead relying upon the guidance which is before the panel within the exhibits as to whether or not that was the correct procedure or not. She therefore submitted that, regardless of what may have been said to the witnesses by others, the NMC is not relying upon that as a fact to prove any of the charges. In these circumstances, she submitted that hearsay is not automatically inadmissible. She submitted that it does not go to the charge as being the sole and decisive evidence and that the NMC is not relying upon hearsay at all to prove any of the

charges. She also submitted that it provides the background as to why it is that subsequent reports were made by these patients, but the fact of it is not relied upon at all.

Ms Khan submitted that there is reference to other patients giving similar accounts where, as a result of discussions of third parties, the patients go on to report it. She submitted that the position of the NMC is that the hearsay is not prejudicial and should be allowed and the panel can determine in due course the weight, if any, gives to the hearsay when determining the facts of this case.

Ms Khan further submitted that this is narrative hearsay and that it is admissible because it is not unfair and is not prejudicial. She submitted that if the panel do not feel that the evidence is relevant then it should place the evidence out of its mind and not give it any weight. She also submitted that there is nothing that automatically requires the NMC to redact the information if the panel has already had sight of it in any event. She submitted that this information does not go to the core of the charges.

In response to the panel, Ms Khan submitted that similar considerations apply to paragraph 13 of Patient C's statement and that it is not relevant to the particular charges.

Further, in response to the panel in relation to charge 6, Ms Khan submitted that this charge is associated with the undressing and that the NMC is relying upon the guidance which did not require the patients to be undressed. She submitted that this guidance is relied upon in order to prove that charge rather than any conversation that the patient might have had with third parties as to what did or did not occur. Ms Khan submitted that the panel also has the two statements from the other two witnesses who confirm what the procedures were.

Further, in response to the panel in relation to charge 5, Ms Khan submitted that this charge is based on sexual gratification and as such, the panel will be invited to draw inferences from the actions of Mrs Akhtar. Ms Khan submitted that the NMC will say that, due to the fact that Mrs Akhtar conducted her examination of Patient A in conflict with the

current examination policy, the panel will be invited to infer that there was no other reason for her actions during the examination, namely holding his testicle area. Further to this, Ms Khan submitted that the NMC will rely on the account of Patient A and the policy documents. She submitted that the hearsay is not prejudicial to the panel's deliberations in relation to the inference it will be asked to draw in relation to sexual motivation.

The panel heard and accepted the advice of the legal assessor. He advised the panel that, under Rule 31 of the NMC Rules, the panel has wide discretion regarding the evidence it may admit. Rule 31 states that, upon receiving the advice of the legal assessor and subject to the requirements of relevance and fairness, the Fitness to Practise Committee may admit oral, documentary, or other evidence, regardless of whether such evidence would be admissible in civil proceedings in the relevant UK jurisdiction.

The legal assessor advised the panel that there is no automatic prohibition on the admission of hearsay evidence. In addition to the specific paragraphs referred to by Ms Khan, he referred to other paragraphs containing hearsay statements, namely:

- Paragraph 11 of Patient B's statement.
- Paragraph 14 of Patient D's statement.

The legal assessor noted that each of the four patients had given a statement to the police in connection with a criminal investigation and those statements were exhibited to each of the NMC witness statements. While no criminal proceedings were taken against Mrs Akhtar, he advised the panel that in criminal proceedings the standard of proof is beyond reasonable doubt. He also stated that hearsay evidence is scrutinised more closely in criminal proceedings than in civil proceedings. Further, the legal assessor stated that the body of the statements of each of the four patients is remarkably similar to their police statements. However, the hearsay comments were additions to the police statement by whoever compiled the NMC statements (in response to Ms Khan's observations, the legal assessor accepted that in respect of the police statements hearsay was included in some of the statements).

In relation to relevance and fairness, the legal assessor stated that each of the four patients alleges that they were subjected to certain acts, which form the basis of the initial charges. He referred to charges 5, 6, and 7 which are derived from whether the panel is satisfied that the acts alleged in the initial charges occurred in respect to each patient.

The legal assessor then referred to paragraph 10 of Patient A's statement which states, '*I mentioned to my sergeant, several months later, how my assessment with the registrant went. They said it was not normal and that I needed to report it.*'.

The legal assessor referred to the hearsay contained in paragraph 10 of Patient A's statement, noting that:

1. It includes the Sergeant's opinion. Panels should not receive opinions or conclusions from third parties when adjudicating facts. The panel must reach its own conclusions based on the evidence presented.
2. The NMC does not rely on this statement to prove the charge related to the patient and therefore it is questionable whether its inclusion could be said to be relevant.
3. The statement adds content that cannot be tested.

The legal assessor advised the panel that it should consider whether the cumulative effect of such statements suggest that other unidentified persons support the claims made by the four patients, which cannot be tested. He advised the panel that it must consider if it is unfair to Mrs Akhtar, especially when she is neither present nor represented. He reminded the panel that no adverse inference should be drawn from Mrs Akhtar's non-attendance and that the NMC must prove the charges to the relevant civil standard, regardless of Mrs Akhtar's absence.

When considering whether Mrs Akhtar's actions were inappropriate, the legal assessor reminded the panel that the NMC has stated that the panel should rely on:

1. The direct evidence of the patients.

2. The guidance on appropriate examination procedures.
3. The evidence of two registered nurses regarding normal examination procedures.

After retiring in-camera, the panel returned and informed Ms Khan that it had reached its decision. The chair stated orally what that decision was. The panel offered the NMC the option of its providing its full written reasons at a later time to enable witnesses who had been waiting since the previous day and who require witness support to give their evidence today. However, this offer of an oral decision only was rejected on the basis that the NMC required full written reasons before it would commence any of the redactions required by the panel, and before witnesses were called.

The panel determined that it was unfair to admit the hearsay identified below and directs it be redacted.

The panel noted that the NMC do not seek to rely on the hearsay. Nevertheless, while the information is not directly relevant to the charges, in the panel's view it is still relevant to the facts of the case and fails the test under Rule 31, which provides that the admission of evidence such as hearsay is **'subject only to the requirements of relevance and fairness'**.

The panel determined that, although the NMC is not directly relying on this information, it becomes pertinent when considering the charges in a broader aspect. In particular:

- Paragraph 10 of Patient A's witness statement.
- Paragraph 11 of Patient B's witness statement.
- Paragraph 13 of Patient C's witness statement.
- Paragraph 14 and the first sentence of Paragraph 15 of Patient D's witness statement.

The above statements feed into and connect to the documents below:

- The corresponding sections of the exhibited police statements of each patient (including exhibit bundle pages 5, 10, 15, 16, 22, and 23).
- Any corresponding questions or comments referencing third party evidence from the police officer during the interview (including exhibit bundle pages 87, 92, and 99).

The panel decided that the information that is contained within the above paragraphs are relevant to the facts and particularly contextual.

The panel considered that the hearsay evidence references other examinations that may or may not have occurred and includes evidence relating to opinions regarding those examinations and could, if allowed, be detrimental and prejudicial to Mrs Akhtar. This evidence contains hearsay evidence from persons neither providing evidence in this hearing, nor even identified. It noted that the hearsay cannot be attributed to an individual, nor can its context be established. The panel also noted that it cannot be challenged or scrutinised. The panel was of the view that it would be unfair to Mrs Akhtar if these redactions were not made as the panel do not know the context in which these comments were made, the information that was shared, nor the identity of the person making the comments. The panel cannot test the evidence and considered this to be more than just background information as suggested by Ms Khan.

The panel noted that when it came to considering charge 5, for example, it would need to consider what, if any, inferences it should draw about Mrs Akhtar's motivation. The panel noted that there is pervasive hearsay containing the views attributed to others, including unknown health professionals, in respect of the examinations within the evidence.

The panel considered these are potentially prejudicial references to Mrs Akhtar's behaviour. It would be unfair either that this material should be the subject even indirectly of the panel's consideration when making its findings, or that there might be the perception that that might have been the case if the material had been admitted in evidence.

Whilst the NMC is not seeking to rely on these comments to prove some of the charges, when looking at the body of the charges as a whole, especially where inferences are based on Mrs Akhtar's behaviour, the panel determined that the information becomes relevant. The panel acknowledged that whilst the unredacted information is not necessarily relevant to all of the charges, it still holds relevance by inference. The panel found that to allow this information as evidence would be unfair and prejudicial towards Mrs Akhtar, leading to its direction that these particular paragraphs (as outlined above) are to be redacted within the witness statements etc.

Accordingly, the panel rejects the NMC's application to admit the hearsay into evidence and directs that it be redacted from the bundles where it appears in the witness statements, the evidence bundle, and in the interview of Mrs Akhtar if a statement exhibiting that interview is obtained.

Details of charge (as amended)

That you, a registered nurse:

1. Around February 2019 grabbed patient A's testicles without clinical justification.
2. On 26 November 2019:
 - a. touched patient B's breast(s) without clinical justification.
 - b. pressed around patient B's pubic area without clinical justification.
3. On 29 November 2019:
 - a. touched patient C's breast with your fingers without clinical justification.
 - b. said to patient C words to the effect of "oh it's fine you touched my boobs I will be touching yours later."

4. On 7 November 2019:

- a. touched patient D's breast without clinical justification.
- b. said to patient D words to the effect of "oh you've got stretch marks."

5. Your action(s) at any of:

- a. 1.
- b. 2 a. and/or 2 b.
- c. 3 a. and/or 3 b.
- d. 4 a. and/or b.

was sexually motivated in that you sought sexual gratification.

6. Departed from accepted practice when carrying out general medical assessments in that you asked each of the following patients to partially undress:

- a. Patient A around February 2019.
- b. Patient B on 26 November 2019.
- c. Patient C on 29 November 2019.
- d. Patient D on 7 November 2019.

7. Failed to treat each of the following patients with dignity when carrying out their general medical assessments:

- a. Patient A around February 2019.
- b. Patient B on 26 November 2019.
- c. Patient C on 29 November 2019.
- d. Patient D on 7 November 2019.

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 in respect of Patient A's evidence

Ms Khan made a request that this case be held partly in private on the basis that proper exploration of Patient A's evidence involves reference to [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

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

The panel determined to go into private session in connection with [PRIVATE] as and when such issues are raised in order to protect Patient A's privacy.

The panel then asked Ms Khan if she thinks it is appropriate for Patient D's evidence to be heard in private on the basis that there may be [PRIVATE] and the issue is stated within the body of the charges.

Ms Khan submitted that she does not seek to make a Rule 19 application in relation to Patient D as this patient is anonymised.

Decision and reasons on application to admit the police interview into evidence

The panel heard an application made by Ms Khan under Rule 31 to allow the written document from the police, which takes the form of an interview, into evidence.

The only evidence that has been forwarded by the police is contained within the bundles, namely the police statements dated from May 2020 and the redacted transcript of the interview of Mrs Akhtar dated September 2020. The interview has not been exhibited by the interviewing police officer and currently the NMC do not know the identity as the officer's name is redacted from the interview notes sent by West Midlands Police. The panel also note that there is no adducing statement from the NMC detailing the actual requests made to the police or confirmation of receipt of such documents.

Ms Khan submitted that the panel should concentrate its mind as to whether it is relevant and fair to admit the evidence contained in the interview.

Ms Khan told the panel that during these proceedings the NMC has emailed the police for numerous requests regarding updates, disclosure, timeframes, further information, and whether there are any statements in respect of the complaints. She told the panel that the information from the police has not been forthcoming despite numerous attempts over a long period of time dating from 2020. Ms Khan gave an overview of the dates the NMC had requested information from the police and the escalation process in attempts to illicit a full response. Ms Khan told the panel that emails had been sent from the NMC to the police on 19, 20, and 26 October 2020, and that a response was received from the police on 2 November 2020 stating they were unable to provide any information. She further told the panel that there were frequent emails sent from the NMC to the police and Ms Khan gave examples of emails including chaser emails being sent between January 2021 and August 2022, requesting information.

Ms Khan submitted that the panel can rely on the document's authenticity as it appears to be a transcript taken from the audio recording held by the police of the interview with Mrs Akhtar. In addition, she submitted that the interview record is headed on official police documentation, it has been sent by West Midlands Police in response to this hearing and is confidentially stamped.

Ms Khan informed the panel that the NMC do not seek to rely on the transcript of interview of Mrs Akhtar. However, the transcript did not prejudice its case. She submitted it is fair to Mrs Akhtar to admit the police interview as, despite it not being correctly produced, it is the only information that the panel will have before it to consider from Mrs Akhtar in response to some of the allegations made against her which are serious and may have an adverse effect on her registration if found proved. Mrs Akhtar had not completed the Case Management Forms and has voluntarily absented herself from this hearing. However, Mrs Akhtar had been sent the documentation the NMC intended to present to the panel and the NMC had received no formal objection by Mrs Akhtar regarding the evidence bundle.

Ms Khan submitted that it is relevant and fair to admit the transcript of the interview.

The panel accepted the advice of the legal assessor.

The panel gave the application in regard to admitting the police interview into evidence serious consideration. It also considered whether Mrs Akhtar would be disadvantaged by admitting the interview as evidence.

The panel had already determined that Mrs Akhtar had chosen voluntarily to absent herself from these proceedings and that she would not be in a position to cross-examine any witnesses or challenge evidence in any case. There was also public interest into the issues being explored fully and the interview of Mrs Akhtar was the only information the panel had in response to the patients' allegations relevant to this hearing. The panel noted that whilst Mrs Akhtar could not cross examination any witnesses, the panel could put to the witnesses any responses made by Mrs Akhtar in her police interview.

The panel noted it had not seen the correspondence, namely the emails between the NMC and the police in relation to this application, however, it took into account Ms Khan's submissions in that the NMC had made numerous attempts to request further information from the police and received limited responses.

The panel was of the view that the document can be relied upon as a transcript produced from the audio police interview.

In these circumstances, the panel came to the view that it would be relevant and fair to accept the police interview into evidence. The panel noted that this evidence is the only information before it from Mrs Akhtar as she has made responses within the police interview. The panel would also consider what it deemed the appropriate weight once it had heard and evaluated all the evidence before it.

Ms Khan renewing hearsay application regarding redactions

Ms Khan submitted that her understanding is that there is no power within the Rules that state that the panel can direct the NMC to make redactions as this is an internal administrative exercise. However, she submitted that the panel does have the power to admit or not admit evidence and accepted the panel's previous findings in relation to hearsay.

Ms Khan submitted that if it is necessary for the panel to have those redactions, the NMC may consider it appropriate to do so.

Ms Khan referred to the following paragraph from the panel's decision regarding the hearsay application which was handed down yesterday:

'The panel noted that as a professional body it is able to disregard any inadmissible material that it has already seen. While it will rely on and consider only the admissible evidence that is presented by the NMC, both in oral and written form, it was appropriate that the written evidence formally admitted should not include inadmissible matters to avoid any suggestion that it might have had a subconscious influence on the determination. The panel further accepted the NMC request that it would delay evidence from witnesses until agreed statements had been presented on the panel.'

Ms Khan invited the panel to proceed with the paperwork that it already has as it is able to disregard the unredacted information and put this out of its mind.

The panel accepted the advice of the legal assessor.

The panel recognised that it can put the issues out of its mind as a professional panel. However, the panel was mindful that there is material contained within the unredacted documents that could be influential on its decision making.

The panel noted the NMC's position in that the NMC state that the panel cannot direct redactions to be made. However, the panel made it clear within the determination that it would find the redactions helpful and constructive in relation to an agreed record in the paperwork as to what evidence is being relied on. This is particularly relevant when the witnesses are called and producing their statement as evidence in chief and when some of those witnesses may require witness support.

The panel has already accepted that it can remove any unredacted information out of its mind. However, if the NMC is unable or unwilling to redact any documentation, the panel will request that statements, if to be used in evidence in chief, are read out so that it is clear on the record as to what evidence is being adduced into this hearing and so that it is also clear that the hearsay evidence has been removed from the evidential chain.

The panel noted that redactions from evidence are routinely made in the evidence presented to fitness to practise hearings. The extent of the redactions in this case are limited. The panel will proceed with the case regardless of whether the redactions are made. It notes that it cannot make its own redactions on electronic documents and can only make notes to the side, hence why it would be helpful and constructive for the redactions to be made by the NMC.

Background

The regulatory concerns are as follows:

1. Sexual misconduct – in that Mrs Akhtar handled Patient A’s testicles without clinical justification.
2. Sexual misconduct – in that Mrs Akhtar felt Patient B, C, and D’s breasts without clinical justification.
3. Sexual misconduct – in that Mrs Akhtar pressed around Patient B’s pubic area without clinical justification.
4. Sexual motivation – in that Mrs Akhtar’s behaviour at Regulatory Concern 1 and Regulatory Concern 2 was motivated by sexual gratification.
5. Failure in patient assessment – in that Mrs Akhtar’s conduct of police recruit medical examinations departed significantly from accepted practice.
6. Failure to treat patients with dignity.

Mrs Akhtar was referred to the NMC in October 2020 from West Midland’s Police (‘the Police’) where she had been working as a Screening Nurse since 2006. Mrs Akhtar is a registered nurse, specialising in Adult Nursing, who qualified on 23 May 1990 and entered the Register of Nurses and Midwives on 1 June 1999.

The charges arise out of complaints made by police officers who underwent recruitment medical examinations conducted by Mrs Akhtar between February 2019 and November 2019. The statements were originally made to the Police Force for whom they were employed before the referral was made to the NMC.

The following facts are alleged:

In March 2020, concerns were raised by Patient C in respect of the examination which was conducted on 14 November 2019. Patient C had been invited to attend The Tally Ho Centre ('the Centre') and the examination was conducted by Mrs Akhtar. It is alleged that Patient C described accidentally touching Mrs Akhtar with her elbow when she went to pick up a pen to sign some paperwork. Patient C apologised to Mrs Akhtar who responds with the comment 'oh its fine, you touched my boobs I will be touching yours later.'

It is alleged that Patient C further described her hair being removed from both sides of her head, causing it to stick up when growing back. When the physical examination was undertaken, the blinds were open. Patient C was not provided with any explanation as to what would occur during the physical examination. Patient C was then asked to remove her top exposing her bra. Patient C was not asked to remove the jeans that she was wearing but was asked to roll them down exposing her hips. Patient C was asked to jump up and down with her eyes closed and with her bra exposed.

It is alleged that an examination was undertaken of Patient C's breasts, using a stethoscope, whilst she was lying down. Patient C states that Mrs Akhtar allegedly used her fingers to rest on Patient C's left breast without explanation and that no chaperone was offered during this procedure. Patient C eventually made a complaint to her superiors.

It is alleged that Patient D attended the Centre on 7 November 2019 for an examination. Patient D described a similar experience to Patient C. Patient D recalls the blinds being open and being able to see outside. Patient D was also asked to remove her top, leaving her exposed in her bra and she was then asked to undertake exercises including a jumping squat. Patient D was also asked to undo her jeans to make it easier to conduct the exercises.

Patient D alleged that Mrs Akhtar used her stethoscope to check Patient D's heart and lungs. This was done so on Patient D's back and then above her breast area. It is alleged that Mrs Akhtar then tells Patient D that she will have to go under Patient D's bra. Mrs Akhtar allegedly placed her hand into Patient D's bra, over Patient D's nipple and under Patient D's breast, and then Mrs Akhtar proceeded to use the stethoscope once again.

A further examination was undertaken on Patient D's lower abdomen when Mrs Akhtar makes comment about Patient D's stretch marks. Patient D made a complaint in May 2020.

In July 2020, it is alleged that Patient B made a complaint about her examination on 26 November 2019 as she was required to remove all clothing except her underwear. Patient B felt exposed by the exercises that she was asked to conduct in view of the windows that were open being able to be seen externally. Patient B was told to close her eyes at one point whilst doing these.

It is alleged that Patient B was then told to lie facing down and an examination was undertaken by Mrs Akhtar who touched Patient B's stomach, waistline, neck, shoulders, and breast area. Mrs Akhtar allegedly inserted her fingertips inside Patient B's bra and ran them along the lining of both sides. Mrs Akhtar then allegedly proceeded to touch Patient B's thigh, groin, and pubic area. Patient B was also asked to lie in a position that exposed her groin area.

When challenged by the officer, it is alleged that Mrs Akhtar was dismissive and that she stated that she is 'looking for something'.

In August 2020, Patient A made a complaint to his Sergeant about his examination which took place in early 2019. Patient A alleged that he was asked to strip down during his recruitment medical and then he was told to pull his boxer shorts down to his thigh area, exposing his genitalia entirely.

It is alleged that Patient A's testicles were held by Mrs Akhtar on two occasions without any warning by Mrs Akhtar and despite the recruitment medical not involving an assessment of candidates' reproductive parts.

Mrs Akhtar was interviewed and denied the allegations.

Two Occupational Health Screening Nurses, namely Witness 1 and Witness 2, have worked with Mrs Akhtar. Both witnesses described the procedures that they adopt for the

examination. Neither witness refers to a requirement to undress or make contact with genitalia nor a requirement to jump. Both witnesses exhibit the West Midlands Police guidance clinical history/examination in place at the time of the incidence to only remove shoes, socks, and loosen clothes.

The previous guidance 'Guidance for Occupational Health Departments: Medical Assessment for Potential Police Recruits' did require medical examinations to be conducted in underwear. However, no breast/genital examination was necessary.

It is alleged that the procedures by Mrs Akhtar were a departure from the accepted practice for such examinations and that the actions were performed without clinical justification and was sexually motivated for sexual gratification. Mrs Akhtar allegedly failed to treat the patients with dignity.

Decision and reasons on application to amend the charge

The panel heard an application made by Ms Khan to amend the wording of charge 2b.

The purpose of the proposed amendment was to be consistent with the content contained within Patient B's witness statement. It was submitted by Ms Khan that the proposed amendment would provide clarity and more accurately reflect the evidence.

"That you, a registered nurse:

2. On 26 November 2019:

b. pressed around patient B's ~~vagina~~ **pubic area** without clinical justification".

The panel accepted the advice of the legal assessor and had regard to Rule 28 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel was of the view that such an amendment, as applied for, was in the interest of justice and particularly in the public interest, albeit Mrs Akhtar may be disadvantaged. The panel noted this had been corrected earlier by Patient B but it was not reflected in the charge. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy as Patient B's witness statement states 'pubic area' which is a more precise description of the behaviour that the NMC is alleging occurred without clinical justification. The panel noted that, whilst Mrs Akhtar had received the original charge, the documentation that had been made available to her contained the statement of Patient B with the amended statement confirming the details of the allegation, namely the pubic area. The panel determined that the disadvantage to Mrs Akhtar was limited and that the change to the charge accurately reflected the allegation.

Decision and reasons on facts

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

The panel has drawn no adverse inference from the non-attendance of Mrs Akhtar.

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

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

- Witness 1: Occupational Health Screening Nurse for West Midlands Police at the time of the incident.

- Witness 2: Occupational Health Screening Nurse for West Midlands Police at the time of the incident.
- Patient A: Police Recruit for West Midlands Police at the time of the incident.
- Patient B: Police Recruit for West Midlands Police at the time of the incident.
- Patient C: Police Recruit for West Midlands Police at the time of the incident.
- Patient D: Police Recruit for West Midlands Police at the time of the incident.

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

Two Occupational Health Screening Nurses, namely Witness 1 and Witness 2, have worked with Mrs Akhtar and undertook the same role as her. Both Witnesses 1 and 2 exhibit the guidance they say was in place at the time of the incidents and which they follow, which does not include a requirement to remove any clothing. Both Witnesses 1 and 2 described the procedures that they adopt for the recruitment medical examination. Both witnesses said that they would explain to the candidates what the examination will entail and that at each step they would explain to the candidate what they were going to do and why and seek their consent to continue. Both Witnesses 1 and 2 provided a detailed description of how they would undertake an assessment of lungs and heart. They both confirmed that due to the location of the heart valves, the stethoscope would be placed into the bra and the bra might have to be moved to allow access and prevent interference in the examination. Witness 1 and 2 gave similar descriptions of how they

would undertake the examinations but there were some differences in their approach. For example, Witness 2 indicated that she or the candidate may move the bra and Witness 1 submitted that she would always ask the candidate to move their bra. In respect of the groin examination Witness 1 said that the trousers could be brought down to allow the examination although Witness 2 said she had developed a technique where she can feel it over the trousers. Both Witnesses 1 and 2 confirmed that was no need within the examination to make contact with genitalia.

Both Witnesses 1 and 2 exhibited the previous guidance which did require medical examinations to be conducted in underwear. Witness 2 confirmed that this guidance had not been withdrawn and that they still follow the guidance except the candidates are not stripped down. Both Witnesses 1 and 2 also confirmed that under this guidance, no breast or genital examination was necessary.

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

Charge 1

“That you, a registered nurse:

1. Around February 2019 grabbed Patient A’s testicles without clinical justification”

This charge is found proved.

In reaching this decision, the panel took into account Patient A’s oral evidence, his police statement dated 14 August 2020, and his NMC witness statement dated 17 July 2023. It also took into account Witness 1’s oral evidence and her NMC witness statement dated 14 June 2023, and Witness 2’s oral evidence and her NMC witness statement dated 19 June 2023.

The panel also took into account the Centre's policies in relation to the purpose of medical examinations, namely the West Midlands Police guidance clinical history/examination and the 'Guidance for Occupational Health Departments: Medical Assessment for Potential Police Recruits'.

Further, the panel took into account Mrs Akhtar's interview with the police dated 8 September 2020.

The panel first noted that Patient A used the word 'cupped' during his oral evidence and grabbed in his statements. However, it was of the view that the words 'grabbed' and 'cupped' are different ways of describing similar event and applied its ordinary meaning.

The panel had regard to Patient A's police statement whereby he stated:

'... At some point the Nurse asked me to lie on the bed which I did. I was still wearing my boxer shorts and she asked me to lower my boxer shorts down. I lowered them to my thigh area, exposing all of my genitalia, penis and testicles. The Nurse put a pair of latex gloves on but did not explain what she was going to do. I felt nervous, embarrassed and exposed, laying on the bed. Without any prior warning she grabbed hold of both of my testicles with one hand and asked me to cough, I did as she asked. She continued to hold my testicles in her hand and asked me to cough again, which I did. I would describe the grab as a "normal" grab, it was neither gentle or firm somewhere in the middle... I can confirm that she did not touch my penis at any time. I did not feel comfortable asking the Nurse what she was doing, this was because of her sharp and cold demeanour. I felt uncomfortable the whole time...'

The panel also had regard to Patient A's NMC witness statement whereby he stated:

'... [PRIVATE] She asked me to lie down and then she grabbed my testicles for a few seconds. She never told me what she was going to do. She just grabbed them

without any explanation. She asked me to cough while she was grabbing my testicles. It was a firm grab for a few seconds. She let them go and then grabbed them for a second time. It was a shock for me because she never told me what she was doing...'

The panel noted that Patient A during the examination had previously disclosed and further discussed with Mrs Akhtar [PRIVATE]. In his oral evidence he confirmed that he was not surprised that they may be subject of further discussion for the purpose of any medical.

The panel noted that in the Police interview Mr Akhtar whilst she could not recall Patient A she had denied touching any male genital area in any examinations confirming it was not necessary.

The panel accepted Patient A's account of the examination and found his evidence to be clear and consistent.

The panel determined that Mrs Akhtar had grabbed his testicles as part of the medical examination

The panel then went on to consider whether Mrs Akhtar's action was done without clinical justification.

The panel had regard to Witness 1's evidence which outlined the Centre's policies in relation to the purpose of medical examinations, namely West Midlands Police guidance clinical history/examination and the 'Guidance for Occupational Health Departments: Medical Assessment for Potential Police Recruits'.

The panel noted that Witness 1, in her oral evidence, stated that there was an examination area within the policies which requires the medical practitioner to place their hands in the patient's groin area to fingers between the pubis and the hip which she described as 3cm

below the navel. Witness 1 described that the purpose of this examination is to test for hernias and that they would also ask the patient to cough. Witness 1 clearly stated to the panel the groin examination can be undertaken under clothing: *'We would never touch the genitalia because we would have no reason to touch it and that would depart significantly from accepted practice'*. The panel noted that Witness 2 gave a similar description regarding the hernia test as Witness 1. Witness 2 confirmed that she also would not touch the genital area in order to conduct the hernia test and she had developed her own technique which could be done over the clothing.

The panel recognised the hernia test as described by Witness 1 was a requirement of the medical examination required by West Midlands Police for the recruitment process. However, the panel noted that the hernia test within the guidance was carried out on the groin in the manner described by Witness 1 and there was no requirement to touch testicles. It was of the view that there was no clinical need for Mrs Akhtar to do so as this was not required for the hernia test. The panel further noted that Patient A had described as part of the medical that Mrs Akhtar had also checked his groin area which appeared to be in line with the required test as part of the examination.

The panel had regard to Mrs Akhtar's police interview whereby she denied ever touching anyone's testicles. She stated:

'... I do not do that. Check of the genitalia. It's not relevant... There would be no need for me to do such an examination... it's not part of the process, it's not part of the medical... [PRIVATE], we're satisfied with that, there would be no need for me to go any further to do a further examination, it's not relevant... I do not ask officers and I'm really really sorry to say this, but I'm offended really regarding his allegation. I would not do it. I'm sorry to say but I wouldn't do that to my husband never mind a stranger who I've met for a few seconds...'

Whilst the panel noted that Patient A had [PRIVATE], it found no evidence from Witness 1, Witness 2, or the Centre's policies that this was clinically justified. The panel determined that this was an unnecessary test to conduct for the purposes of the recruitment process.

The panel found that, on the balance of probabilities, Mrs Akhtar was more likely than not to have grabbed Patient A's testicles without clinical justification when carrying out his medical assessment around February 2019.

Therefore, the panel found charge 1 proved.

Charge 2a

"That you, a registered nurse:

2. On 26 November 2019:

a. touched Patient B's breast(s) without clinical justification"

This charge is found NOT proved.

In reaching this decision, the panel took into account Patient B's oral evidence, her police statement dated 24 July 2020, and her NMC witness statement dated 16 July 2023. It also took into account Witness 1's oral evidence and her NMC witness statement dated 14 June 2023, and Witness 2's oral evidence and her NMC witness statement dated 19 June 2023.

The panel also took into account the Centre's policies in relation to the purpose of medical examinations, namely West Midlands Police guidance clinical history/examination and the 'Guidance for Occupational Health Departments: Medical Assessment for Potential Police Recruits'. Further, the panel took into account Mrs Akhtar's interview with the police dated 8 September 2020.

The panel noted that the main evidence in relation to this charge is from Patient B.

The panel had regard to Patient B's police statement whereby she stated:

'... I cannot remember where she touched my body first but do recall different parts of what she did as the following: the top half of my body was touched starting at the stomach. With a flat hand palms down, the nurse applied pressure across my stomach and then across the waist line. She then began to work her way up my chest to my neck and shoulder area and felt with pressure across here. After this the nurse moved her hands down to my breast area and started to touch my breasts hands faced down over the top of my bra. She continued to do this and the way she touched me then changed to more of a pressing feeling of using fingertips to apply pressure over the area. At one point she did insert her fingertips into the bra and ran them along the lining of both sides of the bra...'

The panel noted that in Patient B's oral evidence she stated that the examination was 'neck down' which differs to her written statement. It also noted that there were some differences in how Patient B described her breasts being touched. During Patient B's oral evidence, she had to heavily rely on her statements as a reminder. Initially, Patient B described the groin area as 'vagina' but then corrected this to 'pubic area'. However, in both her oral and written evidence, Patient B stated that both of her breasts were handled with flat hand palms. Patient B also described that she was lying on her back and that she felt Mrs Akhtar's hands/fingertips around her breasts. Patient B could not recall a stethoscope being used during the examination but did recall seeing the stethoscope around Mrs Akhtar's neck. The panel further noted and accepted that Patient B was clear in her evidence that Mrs Akhtar had not explained the procedure to her nor what she was doing during the examination.

The panel accepted that Patient B's breasts were touched by Mrs Akhtar during the examination as described Patient A. However, the panel considered that whilst Patient B did her best to assist it and was credible in terms of the broad outline of Mrs Akhtar

behaviour during the medical examination, the actual detail was inconsistent, and her memory was poor by her own admission during evidence.

The panel noted that Witness 1 and Witness 2 stated that the examination of the heart and lungs with a stethoscope was required as part of the police medical examination. This was also confirmed within the Centre's policies. For example, the stethoscope is used to listen to the heart as part of the police medical examination.

Witness 2, in her statement: *'When I'm examining female applicants I will ask them to unbutton their shirt or lift their top and explain to them I need to examine valves. I also told them I might have to put my stethoscope inside the bra. Touching their breasts is normal examination.'*

The panel had regard to Mrs Akhtar's police interview whereby she described that when she uses the stethoscope, she would use her fingers to move the patient's bra to get the stethoscope into the right position. She stated:

'... I need to be able to listen to their heart, using stethoscope. When I ask them to undress, I never ask them to take their bra off or their undergarments off... if I need to go inside the bra, I explain to the individual... I say I'm sorry I'm going to have to use the stethoscope and go inside your bra, or underneath your bra... I inform them I may have to go inside your bra, is it OK, or underneath to be able to listen to your heart properly, the bra will interfere with obviously my ability to listen and I do, sometimes they will lift it up but sometimes I say I just need to lift it up a little bit and I use my hand, obviously to lift the bra up a bit and then attach the stethoscope...'

However, the panel had regard to Witness 1 and Witness 2's evidence whereby they both stated that there is no requirement to use the fingers as *'the stethoscope is enough if you know where to listen to'*. Both Witness 1 and 2 did explain to the panel that listening with a stethoscope and not touching the breast during the valve examination does come with experience, and they both explained that they have had additional training in this area.

The panel noted that Patient B's memory was not clear as to whether Mrs Akhtar used a stethoscope as she could not remember it being used. Further, the panel noted that it heard evidence from three other patients that when the chest examination was being conducted by Mrs Akhtar, she had used the stethoscope. In addition, the panel noted that Patient B had observed the stethoscope around Mrs Akhtar's neck albeit she could not recall her having used it. In these circumstances, the panel determined that it was more likely than not that Mrs Akhtar had used a stethoscope during Patient B's medical examination.

The panel took into account Witness 1 and Witness 2's evidence that the hands do not need to touch the patient's breast when carrying out this test. The panel noted that Witness 2, in oral evidence, said that it was possible that the breasts could be touched when holding the stethoscope. Witness 2 also said that sometimes she had to move the breasts or the bra or ask the patient to do so. The panel felt that Witness 1 and 2 conducted their heart examinations carefully and considerately, being mindful to avoid as far as they could touching the breast and nipple. It was of the view that this is most likely better practice, and this technique comes with experience and training. However, during the police interview Mrs Akhtar stated that she does use her hands to move the bra in order to conduct the test.

Whilst it may not be best practice to touch a patient's breast with fingers or hands by Mrs Akhtar in order to move the stethoscope around, and accepting that Mrs Akhtar did not properly explain the procedures to Patient B, however the panel was of the view that this does not undermine the fact that it was necessary to conduct that test, nor does it undermine clinical justification.

In relation to the examination around Patient B's breast area, the panel was of the view that it is clinically justified for a nurse, under the Centre's policies and under the expectation of the test, to use a stethoscope around the breast area to listen to the heart valves.

Therefore, the panel found charge 2a not proved.

Charge 2b

“That you, a registered nurse:

2. On 26 November 2019:

b. pressed around Patient B’s pubic area without clinical justification”

This charge is found NOT proved.

In reaching this decision, the panel took into account Patient B’s oral evidence, her police statement dated 24 July 2020, and her NMC witness statement dated 16 July 2023. The panel took into account Witness 1’s oral evidence and her NMC witness statement dated 14 June 2023, and Witness 2’s oral evidence and her NMC witness statement dated 19 June 2023.

The panel also took into account the Centre’s policies in relation to the purpose of medical examinations, namely the West Midlands Police guidance clinical history/examination and the ‘Guidance for Occupational Health Departments: Medical Assessment for Potential Police Recruits’. Further, the panel took into account Mrs Akhtar’s interview with the police dated 8 September 2020.

The panel noted that in the West Midlands Police guidance it states under the Physical examination/body section the following: “*inform candidate you are going to check for any hernias- give them the option to stay covered if they wish. Place fingers of (on) right and left groin area and ask to cough*”. This method of examination was confirmed by Witness 1 and 2 during their evidence to the panel.

In Patient B's oral evidence, she provided a description of Mrs Akhtar touching around her pubic area which included the touching with fingertips at the edge of a triangle running from the waist to the lower pubic area. Patient B confirmed that there had been no touching within the triangle area. Patient B, in her witness statement, stated: *'She checked my stomach. It was more towards the groin area and it was with a flat hand. She also applied pressure to the groin area with her fingertips'*.

The panel further noted that in Mrs Akhtar's police interview she stated: *'I apologise for touching them in the groin region... explain to them two fingers of both hands on each side of the groin region and then I ask them to cough twice just to make sure I have not missed any abnormalities like hernias'*.

The panel noted the description of the examination as described by Patient B and was of the view that the description that Patient B provided, as to how the groin test around the pubic area was conducted, was actually a required part of the medical examination. Further, Patient B's description corresponded with the description that Witness 1 and Witness 2 outlined to panel regarding how the groin test should be conducted.

In these circumstances, the panel found that as it was necessary for Mrs Akhtar to conduct such a test within the general guidelines of the Centre's policies, and it was clinically justified.

Therefore, the panel found charge 2b not proved.

Charge 3a

"That you, a registered nurse:

3. On 29 November 2019:

a. touched Patient C's breast with your fingers without clinical justification"

This charge is found NOT proved.

In reaching this decision, the panel took into account Patient C's oral evidence, her police statement dated 4 May 2020 and her NMC witness statement dated 4 July 2023. The panel took into account Witness 1's oral evidence and her NMC witness statement dated 14 June 2023, and Witness 2's oral evidence and her NMC witness statement dated 19 June 2023.

The panel also took into account the Centre's policies in relation to the purpose of medical examinations, namely West Midlands Police guidance clinical history/examination and the 'Guidance for Occupational Health Departments: Medical Assessment for Potential Police Recruits'. Further, the panel took into account Mrs Akhtar's interview with the police dated 8 September 2020.

The panel found Patient C's evidence to be consistent and credible and it noted that she did her best to assist the panel. It also noted that Patient C had a reasonably accurate memory of the events that occurred on 29 November 2019.

The panel first accepted Patient C's explanation in that Mrs Akhtar used her fingers to touch Patient C's breast. Patient C stated: *'After these exercises, the registrant listened to my lungs with a stethoscope. She pulled out my bra to put the stethoscope and listen. I cannot recall if it was her hand or the fingers, that were holding the stethoscope, who touched my breast. I was thinking at the time that it was making me uncomfortable because she did not explain why she was listening to my chest. She did not explain anything'*.

The panel noted that the stethoscope was used by Mrs Akhtar at that time. It also noted that Mrs Akhtar, in the police interview, acknowledged that she used her fingers to manoeuvre patients' bras in order to use the stethoscope and would explain why, Mrs Akhtar in the police interview stated

'... I need to be able to listen to their heart, using stethoscope. When I ask them to undress, I never ask them to take their bra off or their undergarments off... if I need to go inside the bra, I explain to the individual... I say I'm sorry I'm going to have to use the stethoscope and go inside your bra, or underneath your bra... I inform them I may have to go inside your bra, is it OK, or underneath to be able to listen to your heart properly, the bra will interfere with obviously my ability to listen and I do, sometimes they will lift it up but sometimes I say I just need to lift it up a little bit and I use my hand, obviously to lift the bra up a bit and then attach the stethoscope...'

The panel took into account that Witness 1 in particular would not have ever used her fingers as she was able to manoeuvre the stethoscope easily without using her fingers to touch a patient's breast in order to complete an examination. The panel also noted that Witness 2 stated that sometimes during examinations with women it may be necessary to remove their bra. However, Witness 2 stated that she would ask the patient for permission or ask the patient to do it themselves.

In these circumstances, the panel was of the view that touching of the breast with parts of the hand that was holding the stethoscope could occur incidentally as had been confirmed by Witness 2 in oral evidence, although not done as carefully and considerately as Witness 1 and 2 explained. The panel noted it was a requirement of the examination and therefore clinically justified for Mrs Akhtar to touch Patient C's breast area with her fingers in order to facilitate the use of the stethoscope to check Patient C's heart.

Therefore, the panel found charge 3a not proved.

Charge 3b

"That you, a registered nurse:

3. On 29 November 2019:

b. said to Patient C words to the effect of “oh it’s fine you touched my boobs I will be touching yours later”

This charge is found proved.

In reaching this decision, the panel took into account Patient C’s oral evidence, her police statement dated 4 May 2020 and her NMC witness statement dated 4 July 2023. The panel took into account Witness 1’s oral evidence and her NMC witness statement dated 14 June 2023, and Witness 2’s oral evidence and her NMC witness statement dated 19 June 2023.

The panel also took into account the Centre’s policies in relation to the purpose of medical examinations, namely West Midlands Police guidance clinical history/examination and the ‘Guidance for Occupational Health Departments: Medical Assessment for Potential Police Recruits’. Further, the panel took into account Mrs Akhtar’s interview with the police dated 8 September 2020.

As in charge 3a, the panel found Patient C’s evidence to be clear, consistent and credible and it noted that she did her best to assist the panel. It also noted that Patient C had a reasonably accurate memory of the events that occurred on 29 November 2019.

The panel noted that when Patient C was questioned, her memory regarding this particular incident was very clear after reminding herself of the incident from her original Police statement. Patient C relied on this statement where she explained the initial examination and stated that after apologising for accidentally brushing her elbow against Ms Akhtar she said, *‘oh it’s fine you touched my boobs I will be touching yours later’*.

Patient C, in her oral evidence, stated that the response, Mrs Akhtar made to her apology was a *‘bizarre comment’*.

The panel noted that Mrs Akhtar denied this in the police interview. When the comment was put to Mrs Akhtar, she responded:

'No, not at all. I did not say... I would never make that comment...'

In these circumstances, the panel was satisfied that Patient C was very clear that this comment had been made by Mrs Akhtar as she provided a thorough description of events, and preferred Patient C's account of the interaction with Mrs Akhtar.

The panel determined that, on the balance of probabilities, it was more likely than not that on 29 November 2019 Mrs Akhtar said to Patient C words to the effect of "oh it's fine you touched my boobs I will be touching yours later".

Therefore, the panel found charge 3b proved.

Charge 4a

"That you, a registered nurse:

4. On 7 November 2019:

a. touched Patient D's breast without clinical justification"

This charge is found NOT proved.

In reaching this decision, the panel took into account Patient D's oral evidence, her police statement dated 10 July 2020 and her NMC witness statement dated 21 July 2023. The panel took into account Witness 1's oral evidence and her NMC witness statement dated 14 June 2023, and Witness 2's oral evidence and her NMC witness statement dated 19 June 2023.

The panel also took into account the Centre's policies in relation to the purpose of medical examinations, namely West Midlands Police guidance clinical history/examination and the 'Guidance for Occupational Health Departments: Medical Assessment for Potential Police Recruits'. Further, the panel took into account Mrs Akhtar's interview with the police dated 8 September 2020.

The panel found Patient D's evidence to be clear, consistent and credible and it noted that she did her best to assist the panel. It also noted that Patient D had a reasonably accurate memory of the events that occurred on 7 November 2019.

In relation to the chest examination, Patient D stated:

'Once the exercises were done, the registrant told me she would check my heart and my lungs. She did not explain how she would do it. She just said the which is to breathe in and breathe out. She got me to lean at some point. She had the stethoscope on my back and asked me to take deep breath. She did the same on the front of my chest above my breast. She then said that she would have to go under my bra. Her hand went into my bra, over my nipple and underneath my breast, and this is where she put her stethoscope. Her hand that was holding the stethoscope touched my breast.'

The panel noted that the requirement to check the heart using the stethoscope was necessary and included in the physical section of the West Midlands Policy. The panel accepted the evidence from Witness 1 and 2 that it was necessary during the heart examination to ensure there was no interference from bras. In addition, Witness 1 and 2 had confirmed to the panel that the test was required, albeit they both confirmed that they could conduct the test with only the stethoscope touching the breast. Witness 2 stated that if the bra needed to be moved during the test she would request permission. However, she also accepted that the fingers holding the stethoscope may incidentally touch the breast area during the examination.

The panel took into account Mrs Akhtar response during the Police interview
Mrs Akhtar in the police interview stated

'... I need to be able to listen to their heart, using stethoscope. When I ask them to undress, I never ask them to take their bra off or their undergarments off... if I need to go inside the bra, I explain to the individual... I say I'm sorry I'm going to have to use the stethoscope and go inside your bra, or underneath your bra... I inform them I may have to go inside your bra, is it OK, or underneath to be able to listen to your heart properly, the bra will interfere with obviously my ability to listen and I do, sometimes they will lift it up but sometimes I say I just need to lift it up a little bit and I use my hand, obviously to lift the bra up a bit and then attach the stethoscope...'

The panel observed that although Mrs Akhtar's approach to the chest examination was not as careful and as described by Witness 1 and Witness 2 in that they would only touch the breast with the stethoscope only, she did inform Patient D that she would need to access her bra to conduct the examination. In addition, during her oral evidence Patient D stated it did not come as a surprise her. The panel further noted that Patient D stated, in her oral evidence, that she understood that this would be 'unavoidable'.

The panel determined that it was clinically justified that Mrs Akhtar touched Patient D breast in order to conduct and complete the heart examination using the stethoscope as a requirement of the West Midlands policy for the recruitment examination.

Therefore, the panel found charge 4a not proved.

Charge 4b

"That you, a registered nurse:

4. On 7 November 2019:

b. said to Patient D words to the effect of “oh you’ve got stretch marks”

This charge is found proved.

In reaching this decision, the panel took into account Patient D’s oral evidence, her police statement dated 10 July 2020 and her NMC witness statement dated 21 July 2023. The panel took into account Witness 1’s oral evidence and her NMC witness statement dated 14 June 2023, and Witness 2’s oral evidence and her NMC witness statement dated 19 June 2023.

The panel also took into account the Centre’s policies in relation to the purpose of medical examinations, name West Midlands Police guidance clinical history/examination and the ‘Guidance for Occupational Health Departments: Medical Assessment for Potential Police Recruits’. Further, the panel took into account Mrs Akhtar’s interview with the police dated 8 September 2020.

As in charge 4a, the panel found Patient D’s evidence to be clear, consistent and credible and it noted that she did her best to assist the panel. It also noted that Patient D had a reasonably accurate memory of the events that occurred on 7 November 2019.

Patient D stated:

‘After examining my breathing, the registrant checked my stomach and told me she was going to check for hernias. She was feeling my lower abdomen and when she saw my stretch marks she said, “Oh you’ve got stretch marks.” I thought it was bizarre and told her it was probably when I had put on and lost weight. I was not too bothered by her comment, but I thought that for someone who would have been body conscious, that conversation could have been upsetting for them’.

The panel noted that Mrs Akhtar, in her police interview, was asked whether she would ask this line of question. Mrs Akhtar did not specifically remember Patient D, however, she did not deny that this was the kind of question she would ask. She stated:

'... I may have asked for stretch marks because also you get stretch marks from when you're overweight and you lose weight, so you know it may be in relation to that as well, cos BMI's important as part of the physical...'

The panel considered that Mrs Akhtar's explanation that she may comment on stretch marks as supporting Patient D account of her interaction with Mrs Akhtar. The panel accepted the evidence of Patient D regarding the comment made by Mrs Akhtar and Patient D was clear on her memory of the comment, considering it an unusual thing to say.

The panel determined that, on the balance of probabilities, it was more likely than not that on 7 November 2019 Mrs Akhtar said to Patient D words to the effect of "oh you've got stretch marks".

Therefore, the panel found charge 4b proved.

Charge 5

"5. Your action(s) at any of:

- a. 1.
- b. 2 a. and/or 2 b.
- c. 3 a. and/or 3 b.
- d. 4 a. and/or b.

was sexually motivated in that you sought sexual gratification"

This charge (in its entirety) is found NOT proved.

In reaching this decision, the panel took into account all relevant evidence, including: Witness 1's oral evidence and her NMC witness statement dated 14 June 2023; Witness 2's oral evidence and her NMC witness statement dated 19 June 2023; Patient A's oral evidence, Patient A's police statement dated 14 August 2020, Patient A's NMC witness statement dated 17 July 2023; Patient B's oral evidence, Patient B's police statement dated 24 July 2020, Patient B's NMC witness statement dated 16 July 2023; Patient C's oral evidence, Patient C's police statement dated 4 May 2020, Patient C's NMC witness statement dated 4 July 2023; Patient D's oral evidence, Patient D's police statement dated 10 July 2020, Patient D's NMC witness statement dated 21 July 2023; the Centre's policies in relation to the purpose of medical examinations, namely West Midlands Police guidance clinical history/examination and the 'Guidance for Occupational Health Departments: Medical Assessment for Potential Police Recruits'; and Mrs Akhtar's interview with the police dated 8 September 2020.

In relation to charge 5a which regards Patient A, the panel determined that Mrs Akhtar was not clinically justified to touch Patient A's testicle for the police examination. However, Mrs Akhtar described her intention for doing so in the police interview. She stated:

'... You are assessing somebody's medical conditions that they may have or making a full medical assessment as to their ability, whether they're fit to become a police officer or is there something that may hinder them during their job role...'

The panel heard from Patient A who made it clear that Mrs Akhtar had [PRIVATE]. The panel was of the view that Mrs Akhtar undertook the hernia/groin test as expected for the hernia and used the recognised technique namely the groin test.

The panel has previously determined that Mrs Akhtar grabbed Patient A's testicles, which it acknowledges is a sexual area, and that she did so for the purposes of the examination that she was carrying out in that there was no clinical justification to do so for the purposes

of the hernia test. It noted that Mrs Akhtar also stated, in her police interview, that there would not be any clinical justification for her to grab a patient's testicles. However, the panel was mindful that Mrs Akhtar could not recall the particular patient when answering questions around this topic, and so her comment was a general comment regarding the conduct and procedures in relation the recruitment assessment.

In the police interview, Mrs Akhtar described the purpose of a medical examination. She stated:

'A recruit medical is a much more in-depth medical... You are assessing somebody's medical conditions that they may have or making a full medical assessment as to their ability, whether they're fit to become a police officer or is there something that may hinder them during their job role... It is my responsibility to ensure from start to finish... that I have made a full assessment of that individual, that there not any issues that may impede on their ability to do their role as a police officer's medical issues.... If I missed something during a medical. The individual could sustain injuries as a result of me missing something'.

The panel considered the evidence before it that Mrs Akhtar's examinations of patients had in part been more in-depth than was necessary under the procedures, in the same way as the extended physical tests experienced by Patients B, C, and D, were different from those described by Witnesses 1 and 2, or when Mrs Akhtar made enquiries about Patient C in respect of her stretch marks.

Patient A recalled in live evidence that Mrs Akhtar noted that his arm was not straight and asked him about it. He confirmed to her that he had broken his arm when he was five years old, but he had forgotten this and had not included it in his medical information.

Due to the fact that Mrs Akhtar had already identified an incident of medical information being admitted by Patient A, Patient A's medical condition had been explored verbally and the fact that Mrs Akhtar undertook the hernia/groin test, the panel was of the view that Mrs

Akhtar may well have been doing a more thorough examination which was specifically related to a medical issue raised by Patient A in order to assess whether further referrals were required. The panel noted that within the policy if a nurse recognises or assesses any condition that may require further examination, they may require the candidate to be referred to a doctor referred as the Force Medical Practitioner, and this would be made clear to the candidate.

The panel also took into account that Mrs Akhtar had been carrying out this role for a number of years and has a clean record without any previous issues being raised. The panel determined that it was plausible Mrs Akhtar could have been assessing Patient A's condition in order to make a decision whether or not to make a referral to the doctor. The panel found it highly improbable that Mrs Akhtar was touching Patient A's testicles for sexual motivation/gratification given her experience and unblemished record.

The panel thus determined that, whilst unnecessary within the Centre's policy and Mrs Akhtar should have fully explained to Patient A as to what and why she was cupping his testicles, it was nevertheless an area that was being actively discussed with Patient A, and Mrs Akhtar was more likely to have examined Patient A's testicles on this basis as opposed to her seeking sexual gratification.

The panel found that, although Mrs Akhtar went beyond what was required and beyond what other experienced nurses would do, the NMC had not reached its evidential threshold to prove that Mrs Akhtar's touching of Patient A's testicles was sexually motivated, and that Mrs Akhtar sought sexual gratification.

Therefore, the panel found charge 5a not proved.

In relation to charge 5b which regards Patient B, the panel found this charge not proved as it found charges 2a and 2b not proved.

Therefore, the panel found charge 5b not proved.

In relation to charge 5c which regards Patient C, the panel first found this charge not proved in relation to charge 3a as it had already found charge 3a not proved.

In relation to charge 3b which was found proved, the panel accepted that it was an inappropriate response on Mrs Akhtar's behalf to a specific event at the start of the session with Patient C. It noted that Mrs Akhtar went on to do an examination on Patient C that was clinically justified albeit making an inappropriate and bizarre comment before the physical examination.

The panel determined it was an inappropriate and unprofessional comment, and that it was an unprofessional response to an apology made by Patient C who said she had touched Mrs Akhtar accidentally before the physical examination and apologised. The panel did not connect Mrs Akhtar's comment with the physical examination and determined this was a standalone event. Further, the panel was of the view that the comment was not sexually motivated nor was it interpreted as this by Patient C. The panel considered the NMC's evidence to be insufficient on the balance of probabilities that Mrs Akhtar comment was sexually motivated, and she made it seeking sexual gratification.

Therefore, the panel found charge 5c not proved.

In relation to charge 5d which regards Patient D, the panel first found this charge not proved in relation to charge 4a as it had already found charge 4a not proved.

In relation to charge 4b which was found proved, the panel was of the view that stretch marks have no sexual connotation at all. Whilst Patient D found it inappropriate, the panel noted that Mrs Akhtar had stated in her police interview that she may mention stretch marks in relation to pregnancy and or BMI issues.

The panel took into account the case of *GMC v Haris* [2020] EWHC 2518 (Admin) which outlines the test in terms of sexual motivation.

The panel decided that stretch marks are not a sexual topic and that this was a comment made by Mrs Akhtar in relation to Patient D's stomach. Although the panel considered that this comment may have been inconsiderate to Patient D, it determined that it was not made in a sexually motivating way, connected to sexual areas of the body nor was it interpreted as this by Patient D. The panel considered the NMC's evidence to be insufficient and highly improbable and the NMC had failed to meet the evidential threshold for this allegation.

Therefore, the panel found charge 5d not proved.

In light of the above, the panel found charge 5 not proved in its entirety.

Charge 6

"That you, a registered nurse:

6. Departed from accepted practice when carrying out general medical assessments in that you asked each of the following patients to partially undress:

- a. Patient A around February 2019.
- b. Patient B on 26 November 2019.
- c. Patient C on 29 November 2019.
- d. Patient D on 7 November 2019"

This charge (in its entirety) is found proved.

In reaching this decision, the panel took into account all relevant evidence, including: Witness 1's oral evidence and her NMC witness statement dated 14 June 2023; Witness 2's oral evidence and her NMC witness statement dated 19 June 2023; Patient A's oral evidence, Patient A's police statement dated 14 August 2020, Patient A's NMC witness statement dated 17 July 2023; Patient B's oral evidence, Patient B's police statement

dated 24 July 2020, Patient B's NMC witness statement dated 16 July 2023; Patient C's oral evidence, Patient C's police statement dated 4 May 2020, Patient C's NMC witness statement dated 4 July 2023; Patient D's oral evidence, Patient D's police statement dated 10 July 2020, Patient D's NMC witness statement dated 21 July 2023; the Centre's policies in relation to the purpose of medical examinations, namely West Midlands Police guidance clinical history/examination and the 'Guidance for Occupational Health Departments: Medical Assessment for Potential Police Recruits'; and Mrs Akhtar's interview with the police dated 8 September 2020.

The panel first noted Mrs Akhtar to be inconsistent in what clothing she had asked patients to remove as she asked each one of the four patients to remove a different type of clothing. For example, the panel noted that Patient A was fully undressed and undertook several tests; Patient B was asked to take her top off leaving her in just her underwear; Patient C was asked to remove her jumper and unbutton her jeans; and Patient D had to complete physical exercises with just her bra on. All of these were a clear departure of expected practice, particularly the West Midlands policy which Witness 1 and 2 confirmed was the recommended policy and Mrs Akhtar had been shown to follow during her initial training period with Witness 1 namely that candidates should be asked to loosen clothes and remove shoes and socks. She further added that Mrs Akhtar had contributed to the policy when she had taken on the role and when she had left the Department Witness 1 had found the policy in her file. Witness 1 stated:

'Soon after, I would start the general medical assessment. I ask them to take off shoes and socks. They would have been asked, prior to the assessment, to wear light clothing. I never advised them to undress'.

The panel did note with regards to the pre-notice that Witness 1 describes that candidates were informed they should wear loose clothing for the examination that not all of the patients confirmed during their evidence that they had received such a notice.

The panel noted that Mrs Akhtar, in her police interview, referred to the College of policing guidance which does refer to candidates removing some items of clothing. The panel accepted the evidence of Witness 1 who was clear on this issue in her evidence and panel conclude that the main policy that had been adopted by West Midlands Police was the West Midlands Police guidance clinical history/examination. This guidance does not make provision for removal of clothing and only refers to removing shoes and socks and loosening of other items.

The panel accepted the evidence of the patients, all were clear, concise and consistent regarding their account of the examination, the manner in which Mrs Akhtar communicated with them, and clearly recalled the events around the examination in relation to the clothing they were required to remove for the purposes of the medical examination.

In relation to charge 6a, the panel noted that Patient A, in his NMC witness statement, stated:

'... Once she went through my medical history, she asked me to take off all my clothes, including my boxers. She asked me to stand down and said she wanted to do a full examination...'

In relation to charge 6b, the panel noted that Patient B, in her NMC witness statement, stated:

'... The registrant told me to take off my clothes. I was uncomfortable. I never had a similar experience in the past. I asked her what to remove. She said everything except bra and underwear...'

In relation to charge 6c, the panel noted that Patient C, in her NMC witness statement, stated:

'... She asked me to take off my jumper, as well as my vest. I was wearing jeans on that day but did not have to take them off. She did not explain why I had to take off my top. I thought it was bizarre...'

In relation to charge 6d, the panel noted that Patient D, in her NMC witness statement, stated:

'... The registrant asked me to take off my jumper. I thought it was strange... She also asked me to unzip my jeans. She said it was easier to do exercises with jeans unzipped... she asked me to stand with the palm of my feet on my heel and I had to walk across the room with no top, just my bra...'

The panel noted that during the patients' evidence in relation to their examination, they had not been offered any robes or blankets at any time during their various stages of undress, nor were they offered a chaperone.

The panel heard from Witness 1 and Witness 2 and noted that they both stated that the Centre's policy was clear in that the general principle for the medical examinations was that the patient would remain clothed. However, the policy also stated that, depending on the clothing that the patient turned up with, there may be adjustments made for certain tests. The panel heard some examples, such as that a tight-fitting piece of clothing may be removed for purposes of a heart examination, or tight-fitting jeans may be loosened in order for certain tests to be conducted. It noted that, according to Witness 1 and Witness 2, the general principle was that patients would generally remain clothed.

The panel accepted the evidence of Witness 1 and Witness 2 as it found them to be credible witnesses. It noted that Witness 1 and Witness 2 had/have been working at the Centre for a long time and they were both part of the policy development. They also had previously demonstrated to Mrs Akhtar as to how they conduct the tests. The panel concluded this was the accepted practice for West Midlands Police noting Witness 1 who stated:

'Soon after, I would start the general medical assessment. I ask them to take off shoes and socks. They would have been asked, prior to the assessment, to wear light clothing. I never advised them to undress. I produce a copy of our guidance as Exhibit CF/1. Physical examination would be done through clothing. Until 2007, we used to have a doctor who would conduct these assessments. They would use a guidance for Occupational Health that advises applicants should be stripped to their underwear. I produce a copy of that guidance as Exhibit CF/2. However, applicants would have a cover robe and would have a chaperone if they wished so'.

The panel accepted that, as per the Centre's policy, there may be certain parts of the test (such as the hernia and heart tests) that may require clothing to be loosened or potentially removed with the patient's consent if it is going to inhibit those particular tests, but not for the whole duration of the examination. It was of the view that the piece of clothing should be removed for minimal time and for specific reasons.

In these circumstances, the panel was of the view that it was more likely than not that Mrs Akhtar departed from accepted practice when carrying out general medical assessments in that she asked each of the four patients to partially undress.

Therefore, the panel found charges 6a, 6b, 6c, and 6d proved.

In light of the above, the panel found charge 6 proved in its entirety.

Charge 7

"That you, a registered nurse:

7. Failed to treat each of the following patients with dignity when carrying out their general medical assessments:

a. Patient A around February 2019.

- b. Patient B on 26 November 2019.
- c. Patient C on 29 November 2019.
- d. Patient D on 7 November 2019”

This charge (in its entirety) is found proved.

In reaching this decision, the panel took into account all relevant evidence, including: Witness 1’s oral evidence and her NMC witness statement dated 14 June 2023; Witness 2’s oral evidence and her NMC witness statement dated 19 June 2023; Patient A’s oral evidence, Patient A’s police statement dated 14 August 2020, Patient A’s NMC witness statement dated 17 July 2023; Patient B’s oral evidence, Patient B’s police statement dated 24 July 2020, Patient B’s NMC witness statement dated 16 July 2023; Patient C’s oral evidence, Patient C’s police statement dated 4 May 2020, Patient C’s NMC witness statement dated 4 July 2023; Patient D’s oral evidence, Patient D’s police statement dated 10 July 2020, Patient D’s NMC witness statement dated 21 July 2023; the Centre’s policies in relation to the purpose of medical examinations, namely West Midlands Police guidance clinical history/examination and the ‘Guidance for Occupational Health Departments: Medical Assessment for Potential Police Recruits’; and Mrs Akhtar’s interview with the police dated 8 September 2020.

The panel first considered the meaning of the word ‘dignity’ within the charge. It took the word to have an ordinary meaning of treating people with kindness, respect, and compassion, which the panel then applied to this charge. It noted that the NMC did not outline exactly what ‘dignity’ was, hence why the panel applied its own meaning.

The panel had regard to Mrs Akhtar’s interview with the police, whereby she stated:

‘... I consider their dignity... I say I’m going to lie you down, now I need for, I need to touch your body, so I explain to them I have to touch your body to do the remainder of the medical, that’s listen to your heart, check your breathing, so I listen to the lungs, do an abdominal I examination, I also say I need to do a groin

examination. So they are informed from the beginning so there is ample opportunities for somebody to say no, I'm not happy with that...'

The panel heard and accepted the evidence of Patients A, B, C, and D in relation to their general medical examination and it noted that there were some general themes that applied to all four patients. For example, Mrs Akhtar's failure to explain the general medical procedure and exactly what she was doing at what time, Mrs Akhtar's failure to offer to close the blinds when the patients were in a state of undress in the examination room where the patients stated they could see out of the window in the examination room onto the street below, and Mrs Akhtar's generally abrupt and non-engaging behaviour which made all patients feel uncomfortable.

With regard to the issue of the window blind in the medical room being left open, the panel heard and accepted the evidence of Witness 1 and Witness 2 who both acknowledged that there was a film on the window, and you could not see inside. However, both Witness 1 and 2, as well as the four patients, confirmed that you could see out of the window. The panel noted that Witness 1 and Witness 2 stated that they recognised that this may make the patient feel uncomfortable if they were unaware that nobody could see in. As a matter of routine they may close the blinds, which Mrs Akhtar on the evidence of all the patients did not do, nor did she make the offer to close the blinds or tell the patients that there was a film on the window to ensure that the patients were comfortable.

In relation to charge 7a, the panel was of the view that Mrs Akhtar requested Patient A to remove all his clothing except for his boxer shorts and then asked him to remove his boxer shorts to expose his genitalia which was inappropriate and undignified. The panel further noted that at no point did Mrs Akhtar offer a chaperone to protect his dignity while lying on the couch, nor was there any consideration to close the blinds which would provide Patient A with extra assurance and privacy. Mrs Akhtar failed to recognise how this made Patient A feel, who stated he felt *'nervous, embarrassed, and exposed laying on the bed'*. The panel noted that Patient A, evidence which it has accepted, described Mrs Akhtar as having an *'abrupt attitude'* and *'not a friendly attitude'*. The panel also noted that the way

that Mrs Akhtar asked Patient A about his eczema was not done in a kind and professional way. Patient A described in detail the process that he had been through when giving oral evidence. In Patient A's NMC witness statement, he stated:

'... I left Tally Ho feeling really relieved that the examination was over as I had found it an uncomfortable experience...'

In relation to charge 7b, the panel noted that Mrs Akhtar told Patient B to remove all of her clothing except the bra and underwear. It also noted that Mrs Akhtar required Patient B to do exercises in her underwear whilst the blinds in the room were not drawn. It considered that Mrs Akhtar did not explain any of the procedures to Patient B. The panel further noted that Mrs Akhtar was dismissive towards any questions that Patient B was asking. The panel was aware that Patient B left the examination feeling embarrassed and uncomfortable. In Patient B's NMC witness statement, she stated:

'... When I left Tally Ho I immediately felt uncomfortable with what had taken place as I hadn't expected to be touched in such areas...'

In relation to charge 7c, the panel noted that Patient C was made to roll her jeans down during exercises. It noted that Patient C was made to feel embarrassed as she was not asked for permission to have her top removed and instead, she was told what to do without an explanation. The panel was mindful that this left Patient C unsure as to what was happening, and Mrs Akhtar did not offer Patient C a chaperone. It noted Patient C's detailed description whereby she stated that Mrs Akhtar had an *'abrupt attitude'* which left her feeling anxious to return to follow up medical examinations. In Patient C's NMC witness statement, she stated:

'... I can remember feeling a bit weirded out. I was anxious that I had to go back for another hearing test, firstly as I was worried that I would not pass it, but also that I would have Nurse Akhtar again and that she had made me feel uncomfortable...'

In relation to charge 7d, the panel noted that Patient D was required to do exercises in a state of partial undress without explanation. It noted that Patient D found the conversation that she had with Mrs Akhtar about stretchmarks to be 'odd' and 'bizarre'. It also noted that during the exercises Patient D was embarrassed and uncomfortable and that she questioned whether Mrs Akhtar was a proper nurse or not due to the lack of explanation. In Patient D's NMC witness statement, she stated:

'... After the assessment I had genuinely considered whether this lady was actually a nurse or not because she did not hold, in my opinion, the same professionalism as other nurses I have been treated by in the past. What I found particularly odd out of everything in the assessment was the need to have my top off for the entirety of the physical examination...Nor do I understand why I was made to do squat jumps with my jeans rolled over...'

In these circumstances, the panel was of the view that it was more likely than not that Mrs Akhtar had failed to explain the procedures correctly, effectively communicate and answer questions and/or consider the patients' needs and therefore did not treat each of the four patients with dignity when carrying out their general medical assessments.

Therefore, the panel found charges 7a, 7b, 7c, and 7d proved.

In light of the above, the panel found charge 7 proved in its entirety.

This case resumed on 4 December 2024.

Decision and reasons on service of Notice of Resuming Hearing

The panel was informed at the start of this resuming hearing that Mrs Akhtar was not in attendance and that the Notice of Hearing letter had been sent to Mrs Akhtar's registered email address by secure email on 28 August 2024.

Ms Da Costa, on behalf of the NMC, submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Resuming Hearing provided details of the allegation, the time, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Akhtar's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In light of all of the information available, the panel was satisfied that Mrs Akhtar has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mrs Akhtar for the remainder of the resuming hearing

The panel next considered whether it should proceed in the absence of Mrs Akhtar. It had regard to Rule 21 and heard the submissions of Ms Da Costa who invited the panel to continue in the absence of Mrs Akhtar. She submitted that Mrs Akhtar had voluntarily absented herself.

The panel was informed by Ms Da Costa that no communication had been received by the NMC from Mrs Akhtar.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised *'with*

the utmost care and caution' as referred to in the case of *R v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel decided to proceed in the absence of Mrs Akhtar. In reaching this decision, the panel has considered the submissions of Ms Da Costa and the advice of the legal assessor. It had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- Mrs Akhtar has not engaged with the NMC and has not responded to any of the emails sent to her about this hearing;
- There is no reason to suggest that adjourning would secure Mrs Akhtar's attendance at some future date given her non-attendance at the first hearing; and
- There is a continuing strong public interest in the expeditious disposal of the case.

In these circumstances, the panel decided that it is fair to proceed in the absence of Mrs Akhtar.

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 Mrs Akhtar's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely, and professionally.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no

burden or standard of proof at this stage, and it 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, Mrs Akhtar's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

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

Ms Da Costa invited the panel to take the view that the facts found proved amount to misconduct. Ms Da Costa reminded the panel of the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' (the Code) in making its decision. Ms Da Costa identified the specific, relevant standards where the NMC suggest Mrs Akhtar's actions amounted to misconduct. She referred to paragraphs 1, 4, 6, 7, and 20.

In relation to paragraph 1 of the Code, Ms Da Costa submitted that a nurse should treat people with kindness, respect and compassion. She submitted that Mrs Akhtar failed to treat Patients A to D with dignity when carrying out their general medical assessments.

In relation to paragraph 4 of the Code, Ms Da Costa submitted that Mrs Akhtar did not act in the best interests of her patients at all times.

In relation to paragraph 6 of the Code, Ms Da Costa submitted that Mrs Akhtar's touching of Patient A's genitalia departs significantly from accepted practise. She submitted that Witnesses 1 and 2 both stated in their oral evidence that during a physical examination, subject to the guidance that was in place at the time, Mrs Akhtar was not required to remove patients' clothing.

In relation to paragraph 7 of the Code, Ms Da Costa submitted that Patients A to D were not informed of what Mrs Akhtar was doing, why she was doing what she was doing, and why she was requiring them to remove their clothing. Ms Da Costa submitted that, in relation to Patient A, there is no information or communication regarding why Mrs Akhtar placed her hands or touched his testicles. Ms Da Costa submitted that there was a clear failure to communicate professionally with patients as would have been expected.

In relation to paragraph 20 of the Code, Ms Da Costa submitted that members of the public would be concerned if they were informed of the facts of this case. She submitted that Mrs Akhtar's conduct fell far short of the Code and what would have been expected of a nurse. Further, she submitted that there is a clear breach of the fundamental tenets of the profession.

Ms Da Costa therefore submitted that the charges found proved individually and collectively amount to misconduct.

Submissions on impairment

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

Ms Da Costa first referred to the NMC's guidance on impairment, in particular: '*Can the nurse practise kindly, safely and professionally?*'. She submitted that this is not the case for Mrs Akhtar.

Ms Da Costa submitted that Mrs Akhtar's misconduct placed patients at risk of harm and that Mrs Akhtar did not exhibit the NMC's core values of treating people with dignity and kindness. She submitted that the witnesses, in their oral evidence, described the room that the physical examination was conducted in whereby it was said that the blinds were open, the window was facing a busy road, and they were asked to undress in these circumstances. She also submitted that the witnesses were not aware of the protective film on the window and felt uncomfortable which is a result of Mrs Akhtar's failure to communicate. She submitted that, had Mrs Akhtar informed the patients about the protective film and that those on the outside could not see them, the risk of harm could have been avoided.

Ms Da Costa submitted that there is a lack of informed consent from the patients that Mrs Akhtar was dealing with. She referred to the patients' witness statements whereby they each made a comment about how uncomfortable they felt when asked by Mrs Akhtar to undress.

Ms Da Costa submitted that Mrs Akhtar received extensive medical history from patients yet did not treat them with dignity or give them privacy.

Ms Da Costa submitted that the first three limbs of Dame Janet Smith's "test" are engaged. She submitted that Mrs Akhtar's conduct has put patients at risk of harm on more than four occasions, that her actions brought the profession into disrepute, and that as there is no information before the panel in relation to remediation and insight, therefore there is a risk of Mrs Akhtar repeating her conduct in the future.

Ms Da Costa therefore submitted that Mrs Akhtar's fitness to practise is impaired on both grounds of public protection and public interest.

Decision and reasons on misconduct

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council (No 2)* [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin), *Grant and R (ex parte Cohen) v General Medical Council* [2008] EWHC 581 (Admin).

When determining whether the facts found proved (charges 1, 3b, 4b, 6a, 6b, 6c, 6d, 7a, 7b, 7c, and 7d) amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that Mrs Akhtar's actions did fall significantly short of the standards expected of a registered nurse, and that Mrs Akhtar's actions amounted to breaches of the Code. Specifically:

'1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion

1.2 make sure you deliver the fundamentals of care effectively

2 Listen to people and respond to their preferences and concerns

To achieve this, you must:

2.6 recognise when people are anxious or in distress and respond compassionately and politely

4 Act in the best interests of people at all times

To achieve this, you must:

4.1 balance the need to act in the best interests of people at all times with the requirement to respect a person's right to accept or refuse treatment

6 Always practise in line with the best available evidence

To achieve this, you must:

6.2 maintain the knowledge and skills you need for safe and effective practice

7 Communicate clearly

To achieve this, you must:

7.4 check people's understanding from time to time to keep misunderstanding or mistakes to a minimum

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that the above paragraphs were engaged in this context.

The panel considered each of the charges found proved both individually and collectively. In relation to charge 1, the panel was of the view that Mrs Akhtar did not treat Patient A with dignity nor respect as there was no clinically justifiable reason for her to grab his testicles. Mrs Akhtar's intrusive actions subsequently caused Patient A significant distress. The panel therefore found that Mrs Akhtar's actions in charge 1 fell short of the conduct and standards expected of a nurse and amounted to misconduct.

In relation to charge 3b, the panel took into account the context and acknowledged that Mrs Akhtar's comment towards Patient B was inappropriate and ill-considered. It was of the view that Mrs Akhtar's comment fell short of the conduct and standards expected of a nurse. However, the panel was of the view that Mrs Akhtar's conduct, namely a single comment made after a patient apologised for making physical contact, did not meet the threshold of seriousness, and it therefore found that Mrs Akhtar's actions in charge 3b did not amount to misconduct.

In relation to charge 4b, the panel was of the view that Mrs Akhtar made a legitimate observation during Patient D's medical examination albeit she did not take into consideration the impact of her remarks. Having regards to the circumstances and requirements of the medical examination, the panel was of the view that Mrs Akhtar's conduct did not meet the threshold of seriousness, and it therefore found that Mrs Akhtar's comment in charge 4b did not amount to misconduct.

In relation to charges 6 and 7 in their entirety, the panel was of the view that Mrs Akhtar failed to adhere to the guidance in place at the time (rather than earlier guidance). This resulted in Patients A to D feeling embarrassed and vulnerable whilst in various states of undress. Further, Mrs Akhtar failed to treat Patients A to D with dignity and respect which left them feeling exposed and uncomfortable. Mrs Akhtar's abrupt manner left Patients A

to D unsure of the reasons for her actions. The panel therefore found that Mrs Akhtar's actions in charges 6 and 7 individually and collectively fell short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

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

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

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

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

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

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the

public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

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

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

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

The panel was mindful that each of Patients A to D individually expressed the distress that Mrs Akhtar's actions caused including anxiety and feeling uncomfortable during the medical examinations. As such, the panel finds that patients were put at unwarranted risk of harm and suffered emotional harm as a result of Mrs Akhtar's misconduct. Further, Mrs Akhtar's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel had no information before it to suggest that Mrs Akhtar has demonstrated an understanding of or reflected on how her actions put patients at a risk of harm, nor whether Mrs Akhtar has demonstrated an understanding of why what she did was wrong and how this impacted negatively on the reputation of the nursing profession. Further, the panel has no information to suggest how Mrs Akhtar would handle the situation differently in the future.

The panel was satisfied that the misconduct in this case is capable of being addressed. However, the panel had no information before it to suggest that Mrs Akhtar has taken steps to strengthen her practice, nor is it aware of Mrs Akhtar's current whereabouts due to lack of engagement.

The panel is of the view that there is a risk of repetition due to the lack of any insight, strengthened practice, and similar conduct having occurred on four occasions with separate patients. The panel therefore determined that a finding of impairment is necessary on the ground of public protection.

The panel was mindful that Patients A to D felt vulnerable and exposed during their medical examinations and that the experience of Patient D had led her to question whether Mrs Akhtar was a nurse.

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 public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Mrs Akhtar's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mrs Akhtar's fitness to practise is currently impaired.

Sanction

The panel considered this case very carefully and decided to make a suspension order for a period of 9 months with a review. The effect of this order is that the NMC register will show that Mrs Akhtar's registration has been suspended.

In reaching this decision, the panel 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

Ms Da Costa informed the panel that in the original Notice of Hearing, dated 24 June 2024, the NMC had advised Mrs Akhtar that it would seek the imposition of a striking-off order if it found Mrs Akhtar's fitness to practise currently impaired

Ms Da Costa submitted that the following aggravating features are engaged:

- A pattern of misconduct over a period of time that involved a number of patients.
- Conduct that placed patients at risk of suffering harm.
- Lack of insight into failings.
- Lack of engagement in relation to these proceedings.

Ms Da Costa submitted that the NMC find no mitigating features in this case.

Ms Da Costa submitted that the public interest consideration in this case is high and that there is a need to maintain confidence in the profession and the NMC as a regulator. She further submitted that the risk of harm and repetition in this case is also high, therefore taking no action or imposing a caution order would not be appropriate.

Ms Da Costa submitted that Mrs Akhtar is described as appearing frustrated and irritated, and that at least two patients state that it was Mrs Akhtar's demeanour that made it very difficult for them to ask questions in relation to the examination that was being conducted. Ms Da Costa submitted that Mrs Akhtar presents attitudinal issues which brings into question her professionalism. Ms Da Costa therefore submitted that there are no workable conditions that could be put in place and so a conditions of practice order would not be appropriate.

Ms Da Costa submitted that there is no insight or remediation in this case that would assist the panel by allaying any risk of repetition. Further, she submitted that this is not a single incident but instead incidents that were repeated over a period of time in relation to multiple patients, and so there is a need to protect the public as well as to maintain standards. As such, Ms Da Costa submitted that a suspension order would not be appropriate.

Ms Da Costa therefore invited the panel to impose a striking-off order and submitted that this is the only appropriate order in this case.

Decision and reasons on sanction

Having found Mrs Akhtar's 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:

- A pattern of misconduct over a period of time that involved a number of patients.
- Conduct that placed patients at risk of suffering harm.
- Lack of insight into failings and lack of remorse.
- Lack of engagement in relation to these proceedings.

The panel took into account the following mitigating feature – Mrs Akhtar has been described as a ‘good nurse’ by her colleagues, namely:

- Witness 1 said of Mrs Akhtar: *‘brilliant nurse. I remember looking at her notes and they were always thorough. As far as I am aware there had never been any complaints about her practice before 2019’.*
- Witness 2 said of Mrs Akhtar: *‘during all the years I worked along [sic] the registrant I never had any concerns about her practice. She could be harsh in her manner and could come across as very sergeant manner [sic] but she was a good nurse’.*

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

The panel 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 Mrs Akhtar’s 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 Mrs Akhtar’s 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 placing conditions of practice on Mrs Akhtar's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be 'relevant, proportionate, measurable and workable'. The panel took into account the SG, in particular:

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

The panel is of the view that there are no practical or workable conditions that could be formulated at this time, given the current lack of insight and that without Mrs Akhtar's engagement, it was not possible to decide whether conditions could be formulated which might enable her to address the identified failings of her practice.

Therefore, the panel concluded that the placing of conditions on Mrs Akhtar's registration would not adequately address the seriousness of this case and would not protect the public.

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

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*

- *No evidence of repetition of behaviour since the incident; and*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour.*

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register at this stage.

The panel seriously considered whether a striking-off order would be proportionate, taking account that its findings in this case principally related to Mrs Akhtar's failure to treat patients within her employer's guidelines and with dignity and respect over a period of time, whilst conducting pre-employment medical assessments. However, the panel was mindful that it had not found the more serious charges proved and therefore the misconduct found was of a different nature from the original allegations. The misconduct found, in the panel's view, was centred around Mrs Akhtar's ability to practise kindly, within current policy parameters, and to show empathy in her communications with her patients. The panel previously noted that, in its view, Mrs Akhtar's conduct is potentially remediable with reflective practice. It also took into account that Mrs Akhtar's nursing colleagues stated that Mrs Akhtar had performed the role well for a number of years, and she was a 'good' and 'thorough' nurse, albeit abrupt.

The panel considered that a suspension order would provide Mrs Akhtar with an opportunity to reflect on the panel's findings, to consider whether she wishes to resume her career as a registered nurse and, if she does, to identify the issues which she would need to address and the steps she would need to take to be able to satisfy a future panel that she should be allowed to do so.

The panel therefore concluded that a striking-off order would be disproportionate at this stage as it wished to afford Mrs Akhtar the opportunity to consider the panel's actual findings and reflect and engage in the process. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Mrs Akhtar's case to impose a striking-off order at this stage.

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

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

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

The panel determined that a suspension order for a period of 9 months, with a review, was appropriate in this case to mark the seriousness of the misconduct.

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

Any future panel reviewing this case would be assisted by:

- Engagement with the NMC's proceedings.
- Evidence of a written reflective piece taking into account the panel's findings and addressing the impact of her actions on the patients and the consequences in terms of the public's perception of the nursing profession.
- Any evidence of strengthened practice including any relevant training and learning.
- Details of any employment (paid or unpaid).
- Character references and/or testimonials.

This will be confirmed to Mrs Akhtar in writing.

Interim order

As the suspension order cannot take effect until the end of the 28-day appeal period, the panel 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 Mrs Akhtar's own interests until the suspension sanction takes effect.

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

Submissions on interim order

The panel took account of the submissions made by Ms Da Costa. She submitted that an interim suspension order for a period of 18 months is necessary given the panel's findings in order to protect the public and meet the wider public interest.

Ms Da Costa submitted that this was required to cover the 28-day appeal period and, if Mrs Akhtar does appeal the decision, the period for which it may take for that appeal to be heard.

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 conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to cover the 28-day appeal period and any period which an appeal may be heard.

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

That concludes this determination.