

**Sexual misconduct and a chilling effect:  
tackling sexual misconduct in UK healthcare  
regulation.**

**An exploration of the changing approach with an  
examination of the PSA case data, case law, and  
research**

Rachael Culverhouse-Wilson  
Head of Legal

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# What I will cover

- **Our role and process**
- **What is sexual harassment and sexual misconduct?**
- **What does the research tell us about the problem?**
- **Examination of PSA's case data on our appeals and learning points**
- **Recent cases**
- **Preventative Duty – Equality Act**



# Who are we and what do we do?



# Is it sexual harassment/sexual misconduct?

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Grabbing someone's waist

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Touching parts of body

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Standing closely behind

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Pressing against someone

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Said 'Just because she looks good in tight clothes, it doesn't mean she's any good'

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Tickling

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Massaging shoulders

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Sitting closely

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Starring

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Said 'I have been watching you and you're pretty perfect'

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Asked 'if your underwear was a matching set'

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Touched someone's knees/foot with knee/foot

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Said 'looked great in a pair of scrubs and didn't need to go to the gym'

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Whispering in ear

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Asked if someone was single or had a boyfriend

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Said 'knew what [Ms X] needed in a man'

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# Sexual harassment/sexual misconduct

- Defined by the Equality Act 2010 as when a person engages in **unwanted behaviour of a sexual nature, whether verbal, non-verbal or physical, that creates an intimidating, hostile, degrading, humiliating or offensive working environment**
  - unwelcome sexual advances, propositions and demands for sexual favours
  - unwanted or derogatory comments or nicknames about clothing or appearance
  - leering and suggestive gestures and remarks or jokes
  - intrusive questioning or suggestions about your sex life or a colleague's sex life, and discussing their own sex life
  - sexual posts or contact on social media
  - spreading sexual rumours about a person
  - sending sexually explicit emails or text messages
  - predatory behaviour
  - physical contact such as the invasion of personal space and unnecessary touching, hugging or kissing through to sexual assault, indecent exposure, stalking and rape (although rape is defined as a separate criminal offence).



# What does the research say about the problem?

## PSA Research #1

**Sexual behaviours between health and care practitioners: where does the boundary lie?** (*Simon Christmas, Fiona Fylan*)

- Sexually motivated behaviour in front of patients
- What conduct says about the professional – lack of empathy, failure to assess what is appropriate
- Rehabilitation
- Sanction = message
- Loss of otherwise competent practitioner

# PSA Research #2

Looked at fitness to practise cases brought against doctors, nurses and midwives, and allied professionals (**Prof. Rosalind Searle, 2019**)

- 232 cases related to sexual harassment or sexual abuse.
- It showed this commonly happened in general practice, surgical settings and mental health services.
- **59%** of the cases involved patients, just less than half of who were young, infirm or had a mental health condition.
- And **39%** of the cases were about colleagues.



# Other research (1)

**Breaking the Silence – Addressing Sexual Misconduct in Healthcare** (*Working Party on Sexual Misconduct in Surgery, 2023*), and “**Sexual harassment, Sexual assault and rape by colleagues in the surgical workforce and how women and men are living different realities: an observational study using NHS population-derived weights**” (*British Journal of Surgery*)

- Analysed anonymous online survey responses (2022) from 1,434 participants (51.5% women) from the surgical workforce.
- **Two-thirds** of women (**63.3 %**) had been the target of sexual harassment from colleagues, along with almost a **quarter** of men (**23.7%**).
- Nearly a third of women (**29.9%**) had been sexually assaulted by a colleague
- The majority of participants (**89.5%** of women, **81%** of men) said they have witnessed some form of sexual misconduct by colleagues.
- Sexual coercion was common, with **10.9%** of women having experienced forced physical contact linked to career opportunities.





## Other research (2)

Contd.

- Only **16%** of those impacted by sexual misconduct made a formal report.
- The majority of those who had experienced sexual harassment at work were targeted by a colleague. **71%** did not report it, fearing retaliation, career damage, not being believed and fearing nothing would be done. Only **15%** who did formally report it believed their case was dealt with properly. **“It’s Never OK” 2019 Unison report on Sexual Harassment in Healthcare**
- The study also found a widespread lack of faith in accountable organisations’ adequacy of dealing with sexual misconduct. These included the GMC, the British Medical Association (BMA), Health Education England (HEE), NHS Trusts, and the Royal Colleges.



# Other research (3)

## “It’s Never OK” 2019 Unison report on Sexual Harassment in Healthcare

- found that nearly one in ten (**8%**) respondents had been sexually harassed in the last year.
- Of these, nearly a third (**31%**) said the harassment was frequent/regular, and more than one in ten (**12%**) said it occurred daily/weekly.
- The vast majority (**81%**) of those harassed identified as female.
- Most (**61%**) said the harasser was older than them, nearly two in five (**37%**) said they were in a more powerful position, with under a third (**32%**) experiencing harassment from a colleague with the same level of responsibility



# What does PSA's data say – all decisions received

## Sexual misconduct statistics received over the last five years

Year	Total final panel decisions received by PSA from the regulators	Cases <sup>8</sup> with a charge that we have identified as relating to sexual misconduct <sup>9</sup>	% Total
2020/21	2019	79	3.9%
2021/22	2137	115	5.4%
2022/23	2335	176	7.5%
2023/24	2385	208	8.7%
2024/25	2230	229	10.3%



# What does PSA's data say – sanction type

Year	Total final decisions received	Total sexual misconduct final decisions	% of sexual misconduct final decisions	Striking off in sexual misconduct final decisions	% of Striking off	Suspension in sexual misconduct final decisions	% of Suspension	Conditions in sexual misconduct final decisions	% of Conditions	Warning in sexual misconduct final decisions	% of Warning	No impairment, no misconduct	% of No impairment, no misconduct	Closure, No case to answer, Not well founded	% Closure, No case to answer, Not well founded	Other (discontinuance, stay, voluntary removal)	% of Other (discontinuance, stay, voluntary removal)
21/22	2138	115	5.4%	47	41%	24	21%	2	2%	8	7%	19	17%	10	9%	5	4%
22/23	2335	176	7.5%	93	53%	31	18%	1	0.6%	8	4.5%	18	10%	15	9%	10	6%
23/24	2385	208	8.7%	95	46%	41	20%	9	4%	13	6%	18	9%	25	12%	7	3%
24/25	2230	229	10.3%	127	55.5%	32	14%	4	2%	8	3.5%	18	8%	26	11%	14	6%
Total	9088	728	-	362	-	128	-	16	-	37	-	73	-	76	-	36	-
%	-	-	8%	-	50%	-	18%	-	2%	-	5%	-	10%	-	10%	-	5%



# What does PSA's data say – individual regulators (2021-25)

	General Chiropractic Council (GCC)	General Dental Council (GDC)	General Medical Council (GMC)	General Optical Council (GOC)	Health and Care Professions Council (HCPC)	Nursing and Midwifery Council (NMC)	General Osteopathic Council (GOsC)	General Pharmaceuti cal Council (GPhC)	Social Work England (SWE)	Pharmaceu tical Society Northern Ireland (PSNI)	Total
Total final decisions received	44	708	1618	203	1277	4078	56	336	744	27	9091
Total sexual misconduct final decisions	9	16	211	10	159	250	9	20	37	0	721
% of sexual misconduct final decisions	21%	2%	13%	5%	13%	6%	16%	6%	5%	-	8%



# What does PSA's data say – HCPC

	Total final decisions received	Total sexual misconduct final decisions	% of total final decisions	Striking off in sexual misconduct final decisions	% of sexual misconduct final decisions	Suspension	% of sexual misconduct final decisions	Conditions	% of sexual misconduct final decisions	Warning, Admonishment & Caution	% of sexual misconduct final decisions	No impairment, no misconduct	% of sexual misconduct final decisions	Closure, No case to answer, Not well founded	% of sexual misconduct final decisions	Other (discontinuance, stay, voluntary removal)	% of sexual misconduct final decisions
21/22	313	24	8%	9	38%	3	13%	0	0	3	13%	1	4%	5	21%	3	13%
22/23	330	36	11%	17	47%	8	22%	0	0	2	6%	1	3%	5	14%	3	8%
23/24	326	36	11%	17	47%	3	8%	2	6%	2	6%	3	8%	6	17%	3	8%
24/25	308	63	20.5 %	33	52%	10	16%	1	2%	3	5%	0	0%	6	10%	10	16%



# What does PSA's data say – GMC

	Total final decisions received	Total sexual misconduct final decisions	% of total final decisions	Striking off in sexual misconduct final decisions	% of sexual misconduct final decisions	Suspension	% of sexual misconduct final decisions	Conditions	% of sexual misconduct final decisions	Warning, Admonishment & Caution	% of sexual misconduct final decisions	No impairment, no misconduct	% of sexual misconduct final decisions	Closure, No case to answer, Not well founded	% of sexual misconduct final decisions	Other (discontinuance, stay, voluntary removal)	% of sexual misconduct final decisions
21/22	441	40	9%	13	33%	10	25%	0	0	2	5%	11	28%	3	8%	1	3%
22/23	428	59	24%	22	37%	12	20%	0	0	2	3%	13	22%	7	12%	3	5%
23/24	403	72	18%	30	42%	18	25%	0	0	2	3%	10	14%	9	13%	3	4%
24/25	346	40	12%	25	63%	7	18%	0	0	2	5%	2	5%	2	5%	2	5%



# What does PSA's data say – NMC

	Total final decisions received	Total sexual misconduct final decisions	% of total final decisions	Striking off in sexual misconduct final decisions	% of sexual misconduct final decisions	Suspension	% of sexual misconduct final decisions	Conditions	% of sexual misconduct final decisions	Warning, Admonishment & Caution	% of sexual misconduct final decisions	No impairment, no misconduct	% of sexual misconduct final decisions	Closure, No case to answer, Not well founded	% of sexual misconduct final decisions	Other (discontinuance, stay, voluntary removal)	% of sexual misconduct final decisions
21/22	441	24	5%	13	54%	5	21%	1	4	2	8%	2	8%	1	4%	0	0%
22/23	428	61	14%	49	80%	8	13%	0	0	2	3%	0	0%	2	3%	0	0%
23/24	403	68	17%	39	57%	10	15%	5	7	5	7%	2	3%	6	9%	0	0%
24/25	346	97	28%	57	59%	12	12%	3	3	3	3%	9	9%	13	13%	0	0%





# What does PSA's data say – appeals

## Percentage of cases appealed that involve sexual misconduct

Year	Total final panel decisions received by PSA from the regulators	Number of appeals brought	Appeals with a charge that we have identified as relating to sexual misconduct	% Total
2020/21	2019	11	1	10.5%
2021/22	2137	19	2	18.0%
2022/23	2335	18	3	17.0%
2023/24	2385	30	10	33.0%
2024/25	2230	21	7	33.0%



# What does PSA's data say? – common themes (1) (April 2023 – March 2025)

## Data

- **437 final decisions** received with a concern relating to sexual misconduct. We appealed **3.4%** of these decisions.
- We lodged **51 appeals\***, of which **15 cases** had a concern relating to sexual misconduct (29%).
- Of the **15 appeals lodged**, 10 remitted (66%), 2 substituted (13%), 1 pending a decision from High Court, and 2 withdrawn.
- Of **13 appeals**, 6 hearings (46%), 7 were settled by consent (54%).
- Of the **2 substituted** decisions, both had suspension orders imposed. *(One case increasing from a finding of no impairment)*
- Of the **10 remitted** decisions, **6 cases** had a sanction imposed, where previously no sanction, or a more restrictive sanction. *(4 cases pending new decisions)*
- Of the **7 decisions** where originally no finding made or no sanction imposed, **5** had a finding of impairment made and a sanction imposed.\* *(2 cases pending new decisions)*



# What does PSA's data say? – common themes (2)

## Grounds of appeal

- A failure to consider the full seriousness of the misconduct at the impairment and sanction stages leading to a sanction which is insufficient to protect the public
- Sanctions guidance not adequately considered and applied
- Erred in its application of relevant legal principles
- Failed to properly consider public interest factors
- Excessive weight is given to mitigating factors
- Inadequate reasons for decisions, particularly at the impairment and sanction stages



# What does PSA's data say? – common themes (3)

## The importance of charging

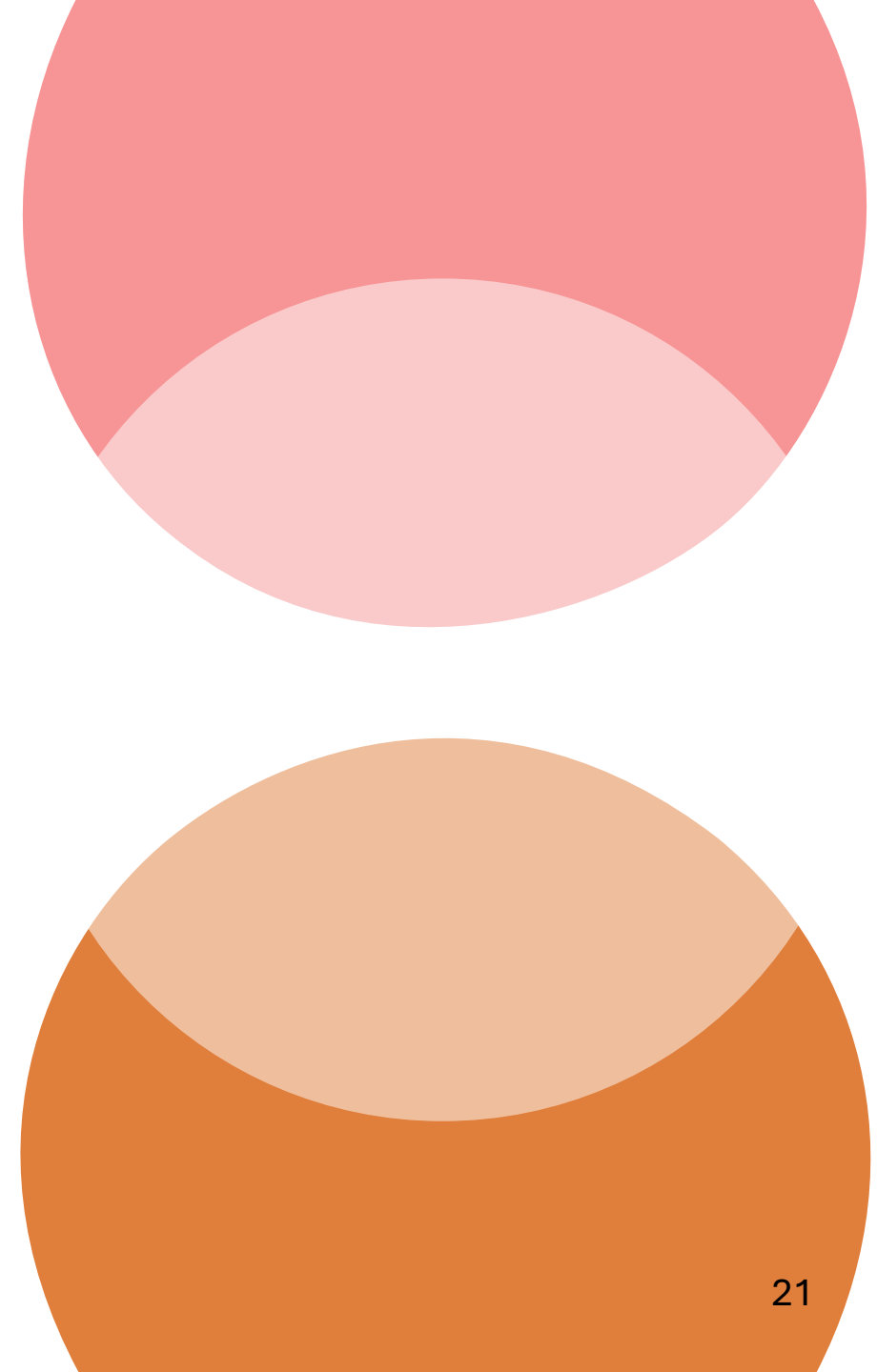
- Accurately and sufficiently charging sexual misconduct forms the basis of the case and thus informs how regulators and panels manage their investigation and inquiry of the case.
- Variation between regulators and charging sexual misconduct
- Some regulators are now charging sexual harassment (GMC/NMC) (Equality Act 2010)



# What does PSA's data say? – common themes (4)

## Patients v Colleagues

- **Of the 13 appeals:**
  - 6 related to colleagues only (46%)
  - 5 related to patients only, (39%) and
  - 2 related to both patients and colleagues. (15%)
- **Of 6 appeals re colleagues:**
  - all cases were remitted
  - 4 cases resulting in suspension or strike off
  - 2 decisions pending
  - 3/6 appeals original decision was no finding, no impairment, or no sanction (50%)
- **Of 5 appeals re patients:**
  - 4 cases remitted and 1 substituted (suspension)
  - 2 remitted cases resulting in a sanction
  - 2 remitted cases pending
  - 3/5 appeals original decision was no finding, no impairment, or no sanction (60%)
- **Of 2 appeals re both,** 1 substituted (suspension) and 1 pending High Court decision.



# What does case law say?

## GMC, PSA v Dugboyele [2024] EWHC 2651 (Admin)

### Background/context

This was a GMC Section 40A appeal which the PSA joined. It related to a doctor who had behaved inappropriately and sexually harassed seven colleagues between May 2017 and September 2020. The PSA joined the GMC's appeal and brought a separate ground over the panel's failure to evaluate the registrant's sexual motivation and its significance for seriousness.

### Outcome

The Court agreed and held:

***“There is, in short, no credible innocent explanation of Dr Dugboyele’s conduct, given the factual findings of the Tribunal. The Tribunal was either wrong not to include a proper consideration of his motive in its deliberations and/or, by virtue of that omission’s constituting a serious procedural irregularity, reached an unjust result, namely, that Dr Dugboyele’s fitness to practise was not impaired.”***

Court found failure to consider and find motivation was a serious procedural irregularity leading to an unjust outcome (i.e. no impairment). The decision was quashed, a finding of impairment substituted, and the decision on sanction remitted back to a new panel to consider. At the remittal hearing, a GMC panel imposed a six-month suspension order was imposed. After we joined the GMC's appeal, the GMC changed its guidance about charging and considering sexual motivation and sexual harassment.



# What does case law say?

## PSA v NMC & Shah [2025] EWHC 1215 (Admin)

### Background/context

Mr Shah had subjected two colleagues to sexually motivated behaviour, which included physical touching and attempting to kiss a colleague on the lips, while a) in a position of authority over them and b) during the Covid restrictions when they were particularly isolated. Charges of harassment on grounds of sex and sexually motivated conduct were brought and found proved. A 12 month suspension with review was imposed. The PSA referred the decision to Court.

### Outcome

The appeal was allowed and the matter remitted for reconsideration of sanction.

The panel was found to have made an error in their assessment of the factors relevant to sanction, including failing to identify aggravating factors and wrongly identifying mitigating factors. The panel also failed to correctly apply the NMC's sanction guidance and to give adequate reasons for why suspension was the appropriate sanction.

The judgment makes clear that panels must:

- Consider the aggravating and mitigating factors afresh at sanction stage even where they have been the subject of findings at the fact or misconduct/impairment stage.
- Apply the Sanctions Guidance to the findings made at the misconduct/impairment stage.
- Properly explain conclusions that striking off would be disproportionate.

# What does case law say?

## GMC, PSA v Gilbert [2025] EWHC 1215 (Admin)

### Background/context

This was a GMC Section 40A appeal which the PSA joined. It related to a Consultant Surgeon who, between October 2010 and May 2022, against six colleagues, behaved inappropriately and in a sexually motivated way and sexually harassed, harassment related to race, as well as being intimidating, racist, and abusing his senior position.

An 8 month suspension order without a review was imposed by a GMC panel.

The PSA joined the GMC's appeal and brought a number of additional grounds, including the GMC panel failed to consider the significance for its decision as to sanction of clinicians' and other members of the public's confidence in the regulation and discipline of doctors, and in particular their confidence that if they report doctors' misconduct then it will be adequately addressed.

### Outcome

The appeal was allowed on some grounds and a 12 month suspension order with a review was imposed by the court.

The court considered that the GMC panel (1) did not give sufficient weight to the seriousness of the sexual misconduct in the case, (2) wrongly failed to take into account that the misconduct was capable of imperilling public safety (not that it did), (3) failed to sufficiently take into account the harm which was caused to his victims, and (4) gave too much weight to Mr Gilbert's mitigation.

Court did not uphold PSA's ground.

*Court of Appeal hearing: 15 January 2026*





# What does PSA's data say – learning points

## Learning points and sexual misconduct

Year	Cases we review	Total no' cases LP identified on	% Total	LP with a charge identified relating to sexual misconduct	% Total	% Total Overall
2020/21	1326	115	8.7%	7	6.1%	0.5%
2021/22	1364	155	11.3%	10	6.5%	0.7%
2022/23	1430	140	9.8%	4	2.9%	0.3%
2023/24	1513	116	7.6%	21	18.1%	1.4%
2024/25	1216	150	12.3%	30	20%	2.5%



# What does PSA's data say – learning points (April 2023 – March 2025)

- **16% of decisions** we reviewed related to sexual misconduct (2,729 cases reviewed, 437 of these relating to sexual misconduct)
- **19% of LPs** we raised related to sexual misconduct cases. (266 LPs identified, 51 of these relating to sexual misconduct)
- We identified **LPs** in **12% of sexual misconduct cases**
- Of the **51 LPs** we identified relating to sexual misconduct:
  - Most common LP raised: **poor panel reasons**
  - Type of sanction: **32%** suspension, **24%** closure/NCTA/stay, **18%** no misconduct/no impairment, **16%** warning/caution/admonishment
  - LPs by regulator: **35% NMC**, **25% GMC**, **20% HCPC**, **10% SWE**, **4% GPhC**, **4% GDC**, **2% GCC**, 0% GOC & PSNI & GOsC
  - Process stage: **65%** identified at initial review stage, **24%** at detailed case review stage, **12%** at case meeting stage



# Preventative Duty – Equality Act

- Duty to take reasonable preventative steps to protect employees (Workers Protection (Amendment of Equality Act 2010) Act 2023).
- In force: 26 October 2024.
- All employers will be required to take proactive steps to prevent sexual harassment.

## Equality and Human Rights Commission (EHRC)

- 1) Develop an effective anti-harassment policy
- 2) Engage staff
- 3) Assess and take steps to reduce risk in workplace
- 4) Reporting
- 5) Training
- 6) What to do when a complaint is made
- 7) Dealing with harassment by third parties
- 8) Monitor and evaluate your actions



# Any Questions?

