

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

**Substantive Hearing
Monday 8 April 2024 – Wednesday 10 April 2024**

Virtual Hearing

Name of Registrant: Ian Turner

NMC PIN: 82Y0173W

Part(s) of the register: RN3: Registered Nurse – (sub part 1)
Mental Health – Level 1 – 28 October 1987
RN4: Registered Nurse – (sub part 2)
Mental Health – Level 2 – 24 June 1984

Relevant Location: Bath

Type of case: Misconduct

Panel members: Deborah Jones (Chair, lay member)
Linda Holloway (Registrant member)
Emma Moir (Lay member)

Legal Assessor: Nigel Mitchell

Hearings Coordinator: Catherine Blake

Nursing and Midwifery Council: Represented by Simeon Wallis, Case Presenter

Mr Turner: Not present but represented by Timothy Akers,
instructed by the Royal College of Nursing
(RCN)

Facts proved: Charges 1a i), 1a ii), 1b, 2, 3a, 3b i), 3b ii)

Fitness to practise: Impaired

Sanction: Striking-off order

Interim order: Interim suspension order (18 months)

Submissions on the absence of the registrant at the hearing

At the outset of the hearing, the panel noted that the registrant was not present at the hearing. It heard submissions from Mr Akers, on the registrant's behalf, that the registrant was dealing with a health condition and the registrant believed that attending the hearing would put undue strain on him.

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

At the outset of the hearing, Mr Wallis, on behalf of the Nursing and Midwifery Council (NMC), made a request that this case be held entirely in private on the basis that:

- Proper exploration of the registrant's case involves references to his health;
- The factual matrix is likely to deal with various aspects of the private lives of both the registrant and the complainant; and
- Due to the details and circumstances of this case, Witness 1's anonymity may not be preserved unless a decision to hear this matter in private is made.

Mr Wallis submitted that it is not practicable for this case to be held partly in private. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Akers indicated that he supported the application.

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

Having heard that there will be reference to personal and health matters of the registrant and Witness 1, and that Witness 1's anonymity could be compromised if the hearing was held in public, the panel determined to hold the entirety of the hearing in private in order to protect the privacy of both the registrant and Witness 1.

Details of charge

That you, a registered nurse,

1. Between 5 May and 30 June 2022:
 - a. On one or more occasion:
 - i. Made unprofessional and/or sexual comments to and/or about Colleague A.
 - ii. Insisted that Colleague A should create an OnlyFans account to share sexual content.
 - b. Introduced a points and sexual forfeits system for Colleague A's mistakes.
2. Your conduct in charge 1 above, was sexually motivated in that you were seeking sexual gratification and/or pursuing a future sexual relationship with Colleague A.
3. Your conduct at charge 1 above harassed Colleague A in that:
 - a. Your conduct was unwanted conduct related to a protected characteristic, namely Colleague A's sex.
 - b. Your conduct had the purpose and/or effect of:
 - i. Violating Colleague A's dignity.
 - ii. Creating an intimidating, hostile, degrading, humiliating and offensive environment for Colleague A.

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

Background

The charges arose whilst the registrant was employed as an agency nurse for the Avon and Wiltshire Partnerships NHS Trust ('the Trust').

It is alleged that, over the period between May and June 2022, the registrant sexually harassed Colleague A, who was a student nurse at the time and on placement with the Trust.

The registrant had been employed there for about 18 months as a mental health nurse when Colleague A started her placement. The registrant and Colleague A worked together frequently over the next two months. Although he was not officially her mentor, she frequently accompanied him on patient visits as part of her training.

Colleague A alleges that, while working alone together, the registrant made sexually inappropriate comments to her including making references to pornography and OnlyFans, and giving graphic descriptions of sexual acts.

Colleague A reports having a physical reaction to the alleged harassment, including vomiting and shaking, as well as the psychological impact of being afraid to be alone with the registrant for fear of what he might say, and that disclosing any of the alleged harassment might negatively impact their career due to the registrant's position of power.

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 Mr Wallis and Mr Akers.

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

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 witness called on behalf of the NMC:

- Witness 1: Colleague A, trainee nurse at the Trust at the time of the allegations.

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 the registrant's representative. This included an email statement provided by Witness 1 dated 6 July 2022 to the Trust; the investigation interview record dated 2 August 2022; Witness 1's NMC witness statement; and exhibits including screenshots of text messages between Witness 1 and the registrant.

On behalf of the registrant, the panel received a statement dated 4 April 2024. From the NMC exhibit bundle, the panel also noted that the registrant had attended an interview with the Trust over Microsoft Teams on 13 October 2022. [PRIVATE]. He provided the interviewers with a reflective statement dated 5 September 2022 in which he denied all the allegations.

The panel considered the weight of the evidence before it. It considered Witness 1 was consistent and cogent across both her written and oral evidence and noted the near contemporaneous complaint by Witness 1 to her two lecturers at the University of the West of England on 1 July 2022, which was detailed in her email statement to the Trust on 6 July 2022, and that this statement is broadly consistent with her NMC statement. The panel further noted that Witness 1 had not continued with this placement, but was reallocated by the university.

The panel noted there were slight discrepancies across Witness 1's accounts of the incidents. However, taking into consideration the time since the alleged behaviour, the panel considered these inconsistencies to be minor and not unreasonable. The panel was satisfied that certain details would blur over that period of time and did not consider them to affect the veracity of Witness 1's evidence overall.

The panel noted that the registrant has an otherwise unblemished career. However, the panel also noted that lack of evidence of bad character is not evidence that the allegations are false. By agreement, the panel received a witness statement from the registrant, dated 4 April 2024. However, the panel did not have the opportunity to test this evidence at the hearing, by reason of the registrant's non-attendance.

[PRIVATE].

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

Charge 1a i)

That you, a registered nurse,

1. Between 5 May and 30 June 2022:

a. On one or more occasion:

*i. Made unprofessional and/or sexual comments to and/or about
Colleague A.*

This charge is found proved.

In reaching this decision, the panel took into account the written and oral evidence of Witness 1, and the registrant's written statement.

The panel accepted Witness 1's evidence and considered that her oral evidence was in line with her written statement. In particular, Witness 1's statement gave detailed accounts of the incidents when this behaviour allegedly happened including:

'Around the start of May 2022, Ian's behaviour towards me began to change towards me. He began to share stories with me about how he had cheated on his wife, and he started to talk about his sex life, as well as the sex lives of his friends and colleagues.

...

'He made remarks about my physical appearance, saying "There are people out there who would pay good money to see your tits".

...

'On Tuesday 28 June 2020, Ian asked me what was going on with the person whom I was seeing. I told Ian that we weren't seeing each other anymore. Ian's uncomfortable behaviour started again at this point. He asked me if "the sex was at least good", to which I just nervously laughed, as I didn't know how to respond. Ian continued, "So not only was he not the one, but he wasn't even a decent shag? Oh, you know what you need? A good fuck. Someone to show you a proper time and who knows what they're doing. You need a fuck buddy".

...

'He then pressured me to mimic a moaning sound that I would make if I were enjoying a massage. He carried on with this sexual fantasy, saying how he would kiss down my back and then asked me if I'd make a noise if he sucked on your nipples.'

The panel acknowledged that the registrant has denied this charge, stating:

'I have always conducted myself professionally and respectfully towards all my colleagues, including Colleague A... my relationship with Colleague A was solely professional'.

The registrant further states:

'...there was shared office conversation between my colleagues about their relationships, dates they had been on and sexual partners. I have been in nursing a long time and I consider this kind of conversation between female colleagues to be normal, and I saw this as nothing more than office banter or light-hearted office conversation.'

Witness 1, in her oral evidence, accepted that these conversations did take place, but told the panel that these were not directed personally to her, unlike those detailed in her evidence which took place when she and the registrant were alone.

Given the consistency of her statements throughout the investigatory process and at this hearing, the panel accepted Witness 1's account. The panel considered that this account presented an escalatory pattern of behaviour by the registrant.

The panel determined that, on the basis of the information before it and on the balance of probabilities, it is more likely than not that the registrant did make unprofessional and sexual comments to and about Witness 1 during the prescribed period.

The panel therefore found this charge proved.

Charge 1a ii)

That you, a registered nurse,

1. Between 5 May and 30 June 2022:

a. On one or more occasion:

ii. Insisted that Colleague A should create an OnlyFans account to share sexual content.

This charge is found proved.

In reaching this decision, the panel took into account the written and oral evidence of Witness 1, and the registrant's written statement.

In her written statement, Witness 1 describes how the topic of OnlyFans was raised:

'On Thursday 5 May 2022, during a car journey to Bristol Priory to visit a patient, Ian started bringing up OnlyFans, and saying that I should create an account so that I could share pictures and videos of sexual content with subscribers. I tried to bring the conversation into more professional territory, saying that we had a lecture during which we were told that doing this could risk our status as a nurse. Ian said that "no one would need to know", and he became quite insistent that I should start one.'

On another occasion, 6 May 2022, Witness 1 describes the topic of OnlyFans being raised by the registrant again:

'he handed me his phone and asked me if I could show him how to set up an OnlyFans account, so that he could tell his friend how to set a profile up too. Ian repeated what he had said the day before about me setting up an OnlyFans account and became insistent that I should do this.'

In his written statement, the registrant stated:

'I never suggested that Colleague A should create an OnlyFans account. I only recall having a conversation about OnlyFans or a similar site because it was discussed that a receptionist in the office had previously made this type of account and sold videos. I recall that when we were sitting in the car having coffee, Colleague A brought up that she knew a couple who was making a lot of money with an OnlyFans account, and I also said that I had a friend who had also thought about making money like this. Colleague A said that she was considering doing so herself and listed websites and apps which would drive traffic to an OnlyFans website. I had not heard of these websites before. I recall saying something along the lines of 'you would need a lot of concealer to do that'. I said this because Colleague A had visible tattoos which would be identifiable. This was entirely a joke and I recall that we laughed at this joke. I certainly never insisted that she create an OnlyFans account or any type of account to share sexual content.'

In oral evidence, Witness 1 disputed the registrant's account that there was a receptionist at the Trust who had an OnlyFans account and that was how the topic was raised. She also denied that she knew anyone with an OnlyFans account, or that she had any intention of creating one herself.

The panel was of the view that Witness 1's evidence was more compelling than the registrant's account for the same reasons as above at charge 1a i). Therefore, the panel accepted the evidence of Witness 1 that the registrant both raised the topic of OnlyFans and insisted that Witness 1 create an account.

Accordingly, the panel determined on the balance of probabilities that this charge is found proved.

Charge 1b

That you, a registered nurse,

1. Between 5 May and 30 June 2022:

b. Introduced a points and sexual forfeits system for Colleague A's mistakes.

This charge is found proved.

In reaching this decision, the panel took into account the written and oral evidence of Witness 1, and the registrant's written statement.

The panel noted the screenshot of a conversation over text between Witness 1 and the registrant, referred to in Witness 1's statement, in which the registrant says '*one point to me*'. While the panel was of the view that this was not said within a sexual context, the panel did consider that this was evidence in support of a points system being in play.

The panel then considered this in light of the rest of the evidence, in particular the following section from Witness 1's written statement in which she describes the emergence of the alleged points and sexual forfeits system:

'After the visit, Ian said to me that he would be introducing a 'points' system, and that he would be "keeping a close eye" on me if I did anything wrong. Any mistakes would be recorded on a points system, and if I got a certain number of points, I would have to do a forfeit, to make things "fun". Ian asked what kind of forfeits I felt were appropriate. I offered to take duty calls in the office for a day as a forfeit. Ian said no to this, suggesting "you send me a picture of your tits" instead.

Witness 1 went on to describe instances of when the points system was implemented:

'...I made a very minor error in recording the visit log. Ian said that this would incur a point, and he said that my forfeit would be that I should wear a tight skirt, matching underwear, and stockings to the office tomorrow.'

And the following day:

'...he whispered in my ear, asking if I was wearing matching underwear and stockings. I said that I wasn't. Ian said that my forfeit would have to carry over to the following day.

...

'he pulled me up on another minor admin error, saying that this would mean another forfeit, which would be that I would have to send him naked pictures on the weekend.'

The panel also considered the registrant's account of the points system:

'I can recall that I had on occasion used a points system in respect of learning with Colleague A, particularly about prescribed drugs. I had also done this

with previous students. We would discuss certain drugs and Colleague A would answer questions about the drug. It was a joke that if she had accrued more than 3 points, then they would have to buy the coffee or doughnuts for the office. This was a joke and of course it was never enforced. The text message that I sent to Colleague stating, '1 point to me!' was in about this and did not relate to any kind of points and sexual forfeits system.'

On balance, the panel considered the evidence of Witness 1 to be more credible given its findings in the previous charges. Having regard to the sexual nature of the comments detailed in her account, the panel ultimately determined that, on the basis of the information before it and on the balance of probabilities, it is more likely than not that the registrant did introduce a points and sexual forfeits system for Colleague A's mistakes.

The panel therefore found this charge proved.

Charge 2

Your conduct in charge 1 above, was sexually motivated in that you were seeking sexual gratification and/or pursuing a future sexual relationship with Colleague A.

This charge is found proved.

In reaching this decision, the panel took into account the written and oral evidence of Witness 1, and the registrant's written statement.

The panel noted the following from Witness 1's statement regarding the registrant's conduct:

'He then asked to put his hands down my pants "to check how wet you are".

...

'Ian said that if I ever wanted to act out his fantasies then all I ever had to do was say "My shoulder hurts, can you massage it for me?" and he would "Come to my house and fuck my brains out".'

Given the graphic nature of these comments, and having found charge 1 proved in its entirety, the panel considered that there is no other explanation for the registrant's behaviour than that he was seeking sexual gratification and pursuing a future sexual relationship with Witness 1.

The panel therefore found this charge proved.

Charge 3a

3. *Your conduct at charge 1 above harassed Colleague A in that:*
 - a. *Your conduct was unwanted conduct related to a protected characteristic, namely Colleague A's sex.*

This charge is found proved.

In reaching this decision, the panel took into account the written and oral evidence of Witness 1, and the registrant's written statement.

Witness 1 has been clear and consistent across her evidence that this behaviour was unwanted. She described the impact this behaviour had on her wellbeing:

'These conversations made me uncomfortable, and I wasn't sure how to respond to them. I would often try to change the topic, but he would always bring the conversation back to the uncomfortable things he wanted to discuss and would even tell me not to change the topic.'

...

'He made remarks about my physical appearance, saying "There are people out there who would pay good money to see your tits". This conversation made me feel very uncomfortable.'

There is no evidence that the registrant's behaviour was reciprocated.

Given that the panel found the registrant's conduct was found to be sexually motivated as at charge 2, it follows that his conduct related to the protected characteristic of Witness 1's sex. The panel determined, on the balance of probabilities, that this charge is found proved.

Charge 3b i) and Charge 3b ii)

3. *Your conduct at charge 1 above harassed Colleague A in that:*
 - b. *Your conduct had the purpose and/or effect of:*
 - i. *Violating Colleague A's dignity.*
 - ii. *Creating an intimidating, hostile, degrading, humiliating and offensive environment for Colleague A.*

These charges are found proved.

Whilst the panel considered charges 3b i) and ii) separately, they have been written up together for the purposes of this determination.

In reaching this decision, the panel took into account the written and oral evidence of Witness 1, and the registrant's written statement.

Witness 1 has been clear and consistent across her evidence that this behaviour was unwanted. She described the impact the registrant's behaviour had on her wellbeing:

[PRIVATE]

...

'Ian's behaviour made me feel disgusted and scared. I was also worried that pushing back against Ian would be seen as an overreaction, and then he could fail me and mess up my nursing career.'

Having found the alleged conduct at the previous charges proved, and considering the reliability of Witness 1's account, the panel determined that the registrant's conduct had the effect of violating Witness 1's dignity, and creating an intimidating, hostile, degrading, humiliating and offensive environment for her.

The panel therefore found this charge proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether the registrant'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 has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, the registrant'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.*’

Mr Wallis invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of ‘The Code: Professional standards of practice and behaviour for nurses and midwives (2015)’ (the Code) in making its decision.

Mr Wallis identified the specific, relevant standards where the registrant’s actions amounted to misconduct, specifically he submitted that the registrant breached the following subsections of section 20 of the Code: 20.1, 20.2, 20.3, 20.5, and 20.8.

Mr Wallis submitted that the findings of the panel together with the evidence breaches of the Code indicate conduct by the registrant which was deliberate and persistent over a period of months. He submitted it involved the registrant abusing a position of authority over a junior colleague, and noted that the panel has the evidence of the impact this had on her. Mr Wallis noted that, as a consequence of the registrant’s behaviour, Colleague A had to leave her placement and her studies were interrupted.

Mr Wallis submitted that the NMC guidance in respect of sexual misconduct makes it clear that it can be a single incident or a pattern of behaviour. He submitted that in this case there is a pattern of behaviour.

Mr Wallis invited the panel to make a finding that the facts found proved amounted to misconduct.

Mr Akers, on behalf of the registrant, accepted that misconduct is made out based on the panel’s findings as to facts.

Submissions on impairment

Mr Wallis 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).

Mr Wallis referred to the decision of Dame Janet Smith and the four-limbed test in *Grant*. He submitted that the second and third limbs are engaged in this case, namely that the registrant's misconduct has brought the nursing profession into disrepute, and that the misconduct has breached a fundamental tenet of the nursing profession. He noted that there is no evidence that the registrant has demonstrated insight, remorse or remediation for his behaviour. Mr Wallis submitted that the registrant's fitness to practice is impaired.

Mr Akers submitted that impairment is not made out. He submitted that the registrant is not liable to put patients and colleagues at unwarranted risk of harm, nor that he is liable to bring the nursing profession into disrepute or breach a fundamental tenet of the nursing profession in future.

Mr Akers submitted that the registrant had been working as a registered nurse for an excess of three decades without any issues or previous reports of sexual misconduct made against him. He submitted that the charges pertain to one individual over a period of two months. Mr Akers noted that, though admittedly a student nurse, Colleague A was a colleague of the registrant, and submitted that it would have been a greater breach had she been a patient.

Mr Akers further submitted that there has been no suggestion of physical assault, that there is no contact offence, and that the misconduct is purely verbal in nature apart from the stroking of the fingers.

Mr Akers informed the panel that the registrant lost his employment at the Trust consequence of the allegations and that he has no intention to revalidate or of

returning to practise. Mr Akers reiterated to the panel that the registrant does not accept the allegations.

Mr Akers submitted that a finding of impairment is not necessary to uphold the standards of the nursing profession.

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, *Cohen v GMC* [2008] EWHC 581 (Admin), and *Grant*.

Decision and reasons on misconduct

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

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

'20 *Uphold the reputation of your profession at all times*

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

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

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

...

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

...

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that, given the severity of the charges found proved and that they relate to the sexual harassment of a junior colleague whilst in a position of authority, the panel was satisfied that the registrant's actions did fall seriously 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, the registrant'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. 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'*

The panel finds that while there is no evidence that patients were put at risk and or caused harm as a result of the registrant's misconduct, [PRIVATE].

The panel determined that the registrant's misconduct breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It

was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to sexual misconduct as extremely serious.

Regarding insight, the panel noted that the registrant has always, and continues to, deny the allegations, which he is entitled to do. It has therefore not seen any information that he has demonstrated an understanding of how his actions impacted Colleague A, why they were wrong, and how they negatively impacted the nursing profession. Having received no further information, the panel determined that the registrant has shown no insight into nor remorse for his actions.

Noting that the allegations found proved depict a pattern of misconduct that escalated over a period of two months, the panel is of the view that there is a risk of repetition. It noted the impact of the registrant's behaviour on Colleague A and that it caused her significant [PRIVATE]. The panel therefore decided that a finding of impairment is necessary on the ground of public protection.

The panel bore in mind 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 a finding of impairment on public interest grounds is required given seriousness of allegations found proved. Sexual misconduct of this kind is intolerable. The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds the registrant's fitness to practise impaired on the grounds of public interest.

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

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike the registrant off the register. The effect of this order is that the NMC register will show that Ian Turner has been struck-off the register.

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

Submissions on sanction

Mr Wallis informed the panel that in the Notice of Hearing, dated 7 March 2024, the NMC had advised the registrant that it would seek the imposition of a striking-off order if it found the registrant's fitness to practise currently impaired.

Mr Wallis submitted that, due to the seriousness and nature of the concern and because of the absence of any evidence of remediation. Mr Wallis referred to the following aggravating factors;

- this was a pattern of misconduct over a period of time slightly more than two months.
- The registrant's conduct was persistent, unwanted, and escalating significantly
- The registrant was in a position of authority over Colleague A; and
- with the implementation of a points system demonstrates he was actively enforcing that hierarchy.

Mr Wallis submitted that the registrant's misconduct was at the more serious end of the spectrum and as such the lesser sanctions are not appropriate to address the public protection and public interest concerns. He submitted that it is not clear that there are any conditions of practice that could be formulated which would meet the underlying concern of this case, nor would a suspension be sufficient as the panel has seen no assurances that the registrant is not at risk of repeating the behaviour.

Mr Wallis invited the panel to impose a striking-off order.

The panel also bore in mind Mr Akers' submissions, on behalf of the registrant. He reiterated his submissions that the misconduct was overwhelmingly verbal and occurred over only two months within a decades long career.

Mr Akers referred the panel to an investigation interview record with a social worker from the Trust, in which the registrant is referred to as a colleague who is held in high regard. He further submitted that there is no evidence of repetition of similar behaviour since the allegations were made.

Mr Akers submitted that there is no current risk to members of the public or colleagues given that the registrant is no longer working as a registered nurse and had no intention of doing so.

Mr Akers submitted that a striking-off order would be disproportionate. He invited the panel to instead impose a suspension order for 12 months which, taken alongside the interim order of suspension which has been in place since October 2022, would make a total of two and a half years. He submitted that this would be sufficient to meet the concerns identified, and would allow the registrant to have the opportunity to demonstrate remediation.

The panel heard and accepted the advice of the legal assessor. He made particular reference to the case of *Arunachalam v GMC (2018) EWHC 758 (Admin)*.

Decision and reasons on sanction

Having found the registrant'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 of this case:

- That the registrant abused a position of trust given that Colleague A was a student nurse and he was her superior;
- That the panel has not seen evidence of the registrant's insight into his failings; and
- That his behaviour formed an escalating pattern of sexual misconduct over a period of time.

The panel also considered the mitigating factors listed in the guidance, but did not consider that any applied to this case. [PRIVATE].

The panel noted Mr Akers' submission that the registrant has a previously unblemished record and has seen evidence that the registrant was held in high regard by his colleagues.

The panel has taken into account the NMC guidance on cases involving sexual misconduct:

'Sexual misconduct is likely to create a risk to people receiving care and to colleagues as well as undermining public trust and confidence in the professions we regulate.'

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.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict the registrant'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 the registrant's misconduct was not at the lower end of

the spectrum and that a caution order 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 impose a caution order.

The panel next considered whether placing conditions of practice on the registrant's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on the registrant's registration would not adequately address the seriousness of this case. Further, the panel heard submissions from Mr Akers that the registrant is not currently working as a registered nurse, has no intention of doing so in the future, and has no intention of revalidating.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that a 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;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel has found that the charges point to a pattern of escalating misconduct over a period of time. It has not seen any evidence that the registrant has demonstrated remorse or insight into his behaviour, and has determined that there is evidence of deep-seated attitudinal problems.

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction. The panel considered Mr Akers' submission that a suspension order would be an appropriate sanction as it would provide an avenue for the registrant to return to practice. However, having due regard to the NMC guidance and the charges found proved, the panel determined that a suspension was not appropriate in this case.

The panel noted that the serious breach of the fundamental tenets of the profession evidenced by the registrant's actions is fundamentally incompatible with the registrant remaining on the register.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

The registrant's actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with him remaining on the register. The panel was of the view that the findings in this particular case demonstrate that the registrant's actions were serious and to allow him to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of the registrant's actions in bringing the profession into disrepute by adversely affecting the public's

view of how a registered nurse should conduct himself, the panel has concluded that nothing short of this would be sufficient in this case.

The panel considered that this order was 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.

This will be confirmed to the registrant in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in the registrant's own interests until the striking-off 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 Mr Wallis. Mr Wallis invited the panel to impose an interim suspension order for 18 months to allow time if an application for an appeal is brought for the appeal to be determined and resolved. Mr Wallis submitted that an interim suspension order would be appropriate in light of the panel's decision regarding sanction.

The panel also took into account the submissions made by Mr Akers who reminded the panel that the registrant is not currently working as a registered nurse and has no intention of doing so in future.

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 allow time for any appeal to be resolved.

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

That concludes this determination.