

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

**Substantive Meeting
Thursday, 20 June 2024 – Friday, 21 June 2024**

Virtual Meeting

Name of Registrant: Arthur Stanley Lockley

NMC PIN 75A1530E

Part(s) of the register: Nurses part of the register Sub part 1
RN1: Adult nurse, level 1 (8 December 1980)
RN3: Mental health nurse, level 1 (3 April 1978)

Relevant Location: Hackney

Type of case: Misconduct

Panel members: Denford Chifamba (Chair, Registrant member)
Jude Bayly (Registrant member)
Ian Dawes (Lay member)

Legal Assessor: Trevor Jones

Hearings Coordinator: Audrey Chikosha

Facts proved by admission: Charges 1, 2a, 2b(i) and 2b(ii),

Facts proved: Charges 2c, 2d(i) and 2d(ii)

Fitness to practise: Impaired

Sanction: **Strike-Off**

Interim order: **Suspension Order (18 months)**

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that that the Notice of Meeting had been sent to Mr Lockley's registered email address by secure email on 15 May 2024.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, dates and the fact that this meeting was heard virtually.

In the light of all of the information available, the panel was satisfied that Mr Lockley been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Details of charge

That you, a registered nurse:

1. Between 15 July 2021 and 01 October 2021 had sexual conversations with Patient A. **[PROVED BY WAY OF ADMISSION]**
2. Your conduct at charge 1:
 - a. breached professional boundaries in that your initial contact with Patient A was a result of her seeking professional assistance from you. **[PROVED BY WAY OF ADMISSION]**
 - b. was carried on despite you knowing that Patient A was vulnerable in the light of:
 - i. her medical condition(s) **[PROVED BY WAY OF ADMISSION]**
 - ii. her social history. **[PROVED BY WAY OF ADMISSION]**
 - c. was intended to take advantage of Patient A because of her vulnerabilities, which were known to you.
 - d. was sexually motivated in that:

- i. you were deriving sexual gratification from the conversations.
- ii. you were pursuing a future sexual relationship with Patient A.

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

Background

On 20 December 2022, the NMC received a referral from the Deputy Head of Service at Hackney Integrated Learning Disabilities Service (“the Service”) about Mr Lockley. The Service alleges that the Hackney Council has sound reasoning and evidence to believe that Mr Lockley, in a counsellor role, was supporting a vulnerable female (Patient A) and seriously breached a number of professional standards. This involved a series of messages of a sexual and coercive nature from July to October 2021. The Service also had concerns around Patient A’s mental capacity to consent to relationships.

The police had conducted their own investigations and whilst they did not find there to be chargeable offences, they did confirm that messages between Mr Lockley and Patient A were highly sexualised. The police went on to make a safeguarding referral to the Wirral Safeguarding Adult Board. In the police’s witness statement, Patient A alleges that Mr Lockley “groomed” her online and started to speak to her sexually in a way that she didn’t like.

Decision and reasons on facts

At the outset of the meeting, the panel noted the written representations from the NMC which stated that Mr Lockley has made full admissions to charges 1, 2a, 2b(i) and 2b(ii).

The panel therefore finds charges 1, 2a, 2b(i) and 2b(ii) proved in their entirety, by way of Mr Lockley’s admissions.

In reaching its decisions on the disputed facts, the panel took into account all the documentary evidence in this case together with the representations made by the NMC. Mr Lockley returned his case management form (CMF) indicating which charges he

admitted and those he denied but provided little, if anything, to explain his position on the charges he denied.

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 had regard to the written statements of the following witnesses on behalf of the NMC:

- Witness 1: Patient A
- Witness 2: Police officer who attended 'the Service' and took Patient A's initial statement.

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

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

Charge 2c

"That your conduct at charge 1:

- c. was intended to take advantage of Patient A because of her vulnerabilities, which were known to you."

This charge is found proved.

In reaching this decision, the panel noted that as her counsellor, Mr Lockley knew of Patient A's diagnoses of [PRIVATE]. The panel had sight of text messages between Mr Lockley and Patient A which indicated that he was aware of her medical and social history which made her a particularly vulnerable patient.

Furthermore, in considering the text message evidence before it, the panel was of the view that while it is unclear who initiated the explicit messaging, Mr Lockley was an enthusiastic participant in the sexual communications and did not take any steps to stop it. In addition, the panel noted a text message from Mr Lockley which reads: *'I would get struck off'* (this was in the context of anyone finding out about his misconduct).

The panel determined that this is a clear indication that Mr Lockley knew that his actions were wrong and in breach of his professional code of conduct in engaging in such explicit communications with a patient who he knew to be vulnerable.

The panel therefore concluded that this charge is found proved.

Charge 2d(i)

"That your conduct at charge 1:

d. was sexually motivated in that:

i. you were deriving sexual gratification from the conversations."

This charge is found proved.

In reaching this decision, the panel had before it the text messages between Mr Lockley and Patient A. The panel noted the messages are highly sexual in nature. In particular, the panel noted text messages from Mr Lockley which read as follows:

'I play in the shower running the hot water on my ...[PRIVATE]'

and;

'When do you want to [PRIVATE]?''

The panel was of the view that these messages clearly demonstrate that Mr Lockley was seeking sexual gratification from his communications with Patient A. The panel noted that Mr Lockley made various sexually charged comments and requests to Patient A

throughout their conversations which were intended to provide him with sexual gratification.

Charge 2d(ii)

“That your conduct at charge 1:

d. was sexually motivated in that:

i. you were pursuing a future sexual relationship with Patient A.”

This charge is found proved.

In reaching this decision, the panel first considered what constitutes a ‘sexual relationship’. In the absence of any submissions from the NMC and Mr Lockley in relation to this, the panel decided to take the plain English meaning of the term. The panel therefore considered ‘sexual relationship’ to include both a physical and virtual sexual relationship.

The panel then reviewed the information before it and noted that there was nothing to suggest that either Mr Lockley or Patient A made any plans to pursue a physical sexual relationship in the future. However, the panel did determine that Mr Lockley had engineered these sexual communications with Patient A to be an exclusive relationship which he had no intentions of terminating. The panel bore in mind a text from Mr Lockley which read:

‘It’s a bit late now I’ll do it tomorrow. I don’t want your parents to get suspicious’.

The panel noted that this message indicated that he would message Patient A ‘tomorrow’ and that the messages span across multiple days. Furthermore, the panel noted that the relationship only ended after Patient A reported the content of the conversations with Mr Lockley to the Learning Disability Team at the Service.

The panel therefore concluded that Mr Lockley was seeking to continue the sexual relationship he had engineered with Patient A and thus, 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 Mr Lockley'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, Mr Lockley's fitness to practise is currently impaired as a result of that misconduct.

Representations on misconduct and impairment

In coming to its decision, the panel had regard to the case of *Roylance v GMC (No. 2)* [2000] 1 AC 311 which defines misconduct as:

'Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rule and standards ordinarily required to be followed by a [nurse] practitioner in the particular circumstances.'

The NMC also submitted that the comments of Jackson J in *Calheam v GMC* [2007] EWHC 2606 (Admin) and *Collins J in Nandi v General Medical Council* [2004] EWHC 2317 (Admin), respectively define misconduct as:

'[Misconduct] connotes a serious breach which indicates that the doctor's (nurse's) fitness to practise is impaired'

And

'The adjective "serious" must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioner.'

The NMC submitted that where the acts or omissions of a registered nurse are in question, what would be proper in the circumstances (per Roylance) can be determined by having reference to the Nursing and Midwifery Council's Code of Conduct.

The NMC 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.

The NMC identified the specific, relevant standards where Mr Lockley's actions amounted to misconduct which were sections 1, 1.1, 17, 17.1, 19, 19.1, 20, 20.1, 20.5, and 20.6.

It was submitted by the NMC that the misconduct is serious because Patient A was (and is) highly vulnerable. The NMC submitted that Mr Lockley met Patient A in a professional setting and then took advantage of his privileged knowledge of and access to Patient A to pursue his own sexual gratification. It was submitted that his actions represent a gross departure from proper professional standards, placed Patient A at risk of harm and had the potential to impact on her future relationships with professionals involved in her care. Furthermore, the NMC submitted that fellow professionals would consider Mr Lockley's conduct deplorable.

The NMC requires the panel to bear in mind its overarching objective to protect 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. The panel has referred to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin),

The NMC invited the panel to find Mr Lockley's fitness to practise impaired on the grounds of public protection and in the wider public interest.

The NMC submitted that the NMC's guidance explains that impairment is not defined in legislation but is a matter for the Fitness to Practise Committee to decide. The question that will help decide whether a professional's fitness to practise is impaired:

“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.

It is submitted that when determining whether the Mr Lockley's fitness to practise is impaired, the questions outlined by Dame Janet Smith in the 5th Shipman Report (as endorsed in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin)) are instructive. Those questions were:

- 'A. has [the Registrant] in the past acted and/or is liable in the future to act as so to put a patient or patients at unwarranted risk of harm; and/or*
- B. has [the Registrant] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or*
- C. has [the Registrant] in the past committed a breach of one of the fundamental tenets of the [nursing] profession and/or is liable to do so in the future and/or*
- D. has [the Registrant] in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The NMC submit that limbs A, B and C can be answered in the affirmative in this case. They submitted that Mr Lockley's conduct undermined Patient A's therapeutic relationship with him and had the potential to undermine other and future therapeutic relationships she may need to have, thus placing Patient A at unwarranted risk of harm. It is also submitted that Mr Lockley's conduct also brought the profession into disrepute.

Mr Lockley encountered Patient A in his role as a counsellor, however, it is submitted that, the basic principles of care, compassion and maintenance of professional boundaries apply equally to counselling and nursing. The failure to observe these with a vulnerable person in respect of whom Mr Lockley stood in a professional capacity is conduct which, by virtue of his being a registered nurse at the time of his conduct, brings the profession into disrepute.

The NMC submitted that treating people with kindness, respect and compassion and in a way that does not take advantage of their vulnerabilities as being of prime importance. The NMC submitted that Impairment is a forward-thinking exercise which looks at the risk the registrant's practice poses in the future. NMC guidance adopts the approach of Silber J in the case of *R (on application of Cohen) v General Medical Council* [2008] EWHC 581 (Admin) by asking the questions whether the concern is easily remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated.

The NMC submitted that Mr Lockley has displayed some, very limited, insight. This is because Mr Lockley accepted that he 'made a grave mistake' in his CMF and made some admissions.

Furthermore, it is submitted that Mr Lockley has not undertaken relevant training in respect of the issues of concern. In any event, the NMC are of the view that the issues in this case to be referable to a lack of training. In addition, the NMC has not received any evidence to suggest that Mr Lockley has practiced [which the panel takes to be a reference to Mr Lockley not practising as a nurse] since the events in question. As such, it is submitted that there is a continuing risk to the public for two reasons:

- a. The Registrant's insight is very limited amounting to, on the most charitable reading possible, a bare acceptance of wrongdoing.
- b. The Registrant knew from the outset that his actions were wrong and indeed so wrong that they were incompatible with continued registration, yet still he persisted.

In relation to the wider public interest, the NMC submitted that in *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) at paragraph 74 Cox J commented that:

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

The NMC submitted that there are types of concerns that are so serious that, even if the professional addresses the behaviour, a finding of impairment is required either to uphold proper professional standards and conduct or to maintain public confidence in the profession.

The NMC submitted that there is public interest in a finding of impairment being made in this case to declare and uphold proper standards of conduct and behaviour. Mr Lockley's conduct engages the public interest because people who need to access healthcare services, particularly mental health services, need to have complete confidence that their vulnerabilities will not be exploited by the people responsible for their care. It is submitted that when a professional breaches professional boundaries in this way, it significantly damages public trust and confidence in the profession such that people are likely to be more reluctant to access healthcare services.

The NMC therefore invited the panel to make a finding of impairment to declare and uphold proper standards of conduct and behaviour.

In line with the NMC submissions noted above, the panel had very little information from Mr Lockley. He made no submissions although he has admitted misconducted and impairment, he has merely said that he has 'made a grave mistake' in his CMF in which he made some admissions.

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).

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 Mr Lockley's actions did fall significantly short of the standards expected of a registered nurse, and that Mr Lockley's actions amounted to a breach of the Code. Specifically:

1. Treat people as individuals and uphold their dignity

1.1. treat people with kindness, respect and compassion

17. Raise concerns immediately if you believe a person is vulnerable or at risk and needs extra support and protection

17.1. take all reasonable steps to protect people who are vulnerable or at risk from harm, neglect or abuse

19. Be aware of, and reduce as far as possible, any potential for harm associated with your practice To achieve this, you must:

19.1. take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place

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

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

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that Mr Lockley's conduct fell seriously short of standards expected of a registered nurse.

The panel also took into account the NMC Guidance FTP-3 on serious misconduct. The panel determined that Mr Lockley's actions represent a gross departure from proper professional standards, he placed Patient A at risk of harm and had the potential to impact on her future relationships with professionals involved in her potentially seeking support for her complex needs. It was clear to the panel that fellow professionals would find Mr Lockley's misconduct deplorable.

The panel therefore found that Mr Lockley's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to serious misconduct.

Decision and reasons on impairment

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

In coming to its decision, the panel had regard to the Fitness to Practise Library (DMA-1), 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/their fitness to practise is impaired in the sense that 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*

The panel determined the three limbs of Grant are engaged in this case.

The panel finds that Patient A was put at risk and had the potential to be caused serious emotional and mental harm as a result of Mr Lockley's misconduct. Mr Lockley undermined Patient A's therapeutic relationship with him and had the potential to undermine other and future therapeutic relationships she may need to have, thus placing Patient A at unwarranted risk of harm. Mr Lockley's misconduct had 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 misconduct of a sexual, predatory and coercive nature serious.

Regarding insight, the panel considered that Mr Lockley had very limited insight. Mr Lockley made admissions in relation to some of the charges and has acknowledged that he made a mistake. However, the panel had no other evidence before it to demonstrate Mr Lockley's insight. The panel noted that he also denied charges which have since been found proved and considered that this shows Mr Lockley has not fully understood the adverse impact his actions had on Patient A.

The panel next considered the evidence before it to determine whether or not Mr Lockley has taken any steps to strengthen his practice. The panel had no information before it that showed Mr Lockley has undertaken further training or strengthened his practice in any way. The panel noted that it is understood that Mr Lockley is not currently working as a nurse and thus there is no recent evidence of a period of sustained kind, safe and professional practice.

The panel is therefore of the view that there is a risk of repetition based on Mr Lockley's very limited insight and lack of remediation. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that a finding of impairment on public interest grounds is required because a well-informed member of the public would be shocked to find that an NMC panel did not make a finding of impairment on a registrant in light of the charges found proved. The panel was of the view that public confidence in the profession would be seriously undermined should a finding of impairment not be made as the charges are serious and relate to sexual, predatory and coercive behaviour with a vulnerable person under Mr Lockley's care.

Therefore, the panel also finds Mr Lockley's fitness to practise impaired on the grounds of public interest.

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

Representations on sanction

The NMC invited the panel to impose a strike-off order.

The NMC submit that taking no further action or imposing a caution order would be obviously insufficient to protect the public nor is this case at the lower end of the spectrum of impaired fitness to practise.

It is submitted by the NMC that a conditions of practice order would be similarly inappropriate. The NMC submit that the issues are too grave, and, in any event, Mr Lockley knew what he was doing was wrong and nonetheless persisted (*'I would get struck off'*). The NMC submit that this is not a case where there are any identifiable training needs which a conditions of practice order would support. Mr Lockley did what he did because he wanted to, not because he didn't know any better.

Furthermore, the NMC submit that a suspension order would also be inappropriate, albeit realistically the panel is likely to be faced with a choice between this and striking off. With regard to the NMC's guidance, the NMC submit:

- i. the conduct in this case is not a single instance, it was a prolonged and inappropriate sexual relationship.
- ii. there is evidence of harmful deep-seated personality or attitudinal problems. This is eloquently spoken to by Mr Lockley's knowledge that what he was doing warranted a striking off order and his nonetheless continuing.
- iii. Mr Lockley has demonstrated very little insight.

The NMC therefore submit that a striking off order is the only proportionate sanction in this case. The NMC reminded the panel that from his own hand Mr Lockley recognised that would be the outcome if his conversations with Patient A came to light. Even absent this, the NMC submit that Mr Lockley's conduct is fundamentally incompatible with continued registration – an abuse of a position of trust for sexual gratification being one of the matters referred to in the NMC's guidance as a 'serious case'.

Decision and reasons on sanction

Having found Mr Lockley'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:

- abuse of a position of trust
- lack of insight into failings
- a pattern of misconduct over a period of time
- conduct which put patients at risk of suffering harm

The panel also took into account the following mitigating features:

- Mr Lockley has made some early admissions.

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, protect the public 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 Mr Lockley'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 Mr Lockley'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, protect the public nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mr Lockley'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 Mr Lockley'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;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel noted that the misconduct in this case is not a single incident but instead a pattern of behaviour over a sustained period of time (July to October 2021). This pattern of behaviour as well as Mr Lockley's own acknowledgment that his conduct was wrong and would warrant being struck off the register if anyone found out about it. The panel determined that Mr Lockley's misconduct was in itself sufficient evidence of harmful deep-seated personality and attitudinal problems. The panel also noted that while there has been no evidence of repetition of the behaviour, the panel has had no evidence from Mr Lockley at all, and it is understood that he is currently not practicing as a nurse.

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mr Lockley's actions is fundamentally incompatible with Mr Lockley remaining on the register.

In this particular case, the panel determined that a suspension order whilst in the short term would protect the public as Mr Lockley's practice would be restricted, however, a suspension order would not be a sufficient, appropriate or proportionate sanction.

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 panel found that all of the above considerations have been engaged in this case.

Mr Lockley'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 Mr

Lockley'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.

The panel had particular regard to NMC Guidance SAN-2 which, in relation to cases of sexual misconduct, reads as follows:

'However, as these behaviours can have a particularly severe impact on public confidence, a professional's ability to uphold the standards and values set out in the Code, and the safety of people receiving care, any nurse, midwife or nursing associate who is found to have behaved in this way will be at risk of being removed from the register'.

Balancing all of these factors and after taking into account all the evidence before it during this case and the NMC Guidance, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the matters it identified, in particular the effect of Mr Lockley'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 Mr Lockley 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 Mr Lockley's own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Representations on interim order

The panel took account of the representations made by the NMC that in light of the finding that Mr Lockley's fitness to practise is impaired on a public protection basis and that a strike-off sanction has been imposed, an interim order is necessary in the same terms as the substantive order namely, public protection and in the public interest.

Furthermore, the NMC submit that Mr Lockley's conduct was fundamentally incompatible with remaining on the NMC Register and thus an interim order of suspension should be imposed on the basis that it is otherwise in the public interest.

The panel had no submissions from Mr Lockley in relation to an interim order.

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

Decision and reasons on interim order

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

The panel concluded that an interim 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 due to cover appeal period.

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

That concludes this determination.

