

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

**Substantive Meeting
Thursday 13 June 2024**

Virtual Meeting

Name of Registrant: **Iain Cuthbert Mckendry**

NMC PIN 93H0081S

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – 05 August 1996

Relevant Location: Scotland

Type of case: Conviction

Panel members: Gregory Hammond (Chair, Lay member)
Alison Thomson (Registrant member)
Karen Naya (Lay member)

Legal Assessor: Christopher McKay

Hearings Coordinator: Sophie Cubillo-Barsi

Facts proved: Charges 1 a), b), c) and d)

Fitness to practise: Impaired

Sanction: **Striking-off order**

Interim order: **Interim 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 Mckendry, at HMP Kilmarnock by recorded delivery and first-class post on 10 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, and the fact that this meeting would be held virtually on or after 13 June 2024.

In the light of all of the information available, the panel was satisfied that Mr Mckendry has 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. On 2 May 2023 at Kilmarnock Sheriff Court were convicted of:
 - a) Assault of Person A on numerous occasions between 1 March 2004 and 9 May 2022, contrary to Common Law and section 1 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016;
 - b) Behaving in a threatening or abusive manner which was likely to cause a reasonable person to suffer fear or alarm on numerous occasions between 6 October 2010 and 9 May 2022 in relation to Person A, Person B and Child A, contrary to section 38(1) of the Criminal Justice and Licensing (Scotland) Act 2016 and section 1 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016;

c) Assault of Person B between 1 June 2019 and 30 June 2019, contrary to Common Law;

d) Assault of Child A on an occasion between 1 January 2020 and 31 January 2020, contrary to Common Law

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

Background

Mr Mckendry entered on the Nursing and Midwifery Council (“the NMC”) register of nurses, midwives and nursing associates as a registered nurse on 5 August 1996. He commenced employment at NHS Greater Glasgow and Clyde on 11 December 2017 as a Band 5 Anaesthetic Nurse.

On 9 May 2022, Mr Mckendry was arrested and appeared in court the following day, where he was charged with:

- Domestic Abuse (statutory aggravation);
- Assault to Injury Domestic Abuse (statutory aggravation); and
- Assault.

The charges are related to Mr Mckendry’s private life. In relation to Person A, it was found that Mr Mckendry repeatedly shouted and swore at her, repeatedly seized her by her body and hair, pushed her down the stairs, pushed and pulled her to the ground, straddled her, seized her by her neck and compressed the neck and punched, slapped and headbutted her. In relation to Person A, Person B and Child B, it was found that Mr Mckendry behaved in a threatening and abusive manner which was likely to cause a person to suffer fear or alarm in that he shouted, swore, uttered threats and made offensive remarks. It was also found that Mr Mckendry assaulted Person B in that he struck her in the head with his fist and body. In relation to Child B, it was found that Mr

Mckendry attempted to grab him, punch him and straddle him whilst he was on a bed, repeatedly punching him in the face and body.

Mr Mckendry self-referred to the NMC on 25 May 2022 following the charge. On 2 May 2023, Mr Mckendry was convicted of domestic abuse assault offences at Kilmarnock Sheriff Court. He was sentenced on 1 June 2023 to 30 months' imprisonment and an eight-year non-harassment order against three named individuals.

Mr Mckendry is currently serving his custodial sentence at HMP Kilmarnock.

Decision and reasons on facts

The charges concern Mr Mckendry's conviction and, having been provided with a copy of the Extract Conviction Report, certified on 27 February 2024, the panel finds that the facts are found proved in accordance with Rule 31 (2) and (3). These state:

- '31.— (2) Where a registrant has been convicted of a criminal offence—*
- (a) a copy of the certificate of conviction, certified by a competent officer of a Court in the United Kingdom (or, in Scotland, an extract conviction) shall be conclusive proof of the conviction; and*
 - (b) the findings of fact upon which the conviction is based shall be admissible as proof of those facts.*
- (3) The only evidence which may be adduced by the registrant in rebuttal of a conviction certified or extracted in accordance with paragraph (2)(a) is evidence for the purpose of proving that she is not the person referred to in the certificate or extract.'*

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, Mr Mckendry's fitness to practise is currently impaired by reason of Mr Mckendry's conviction. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

Representations on impairment

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. In its written representations, the NMC submitted the following:

'At the relevant time, Mr Mckendry was subject to the provisions of The Code: Professional standards of practice and behaviour for nurses and midwives (2015) ("the Code").

It is submitted that the following provisions of the Code have been breached:

20 Uphold the reputation of your profession at all times.

To achieve this, you must:

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

20.2 act with honesty and integrity at all time.

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

20.4 keep to the laws of the country in which you are practising.

The Code at 20.4 has been breached by virtue of Mr Mckendry's conviction. The NMC argue that Mr Mckendry's actions are a violation of the Code. His conduct falls seriously short of the standards expected of a registered nurse as the convictions are serious. Mr Mckendry's conduct would be seen as deplorable by

fellow practitioners and would damage the trust the public places in the profession.

Impairment

The NMC's guidance on impairment 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 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.

Answering this question involves a consideration of both the nature of the concern and the public interest. In addition to the following submissions, the panel is invited to consider carefully the NMC's guidance on impairment.

Impairment needs to be considered as at today's date, i.e. whether Mr Mckendry's fitness to practise is currently impaired.

When determining whether Mr Mckendry's fitness to practice 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:

Do our findings of fact in respect of the [registrant's] misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his fitness to practise is impaired in the sense that Mr Mckendry:

- a) has 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 in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or*
- c) has 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 in the past acted dishonestly and/or is liable to act dishonestly in the future.*

It is the submission of the NMC that sections b and c can be answered in the affirmative in this case.

The public has the right to expect high standards of registered professionals. Receiving a conviction for domestic abuse and assault which inflicted such harm on his victims over a considerable period, falls short of the high standards expected of registered professionals. Mr Mckendry's conviction has brought the nursing profession into disrepute.

Fundamental tenets of the nursing profession cover the aspects of behaviour, attitude and approach which underpin the professional standards registered nurses must uphold as outlined in The Code. These include promoting professionalism and trust by upholding the reputation of the profession at all times. To achieve these, registered professionals must keep to the laws of the country in which they are practising. Mr Mckendry's actions are therefore a breach of the Code.

The NMC's guidance FTP-3c, supports the NMC in taking regulatory action against Mr Mckendry to promote and maintain professional standards and the public's trust in the profession. Mr Mckendry behaved violently in a domestic setting; he abused a child and vulnerable adult and committed a serious crime. His behaviour raises fundamental questions about his ability to uphold the standards and values set out in the Code if no regulatory action is taken. Mr Mckendry has clearly brought the profession into disrepute by the very nature of

his convictions. Registered professionals occupy a position of trust and must act with and promote integrity at all times. The public would be extremely concerned to learn that a nurse had been convicted of such crimes.

Mr Mckendry is serving 30 months imprisonment. His conviction is likely to seriously undermine the trust and confidence which patients and the public place in the nursing profession if he is allowed to practise once he is released from prison.

The general rule in Fleischmann [2005] EWHC 87 is that a nurse should not be permitted to practise until they have completed a sentence for a serious offence. However, the case of Bolton v Law Society [1994] 1 WLR 512) illustrates the principle that the reputation of the profession is more important than the fortunes of any individual member of that profession. Therefore, the NMC argues that Mr Mckendry's criminal offence will and has brought disrepute to the profession.

Remorse, reflection, insight and remediation

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:

- (i) whether the concern is easily remediable,*
- (ii) whether it has in fact been remedied and*
- (iii) whether it is highly unlikely to be repeated.*

NMC guidance entitled 'Can the concern be addressed?' FTP-14a states that it may not be possible to address concerns of criminal convictions that lead to a custodial sentence. Mr Mckendry is currently serving a custodial sentence.

The NMC must maintain confidence in the profession by declaring and upholding proper standards of professional conduct. Mr Mckendry's conduct falls so far

short of the standards the public expect of professionals who are caring for them that public confidence in the nursing and midwifery professions is undermined.

(ii) whether they have in fact be remedied.

The NMC have considered their guidance “has the concern been addressed?” FTP-14b. The NMC guidance states conduct which may not be possible to address include criminal convictions for specified offences or convictions that led to custodial sentences. [PRIVATE] However, the steps taken by Mr Mckendry to remediate his conduct do not outweigh his conviction. The concerns in this case are so serious that any reflection and insight provided by Mr Mckendry cannot uphold the public’s confidence in the profession.

(iv) whether they are highly unlikely to be repeated.

The NMC guidance “is it highly unlikely that the conduct will be repeated?” FTP-2c-1 provides detail on the types of specified offences that undermine the standards of the profession and aggravated assault is specified offence.

The NMC acknowledges the self-referral made by Mr Mckendry and his early guilty plea. However, as per the judges sentencing remarks, the abuse Mr Mckendry inflicted on three victims is very difficult to put right. The NMC therefore considers that there is a high risk of the conduct being repeated.

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 practice 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.”

Consideration of the public interest therefore requires the Fitness to Practise Committee to decide whether a finding of impairment is needed to uphold proper professional standards and conduct and/ or to maintain public confidence in the profession.

In upholding proper professional standards and conduct and maintaining public confidence in the profession, the Fitness to Practise Committee will need to consider whether the concern is easy to put right. For example, it might be possible to address clinical errors with suitable training. A concern which hasn't been put right is likely to require a finding of impairment to uphold professional standards and maintain public confidence.

However, 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 considers there is a public interest in a finding of impairment being made in this case to declare and uphold proper standards of conduct and behaviour and to maintain confidence in the nursing profession and the NMC as regulator. Mr Mckendry's conduct engages the public interest because he has been convicted of very serious offences and his behaviour raises fundamental concerns about his attitude and ability to remain on the NMC register.'

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Grant [2011] EWHC 927 (Admin)*, *R (on application of Cohen) v General Medical Council [2008] EWHC 581 (Admin)* and *Fleischmann [2005] EWHC 87*.

Decision and reasons on impairment

In coming to its decision on impairment, 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. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must act with integrity. 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 S/He/They:

a) ...

b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or

c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

d) ...’

The panel determined that Mr Mckendry’s conduct, which resulted in his conviction, brought the profession into disrepute, and breached fundamental tenets of the nursing profession. The panel was of the view that Mr Mckendry’s conviction breached the following aspects of the Code:

‘20 Uphold the reputation of your profession at all times.

To achieve this, you must:

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

20.2 ...

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

20.4 keep to the laws of the country in which you are practising.’

The panel acknowledged that Mr Mckendry pled guilty to the offences and self-referred to the NMC. [PRIVATE] However, the panel determined that because of the seriousness of his conduct, these attempts to remediate did not outweigh his conviction.

The panel noted that Mr Mckendry's conviction concerns violent behaviour, taking place over a prolonged period of time and on repeated occasions. The victims of Mr Mckendry's crimes included a child and a vulnerable adult. The panel acknowledged the sentencing remarks, in which the Sheriff determined that Mr Mckendry's conduct was so serious, that he should receive a custodial sentence and, additionally, be prevented from any contact with his victims for eight years thereafter. As such, the panel found that this criminal conduct would be very difficult to remediate and, in any event, it did not have before it any evidence of insight and/or remorse from Mr Mckendry into his behaviour. Given the sustained and violent behaviour exhibited by Mr Mckendry, the panel determined that there is a high risk of his behaviour being repeated and 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 are to protect, promote and maintain the health safety and well-being of the public and patients, and to uphold/protect the wider public interest, which 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 fully informed member of the public would expect a finding of impairment to be made given Mr Mckendry's extremely serious and violent behaviour which was repeated over a prolonged period of time. To do otherwise would seriously undermine the public's confidence in the nursing profession and the NMC as a regulator. The panel therefore concluded that, in this case, a finding of impairment on public interest grounds was also required.

Having regard to all of the above, the panel was satisfied that Mr Mckendry'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 Mr Mckendry off the register. The effect of this order is that the NMC register will show that Mr Mckendry 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.

Representations on sanction

In its written representations, the NMC submitted the following:

'The NMC considers that a striking-off order is the only sufficient order to maintain professional standards and confidence in the profession.

With regard to our sanctions guidance the following aspects have led us to this conclusion:

The aggravating factors in this case include:

- *Serious criminal offences resulting in a custodial sentence.*

The mitigating factors in this case include:

- *Engagement with the NMC.*
- *Evidence of limited insight based on Mr Mckendry's self-referral and guilty plea to some of the offences.*

The NMC provides guidance on sanctions (San-3c) and suggests starting by considering the least restrictive sanction:

Taking no further action:

This case is not suitable for this sanction as it involves criminal convictions. The NMC sanctions guidance states that taking no action will be rare at sanction stage and would not be suitable where the nurse presents a continuing risk to the public. To achieve the NMC's overarching objective of public protection, action does need to be taken to secure public trust in nurses and to promote and maintain proper professional standards and conduct.

Caution:

The NMC sanctions guidance states that this order is only appropriate for cases which are less serious. Mr Mckendry's case is serious and involves criminal convictions for which he is serving a 30-month prison sentence. A caution order would not be appropriate as it would not mark the seriousness of the concerns in this case.

Conditions of practice order:

The NMC sanctions guidance says that a conditions of practice order is appropriate when the concerns can be easily remediated and when conditions can be put in place that will be sufficient to address the concerns highlighted. Mr Mckendry has pleaded guilty to Abusive Behaviour and Sexual Harm. The NMC argue that there is evidence of harmful deep seated personality problems that are more difficult to put right. Also, as per the Judge's sentencing remarks, he says, "having regard to the extreme gravity of this offending, and to the very high degree of harm you have caused to three different victims, in my view there is no alternative but to impose a significant custodial sentence". The NMC therefore argue that there are no conditions of practice which could be formulated to address the risks identified in this case and further, conditions are not appropriate in this case to uphold professional confidence in the profession.

Suspension Order:

The NMC sanctions guidance provides guidance as to when a suspension order may be appropriate. In this case Mr Mckendry's conduct is not such that can be remediated and therefore poses a significant risk to the reputation of the profession. A suspension order would not mark the seriousness of the conduct in question, nor sufficiently protect the public confidence in nurses. Taking into account the nature and seriousness of the conduct, a suspension order would not be a proportionate or appropriate response to the concerns raised.

Striking-off Order:

As per the NMC sanctions guidance, this is the most serious sanction and is likely to be appropriate when what the nurse, midwife or nursing associate has done is fundamentally incompatible with being a registered professional. Before imposing this sanction, key considerations the panel will take into account include:

- Do the regulatory concerns about the nurse, midwife or nursing associate raise fundamental questions about their professionalism?*
- Can public confidence in nurses, midwives and nursing associates be maintained if the nurse, midwife or nursing associate 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?*

Given the seriousness of the concerns and subsequent convictions, it is submitted that Mr Mckendry's conduct is fundamentally incompatible with ongoing registration. The NMC argues that Mr Mckendry's actions raise fundamental concerns about his professionalism and public confidence in nurses cannot be maintained if he is not removed from the register. A striking-off order is the only sanction which will be sufficient to maintain professional standards and address the public interest in this case.'

Decision and reasons on sanction

Having found Mr Mckendry'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:

- Mr Mckendry's conviction relates to a pattern of violent conduct and behaviour over a prolonged period of time towards both a child and a vulnerable adult;
- Mr Mckendry's conduct resulted in serious physical and mental harm to his victims;
- Mr Mckendry has demonstrated only limited insight; and
- The panel has seen no evidence of any remorse.

The panel also took into account the following mitigating features:

- Mr Mckendry pled guilty to the charges; and
- He made a self-referral to the NMC.

[PRIVATE]

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 Mr Mckendry'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 Mckendry’s behaviour which led to his conviction was extremely serious and that a caution order would be wholly inappropriate. 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 Mr Mckendry’s registration would be a sufficient and appropriate response. The panel is of the view that there are no practicable or workable conditions that could be formulated, given the nature of the charges in this case and that Mr Mckendry is currently serving a custodial sentence. Mr Mckendry’s behaviour, which resulted in his conviction, is not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Mr Mckendry’s registration would not adequately address the seriousness of this case, would not protect the public nor address the significant public interest concerns identified.

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 Mr Mckendry’s behaviour was repeated over a prolonged period of time and was not a one-off incident. It determined that this pattern of behaviour evidences a harmful and deep-seated personality and/or attitudinal problem. The

behaviour has not been repeated because Mr Mckendry is currently serving a custodial sentence, but the panel did not have sufficient information before it as to Mr Mckendry's insight, in order for it to be satisfied that he does not pose a risk of repeating the behaviour when his custodial sentence comes to an end. It further considered that a suspension order would not be sufficient to mark the public interest in this case.

In this particular case, the panel determined that 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?*

Mr Mckendry's actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with his remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mr Mckendry'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 matters it identified, in particular the effect of Mr Mckendry's actions on his victims and 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 a striking off order 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 Mckendry 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 Mckendry'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 an 18- month interim suspension order should be imposed to allow for the possibility of an appeal.

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 in order to allow for the possibility of an appeal and for that appeal to be considered and concluded.

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

That concludes this determination.