

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

**Substantive Hearing  
Friday, 28 March 2024  
Friday, 3 May 2024  
Tuesday, 21 May 2024 - Wednesday, 22 May 2024**

Virtual Hearing

**Name of Registrant:** Robin David Dews

**NMC PIN** 06G0125E

**Part(s) of the register:** Registered Nurse – Sub Part 1  
Adult Nursing (Level 1) – 16 April 2007

**Relevant Location:** Catterick

**Type of case:** Conviction

**Panel members:** Susan Thomas (Chair, Lay member)  
Denford Chifamba (Registrant member)  
David Boyd (Lay member)

**Legal Assessor:** Nigel Ingram (28 March 2024)  
Nigel Mitchell (3 May 2024)  
Paul Hester (21 and 22 May 2024)

**Hearings Coordinator:** Tyrena Agyemang (28 March 2024)  
Max Buadi (3 May 2024)  
Dilay Bekteshi 21 and 22 May 2024)

**Nursing and Midwifery Council:** Represented by Lucie Danti, Case Presenter

**Mr Dews:** Present and represented by Thomas Buxton,  
instructed by the Royal College of Nursing (RCN)

**Facts proved:** Charge 1

**Facts not proved:** N/A

**Fitness to practise:** Impaired  
**Sanction:** Striking-off order  
**Interim order:** Interim suspension order (18 months)

### **Details of charge**

That you, a registered nurse

1. On 23 June 2023, in Court Martial proceedings taking place at Catterick, were convicted of the following offence *Committing a criminal offence contrary to section 42 of the Armed Forces Act 2006 namely Sexual Assault contrary to section 3 (1) of the Sexual Offences Act 2003. – Proved*

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

### **Background**

The charge in this case involves a criminal conviction for a single offence of sexual assault committed on 7 December 2022, whilst you were employed as Senior Nursing Officer holding the rank of Major at Medical Regiment Gaza Barracks, Catterick in His Majesty's Armed Forces.

You were attending a Warrant Officers and Sergeants Mess Christmas function at Gaza Barracks, Catterick, when you were observed dancing in close proximity to a female, a subordinate medical soldier who was known to you from your unit. You approached her with your arms outstretched and then proceeded to swipe your hand from her buttocks to her vaginal area. This was a deliberate assault that left her and an officer, who was watching nearby, in a total state of shock and bewilderment.

You were then removed from the Mess and the female soldier provided an account to a Service Police Officer.

On 6 January 2023 you were interviewed by police, provided a pre-prepared statement denying the allegations and any other offences. You declined to answer any questions asked of you by the Service Police.

On 21 June 23 during your trial at the Military Court Centre Catterick, you pleaded not guilty to two charges of sexual assault and on 23 June 2023, a military Court Martial found you guilty of one charge and not guilty to a second charge of sexual assault.

On 31 July 2023, at the Military Court Centre, you were sentenced to six months imprisonment suspended for a period of 18 months, on the condition that you perform 220 hours of unpaid work and attend 30 rehabilitation activity requirement days and you were dismissed from His Majesty's Armed Forces.

### **Decision and reasons on facts**

The charge concerns your conviction and, having been provided with a copy of the certificate of conviction, the panel finds that the facts are found proved in accordance with Rule 31 (2) of The Nursing and Midwifery Council (Fitness to Practise) Rules 2004 (the Rules).

Mr Buxton on your behalf, also informed the panel that you have made an admission to the charge.

The panel accepted the advice of the legal assessor.

### **Fitness to practise**

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, your fitness to practise is currently impaired by reason of your conviction. There is no statutory definition of fitness to practise. However, the Nursing

and Midwifery Council (NMC) has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

### **Submissions on impairment**

Ms Danti addressed the panel on the issue of impairment and reminded the panel 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(s) of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

Ms Danti invited the panel to consider the NMC's aims and principles for fitness to practise, that sets out the overarching objective of the NMC, which is protection of the public and in order to achieve that objective to protect, promote, maintain the health, safety and well-being of the public, protect and maintain public confidence in the nursing and midwifery professions. Maintain, promote and maintain proper professional standards and conduct for members of the nursing and midwifery professions.

Ms Danti referred the panel to the case of *Cohen v GMC* [2008] EWHC 581 (Admin) which is highly important when considering whether a, in this case, nurse's fitness to practise is impaired. Firstly, a panel must consider whether the misconduct which led to the charge is easily remediable. Secondly that it has been remedied and thirdly if it is highly unlikely to be repeated. She submitted that your conduct is not easily remediable, it has not been remediated and that it is likely to be repeated, therefore you are currently impaired.

Ms Danti referred the panel to the case of *Grant*, paragraph 74 and 76 and three of the four limbs within the Shipman test which was approved of in *Grant*. She submitted that limbs a, b and c of the test set out in the case of *Grant* are engaged in this case and therefore a finding of impairment to your fitness to practise is required.

Ms Danti referred the panel to several NMC guidances and their references, which included: Cases involving criminal convictions or cautions (SAN-2), Directly referring specified offences to the Fitness to Practise Committee (FTP-2c-1) and the guidance on how NMC determines seriousness (FTP-3). She submitted that this is a case of sexual misconduct and that sexual misconduct cases can include a single incident. She stated that sexual misconduct can have a profound and long-lasting impact on victims, including causing physical, emotional and psychological harm. She further submitted that acts of sexual misconduct directly conflict with the standards and values set out in the NMC Code.

Ms Danti referred the panel to the Judge's sentencing remarks dated 31 July 2023, which outlined the impact of the offence on the victim, stating she *"endured feelings of guilt and embarrassment, she has become socially isolated and reclusive, she has suffered a loss of confidence and this incident has left her feeling demoralised, demeaned and paranoid."* She also noted that *"is clear that this offence continues to distress her."*

Ms Danti referred the panel to the guidance on seriousness (FTP-3) which she told the panel states:

*"Sexual misconduct is likely to be serious enough to impair fitness to practise whether the conduct takes place in professional practice or outside professional practice. Sexual misconduct poses risks both to people receiving care and colleagues and can seriously undermine public trust and confidence in our professions."*

Further, Ms Danti referred the panel the NMC guidance on the factors that indicate the seriousness of a case. She submitted that the factors can be broken down into three categories:

- *Serious concerns which are more difficult to put right*
- *Serious concerns which could result in harm if not put right*

- *Serious concerns based on the need to promote public confidence in nurses, midwives and nursing associates*

Ms Danti submitted that your misconduct falls into each of the categories. She told the panel that your conduct in this case took place within your professional practise, at a work function party and it involved a junior colleague that you knew. However, even if the panel do not agree with this position, and alternatively that the offence took place outside of your professional practice, the NMC's position is that this is still a matter that engages public protection. She therefore referred the panel to the NMC guidance in respect of decision making in relation to sexual misconduct, which makes the following principles clear:

*“...sexual misconduct outside professional practice could indicate deep-seated attitudinal issues which could put the public at risk, as well as raise fundamental questions about the professional's ability to uphold the standards and values set out in the Code.”*

Further she stated that this conduct is capable of placing people using services at risk of harm and that professionals who behave in this way are at risk of being removed from the register.

Ms Danti then addressed public protection and the seriousness of the harm. She submitted that the harm caused to the victim in this case was extremely serious. She reminded the panel of the the guilt, embarrassment and the ramifications that it had upon her, leaving her feeling demoralised, demeaned and paranoid. Further, Ms Danti referred the panel to the sentencing remarks which stated that the offence triggered emotions from previous experiences and led to tensions in the victim's own marriage. It also stated that the victim feared being painted as a villain as opposed to a victim.

Ms Danti referred the panel to NMC guidance on Serious concerns which could result in harm if not put right (FTP-3b) and submitted that this guidance refers to attitudinal issues and sites sexual misconduct as an example of such behaviour. It states:

*“such behaviours may indicate a deep seated problem, even if there is only one reported incident which will typically be harder to address and rectify.”*

Ms Danti referred the panel to your position outlined in the Judge’s sentencing remarks which state:

*“We note that you continue to maintain your denials. Although there are signs of regret at the predicament at which you currently find yourself in we find that genuine remorse for your actions and behaviour that night is conspicuous by its absence. We are troubled by your general lack of empathy and self-awareness.”*

Ms Danti referred the panel to your reflection, which she stated does provide some evidence of your remorse, but she submitted it should be noted that your position remains that you cannot remember what happened and that the offence was completely out of character for you. She told the panel that the offence did happen, and that during the trial, you had suggested that it was a fabrication.

Ms Danti referred the panel to the sentencing remarks again which made the comment that you had up until that point continued to deny the allegations and that if there had been any touching, it had been done inadvertently. She submitted that your responses may have been an attempt to avoid or shift the blame.

Ms Danti reminded the panel that it is noted that your only regret was in respect of the predicament that you had found yourself in and that there was a conspicuous lack of genuine remorse, lack of empathy and self-awareness.

Ms Danti referred the panel to the recent reflection it had been provided with and she stated that it clearly demonstrates your regret, remorse and empathy for the victim. She highlighted that this reflection still confirms your position that the incident was due to your alcohol consumption, and that your recollection is limited which is why you have struggled

to come to terms with what happened. However, she told the panel that your recent reflection does not address why your previous position had been that the incident was fabricated and that it would be unthinkable that you would act in such a way.

Ms Danti submitted that this incident should be put into the context that it did occur and the panel therefore may consider that whilst this recent reflection demonstrates evidence of your remorse and regret, whether you have fully accepted responsibility for what happened and whether your insight is still developing.

Ms Danti went on to address your remediation and strengthening of your practice. She submitted that the issues do not relate to your competency, they are related to your conduct. She told the panel that there is evidence of the steps you have taken to address your conduct and she noted that you have attended training on professional boundaries. However, she submitted that the offence falls within NMC guidance, Serious concerns which are more difficult to put right (FTP 3A) which states:

*“A small number of concerns are so serious that it may be less easy for the nurse, midwife or nursing associate to put right the conduct, the problems in their practice, or the aspect of their attitude which led to the incidents happening.”*

Ms Danti reminded the panel of the seriousness of this case and that it involved a junior colleague, took place in front of other people at a Christmas party within a professional setting and involved contact with the victim’s vaginal area. She submitted that the concerns relate to your attitude and the conduct in question is so serious that arguably it is not capable of remediation.

Ms Danti then went on to address repetition. She told the panel that your reflection refers to you not attending group social events again addressing your alcohol intake and your attitude towards alcohol. She submitted that in these circumstances your insight is still developing. She further submitted that there is still a risk of you repeating this behaviour and that this must be taken in reference to the pre-sentence report prepared by the Court



Martial Report Service, which states there is a medium risk of similar reoffending and causing serious harm to others. Further she stated that this has been echoed in the more recent correspondence in March 2024 with your probation officer, given the seriousness of the harm that was caused to the victim.

Ms Danti submitted that any repetition would put the public at risk and if in similar circumstances, involving a work colleague, it is an intolerable risk. She submitted that taking all the evidence into account, your insight is still developing and this offence is not capable of remediation. Further she submitted that there remains an ongoing risk to public protection and accordingly the panel must make a finding of impairment in order to keep the public protected.

Ms Danti also invited the panel to find you impaired on the grounds of public interest. She referred the panel to the NMC guidance, Serious concerns based on public confidence or professional standards (FTP 3C), which states:

*“Concerns that someone has displayed discriminatory views and behaviours, engaged in sexual misconduct, behaved violently (including in a domestic setting), abused a child or vulnerable adult, or committed a serious crime, for example, could have a particularly negative impact on public confidence.*

*We are likely to take restrictive regulatory action against nurses, midwives or nursing associates whose conduct has had this kind of impact on the public’s trust in their profession, particularly where they haven’t made any attempt to reflect on it, show insight, and haven’t taken any steps to put it right. This may even mean they can’t stay on the register.”*

Ms Danti submitted that your conduct has brought the nursing profession into disrepute and breached fundamental tenets of the nursing profession and this has been noted in your reflection. She submitted if this conduct were to be repeated, the misconduct would breach fundamental tenants of the profession going forward and would bring the

profession into disrepute. She reminded the panel that this offence passed the threshold of custody and was a conviction and that you are now subject to notification requirements for a period of seven years.

Ms Danti submitted that a well-informed member of the public would be concerned if a registered nurse were not found to be impaired in these circumstances and that the public may well lose confidence in the nursing profession and the NMC as a regulator if a finding of impairment were not made on the grounds of public interest. She therefore she invited the panel to make a finding of impairment on the grounds of public protection.

Mr Buxton told the panel that you readily recognise and accept impairment by reason of your conviction. He submitted that public interest and confidence in the NMC as a regulator would be undermined if a finding of impairment were not made on this ground. However, he submitted in relation to public protection, careful consideration is required in the circumstances. He told the panel that he would not seek to persuade the panel that the conviction or the sentence were not serious, however he invited the panel to consider the wider context of the matter.

Mr Buxton referred the panel to the Judge's sentencing remarks, the numerous character references from your former colleagues, friends, including a reference from your wife who remains a serving member of the armed forces and your recent reflective piece. He told the panel that all the references attest to your personal and professional qualities. He also stated that those references have had a significant impact on your decision making.

Mr Buxton told the panel that although the NMC is of the view that your conduct has not been remediated and is difficult to remediate, it cannot ignore the cogent material before it. He submitted that your position has markedly changed from your position at the trial and this is reflected in the reflection piece you have provided. This document, he stated gives the clearest indication that you have now have full, if not complete insight into your past behaviour.

Mr Buxton referred the panel to your reflection in which you fully accept your behaviour was appalling and which outlines you have reached a stage where you now accept what you did and that it was utterly wrong.

Mr Buxton told the panel that you have set out your reflections, in careful detail, with empathy and concern how your behaviour impacted the victim. He told the panel that you are filled with “*shame, embarrassment, disgust and disappointment*”. He told the panel that the words you have used to describe your feelings cannot not be taken at face value but must be considered by the panel in relation to your remediation. Further the reflection states: “*I’ve caused irreparable damage to my colleagues and others for and for that, I’m truly sorry*” and “*I’ve caused a wake of devastation*”.

Mr Buxton also referred the panel to the email dated 5 March 2024 from your Probation Officer in York, which was an update on your progress and speaks very positively to your remediation and insight. He told the panel that the email indicates that you have demonstrated a full and excellent commitment to this aspect of your sentence, and outlines that you have completed the unpaid work requirement. The email states:

*“To his credit, Mr Dews chose not to view it this way. That’s to say, as a punitive element, and took the opportunity to engage in activities as a constructive use of time.”*

Mr Buxton submitted that this may go to your insight and the responsible stance you have taken. Further he told the panel:

*“he has completed 16 of the required 30 [rehabilitation activity] days. At this point, we’ve completed work focused on coping strategies, effective communication and improving pro social relationships. Once again, Mr Dawes has demonstrated a commitment to this work and has engaged in a meaningful and insightful manner.”*

Mr Buxton told the panel that the email goes on to define the definition of risk of serious harm and that due to the nature of the conviction and the evidence of serious harm she is not able to assess this as low, however the work you have undertaken, such as coping strategies, alcohol and improving pro/social relationships in a social setting is working towards you gaining a full understanding and remediation in relation to what took place.

Mr Buxton reminded the panel of the circumstances of the incident, that it was a Christmas party, where excessive amounts of alcohol was being consumed and that you also do not use this as an excuse for what took place. He submitted that it was a single event in your life.

Mr Buxton went to explain that heavy alcohol drinking was a common culture in the armed forces which was encouraged, however the force is moving away from this kind of unacceptable behaviour and you no longer are a member of the organisation, and you want it to be a more welcoming place for women.

Mr Buxton referred the panel to the character reference from your wife and that she describes this type of behaviour as being something that caused extreme shock and was totally out of character for you.

Mr Buxton submitted that this was an isolated incident, which he submitted you agree is likely to impair your practice on the grounds of public interest as conduct like this seriously undermines public trust and confidence in the profession. He submitted that the NMC's overarching objective is to protect patients and the public. This was an isolated incident driven by an excessive consumption of alcohol. He further submitted that you did have a serious alcohol abuse issue, but you now have this under control and it is entirely resolved.

Mr Buxton told the panel that you remain under the operational terms of a suspended sentence of imprisonment. He therefore submitted that due to the nature of this and the conviction, that you remain impaired, but on the grounds of public interest alone.

The panel heard and accepted the advice of the legal assessor who referred to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

## **Decision and reasons on impairment**

The panel next went on to decide if as a result of the conviction, your fitness to practise is currently impaired.

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

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

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

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

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and 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 your fitness to practise is impaired in the sense that S/He/They:*

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

The panel carefully considered the nature of the conduct in this case and the impact it had on the victim. Whilst your conduct involved a single incident it was of a serious sexual nature. In relation to the victim, it had substantial repercussions on both her personal and professional life and her physical and mental well-being. Looking to the past and applying the Shipman test, the panel decided when considering your conduct at limbs a, b and c are engaged. The panel also had regard to The Code: Professional standards of practice

and behaviour for nurses and midwives (2015) (the Code), particularly 20.4 and 20.5, in making its decision.

The panel found that the victim was caused emotional harm and distress as a result of your conduct. Your conduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel next applied the Shipman test when looking to the future. In this regard, the panel considered whether your conduct is remediable; whether it has been remediated; and the likelihood of repetition.

The panel considered the criminal conviction to be a serious sexual offence against a junior colleague, whilst you were a senior member of your team. The Court's Martial imposed a prison sentence which was suspended. The panel noted that whilst the conviction is serious and that remediation can be difficult, it is capable of being remediated.

The panel did acknowledge your unblemished career, character and the positive character references before it, including a reference from your wife who still serves in the armed forces. Further the panel acknowledge your compliance with your sentence and that you have already completed the 220 hours of unpaid work.

The panel considered whether you have shown sufficient and genuine remorse for your conduct. The panel noted that at your criminal trial you appear not to have expressed any remorse for your actions and argued that the evidence was fabricated. You have, as is your right, not given evidence at this hearing. Beyond the simple expression of remorse in your reflective piece, the panel has been unable to evaluate the quality and level of that remorse. In these circumstances, whilst some remorse has been expressed, the panel decided that it can not ascertain whether this was genuine or not.

Regarding insight, the panel considered your detailed reflective piece now accepting that the sexual assault took place, the impact it had on the victim and setting out the steps you have taken to address your conduct. The panel noted that in your reflective piece you discuss the role of alcohol which led to your conviction. It noted that you appear to have some understanding as to the consequences of drinking to excess. However, the panel was concerned that the tenor of your reflective piece was such that it placed undue reliance upon your drinking rather than your actions and the consequences for the victim. In this regard, the panel was concerned that you sought to excuse your behaviour by virtue of you drinking too much. The panel therefore was concerned about the level of your insight. Given the sexual nature of your conviction, the panel considered that it is important for you to show developed insight into your discriminatory behaviour. The panel decided that in relation to your insight that whilst there is some insight it is insufficient to address the gravity of your conduct.

In its consideration of whether you have addressed your conduct, the panel took into account any relevant training you have undertaken. It noted that you have undertaken one course on 30 September 2023 which was titled "*Professional Boundaries*" an e-learning course. The panel noted that this was a course by remote learning and not involving any face-to-face learning. Further, the panel noted that there was nothing in your reflective piece relating to this course and what you have learned and would put into action in the future so as to avoid repetition of your conduct.

In light of the above, the panel decided that when looking to the future, limbs a, b and c of the Shipman test are engaged. You have not remediated your conduct and there is a real risk of repetition. The panel noted that whilst your conduct was in a social setting, it was nevertheless in the context of your employment. Given that there are social events relating to a nurse's work, the panel determined that public protection is engaged. 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 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, in this case, a finding of impairment on public interest grounds was required. The panel determined that a well-informed member of the public, aware of all the circumstances in this case would be concerned if a finding of impairment were not made.

Having regard to all of the above, the panel was satisfied that your 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 you off the register. The effect of this order is that the NMC register will show that you have 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 Guidances (SG) published by the NMC. The panel accepted the advice of the legal assessor.

### **Submissions on sanction**

Ms Danti submitted that the NMC seeks a striking-off order. She highlighted the seriousness of your conduct and the necessity for a sanction to protect the public and uphold public interest.

Ms Danti directed the panel to consider specific factors outlined in the NMC's guidance documents, including 'Factors to consider before deciding on sanctions' (SAN-1) and 'Considering sanction for serious cases' (SAN-2), especially in cases of sexual misconduct and criminal convictions. She also referenced a legal case of *CRHP and GDC and Fleischmann* [2005] EWHC 87 (Admin) to provide further guidance. She submitted that the general rule is that a nurse should not be permitted to start practising again until they have completed a sentence for a serious offence. She said that you are on a suspended sentence until January 2025 and that your notification requirement continues for seven years. She submitted that *Fleischman* is a guideline, not a tram line. In this context of serious conduct and the risk of repetition, just because a suspended sentence comes to an end does not mean a registrant is then able to return to practise.

Regarding aggravating factors, Ms Danti highlighted the abuse of power, the requirement to register as a sex offender, and the conviction for sexual assault. She also pointed out the lack of remediation, genuine remorse, and insight into the seriousness of the conduct. Attitudinal issues and lack of evidence of remediation were also brought to light.

In terms of mitigating factors, Ms Danti acknowledged the absence of previous convictions or fitness to practise issues. However, she submitted that having an unblemished career history might not significantly influence the determination of the necessary sanction.

Regarding sanctions, Ms Danti argued against sanctions like no action, a caution order, or conditions of practice due to the severity of the offence. She suggested, based on the circumstances, that a striking-off order was necessary to protect the public, uphold professional standards, and maintain public confidence in the nursing profession and the NMC as a regulatory body.

In respect of a suspension order, Ms Danti submitted that taking into all the factors of this case a well-informed member of the public would be deeply concerned if a registered nurse was merely suspended, having been found impaired on the basis of the serious conviction. She submitted that it can only be right a well-informed member of the public

would lose trust and confidence in the profession where you are only suspended and then eventually entitled to return to nursing whilst remaining on the Sex Offenders' Register.

Therefore, Ms Danti turned to a striking-off order. She submitted that this is the only sanction in the circumstances that will protect the public and satisfy the public interest. She submitted that a striking off is necessary as it is the only sanction which will be sufficient to protect patients and members of the public from harm, maintain professional standards, maintain confidence in the nursing profession and the NMC as a regulator. She submitted that this sanction is proportionate and appropriate when considering the harm that was caused to the victim concerned and the ongoing risk of harm that you pose to other colleagues and the public in the future. She submitted that a striking-off order would satisfy the public interest and uphold the professional standards in the nursing profession. She therefore invited the panel to impose a striking-off order.

In response to Ms Danti, Mr Buxton submitted that to consider striking-off order as the only proportionate sanction is in itself wholly disproportionate and it would completely ignore everything the panel knows about you which would mitigate against such a draconian step.

Mr Buxton provided a detailed account of your career progression, highlighting your military service as a combat medic, NMC registration in 2007 leading to promotions to captain in 2013 and major in 2019.

Mr Buxton urged the panel to weigh the testimonials attesting to your integrity and good conduct, emphasising your years of dedicated service and that you have acknowledgment of wrongdoing. He submitted that the current impairment findings should not automatically result in the most severe sanction, irrespective of the fact that there is a conviction for sexual offence. He submitted that the panel must consider the background and your behaviour up until the events in question. He submitted that this case does not reach the high level that it would be necessary for the panel to find that that it is incompatible with

continued registration. He submitted that there is a lot of good you still have to offer, not only to society, but also to the nursing profession.

Mr Buxton submitted that the reflection and testimonials point very firmly to the fact that you are truly remorseful for what has happened. In relation to insight, he submitted that it could not be properly said that there is no insight. The panel know that you are subject to the probation requirements of your sentence. The panel has observed and has seen your character, and it has heard the detail of the events which led to the criminal conviction. He drew the panel's attention to the email from the Probation Officer who had the benefit of numerous sessions with you and will continue to do so, where she said that in terms of the rehabilitation activity dates you have demonstrated excellent commitment and a work ethic. He submitted that this evidence needs to be acknowledged and it suggests that you are working hard and are committed to not only putting right what you did but also to developing your skills and understanding in relation to communication and social situations.

Mr Buxton drew the panel's attention to the testimonial dated 5 October 2023, which states: *"I do hope that you think very hard about Mr Dews and look at the commitment he has shown to the nursing profession. He has dedicated hi life and career to helping others. Firstly as an Army medic and then taking the opportunity to become a nurse. He has thrived in this profession and as stated before, he has committed himself to developing himself so that he can give the best possible care to his patients. In my opinion, if Mr Dews was unable to practice the profession would be loosing an amazing professional and I know that it would devastate him. [sic]"*

Mr Buxton further referred the panel to a testimonial dated 2 October 2023, which states: *"I have no reason whatsoever to believe that he may present a risk to patients, others or the integrity of his profession in the pursuit of his current or future practice as a nurse. Throughout my 35 years of close friendship with Robin, I have witnessed on numerous occasions his passion for helping others. Before commencing his career in the medics and nursing, Robin always would offer help and assistance to those in need. As a nurse, I*

*have witnessed his commitment and enthusiasm for the profession that he so clearly loves. He talks to me regularly about his enjoyment for what he does, and he has advised, guided and mentored my own daughter as she seeks a career in Medicine.”*

Mr Buxton said that you acknowledge that this is not a case where a sanction at the very bottom end of the scale would be appropriate. Mr Buxton submitted that the NMC have said that a suspension would be insufficient as it would simply serve to protect the public only for the duration of the order. He submitted that although the panel has found that there is a risk of repetition, the question for the panel is whether a sanction short of strike off would protect members of the public and to maintain public confidence in the profession.

Mr Buxton submitted that there is no question that the consumption of alcohol heavily contributed to your disinhibition and subsequent actions on that night. He submitted that it is not the case that you are minimising in any sense what happened. You recognise that you were affected by alcohol to such an extent that you did not appreciate the gravity of what was occurring at that time. Mr Buxton submitted that through the course of your probation, areas have been covered which have helped you to recognise and work towards eliminating disrespectful social traits. You have further put measures in place during this period and in your life which reduce the risk of any repetition.

Mr Buxton told the panel that in your response to the Case Examiners in November 2024, you accepted the concerns, and it was also pointed out that you referred yourself to the NMC. You did not seek to appeal either your conviction or sentence.

Mr Buxton submitted that you have already paid a heavy price. You have a criminal conviction. You were discharged from the army and lost your career exemplary hitherto in the armed forces. Mr Buxton submitted that you possess skills in multiple specialities and would be an obvious asset in lending these skills to an increasingly overburdened health service and the NHS.

Mr Buxton referred the panel to case law *Obukofe and the GMC* [2014] EWHC 408 (Admin). He said that a registrant who has been convicted of a sexual offence is always subject to a reporting requirement on the Sex Offenders' Register. He submitted that the notification requirements under the relevant legislation may be distinguished from a court imposed sentence. He submitted that your sentence in terms of your suspended sentence comes to an end in January 2025. In relying upon the above legal authority, Mr Buxton submitted that the fact that you remain on the Sex Offenders' Register after January 2025 does not mean that the sentence has been completed within the meaning of the judgement in *Fleischman*.

Mr Buxton said that you have full respect for the NMC, and the regulatory process and you have engaged and have shown a responsible attitude from the outset. You have provided material which indicates that you have surpassed yourself in terms of nursing skills and has much to offer to the profession. You have demonstrated insight and the remorse you have expressed is genuine.

Mr Buxton submitted that there are a lot of good traits and qualities in you. Whilst the panel has been referred to the NMC guidance, it is only guidance, and it is not a tick box exercise. He submitted that there is a clear correlation between the facts of this case in terms of the principles with the imposition of a period of suspension this was, as the panel has acknowledged, a single instance. He submitted that there is no evidence of harmful, deep-seated attitudinal problems that is evidenced by the plethora of testimonials. He submitted that this was a single one-off short-lived incident that came up about in its particular circumstances and there is no evidence of repetition. He submitted that it would not be in the public interest to prevent an otherwise competent and exemplary nurse from practicing.

Mr Buxton submitted that by imposing a period of suspension, this would serve both to act as a warning to all that this behaviour will not be tolerated. He submitted that it would satisfy the public interest in demonstrating that you have taken this behaviour seriously and you have. He submitted that a suspension order would uphold the high standards of

conduct and behaviour to be expected of a nurse. For all the reasons above, Mr Buxton submitted the appropriate and proportionate sanction in this case is one of a period of suspension with a review. He submitted that it would afford you an opportunity to further reflect, and to report further down the line upon the work undertaken though the probation service and any other matters that you would wish to bring to the regulator's attention.

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

### **Decision and reasons on sanction**

Having found your 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 trust and misuse of power, given the hierarchical relationship between you as a senior officer and leader of the team, and the soldier as a junior member.
- Conduct of a very serious nature, resulting in conviction for sexual assault and a custodial sentence which was suspended.

The panel also took into account the following mitigating features:

- You have shown developing insight.
- You have engaged within the probation services and the conditions of your conviction.
- Self-referral to the NMC.

- Supportive testimonials from colleagues attesting to your positive character and commendable attributes.

The panel took into account the NMC guidance, including 'Considering sanctions for serious cases' (SAN-1, last updated on 27 February 2024).

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 your 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 your conduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force; and*
- *Conditions can be created that can be monitored and assessed.*



The panel determined that a conditions of practice order would not be appropriate as the concerns are not linked with your clinical practice and it could not be possible to formulate conditions which could be considered workable, measurable or proportionate to address the concerns in this case. It decided that such a sanction would not address the public protection and public interest components which are engaged.

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 panel was satisfied that in this case, the conduct was not fundamentally incompatible with remaining on the register. The panel acknowledged that it was an isolated incident in an otherwise unblemished and lengthy career. While there were attitudinal issues identified, they were not deep-seated. However, the panel noted that the attitudinal issues related to discriminatory behaviour. The panel noted that there has been no repetition of such behaviour since the incident occurred. The panel also recognised your efforts in gaining some insight into your conduct. The panel decided that as your insight is not complete there remains a real risk of repetition.

The panel noted that there are a number of applicable factors including the seriousness of this case which, considering all the factors, does at the very least warrant a temporary removal from the register. However, the panel determined that a period of suspension would not uphold public confidence in nurses or maintain professional standards of conduct, as the conduct, underpinning the conviction, was a significant departure from the

standards expected of a registered nurse and would not be adequately addressed by a suspension order.

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

The panel determined that your conduct raised fundamental questions regarding your professionalism. It considered that your actions were extremely serious that to allow you to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body. The panel therefore determined that your actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with you remaining on the register.

The panel decided that there would be significant damage to public confidence in nurses, midwives and nursing associates if you were allowed to continue to practise as a nurse and allowing you to do so would deter patients from accessing healthcare, rendering the public at direct risk of harm.

In concluding that you should be removed from the register, the panel gave careful regard to the NMC guidance 'How we determine seriousness' (FTP-3, last updated on 27

February 2024). In that guidance it is stated that sexual misconduct is a behaviour which is “*particularly serious*”. This guidance goes onto say:

*“Sexual misconduct is unwelcome behaviour of a sexual nature, or which can reasonably be interpreted as sexual, that degrades, harms, humiliates or intimidates another...*

*Our Code is clear that nurses, midwives and nursing associates have a responsibility to “uphold the reputation of [their] profession”. This involves demonstrating a personal and professional commitment to core values such as integrity and kindness, and protecting vulnerable people from any form of harm and abuse.*

*Sexual misconduct can have a profound and long-lasting impact, on people, including causing physical, emotional and psychological harm. Acts of sexual misconduct directly conflict with the standards and values set out in the Code.*

*Sexual misconduct is likely to be serious enough to impair fitness to practise whether the conduct takes place in professional practice or outside professional practice...”*

The panel also gave careful consideration to the NMC guidance ‘Considering sanctions for serious cases’ (SAN-2, last updated on 27 February 2023), which states:

*“Panels deciding on sanction in cases about sexual misconduct will, as in all cases, need to start their decision-making with the least severe sanction, and work upwards until they find the appropriate outcome. 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, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of your actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct yourself, 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.

### **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 your own interests until the striking-off sanction takes effect.

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

### **Submissions on interim order**

Ms Danti invited the panel to impose an interim suspension order for a period of 18 months on the basis that it is necessary for the protection of the public and otherwise in the public interest. She referred the panel to the NMC guidance 'Interim orders after a sanction is imposed' (SAN-5, last updated on 3 February 2021). She submitted that the interim order is to provide for the gap between the making of any substantive order and closure of the statutory appeal window or any actual appeal. Should no appeal be lodged, or an appeal be resolved, that interim order would fall away.

Mr Buxton made no representations.

### **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 for the possibility of an appeal to be made and determined.

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

That concludes this determination.

This will be confirmed to you in writing.