

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

**Substantive Hearing  
Monday, 9 September 2024 – Friday, 20 September 2024  
Tuesday, 1 October 2024 – Wednesday, 2 October 2024**

Virtual Hearing

<b>Name of Registrant:</b>	<b>Allan Stiles Ramsay</b>
<b>NMC PIN</b>	00I0169S
<b>Part of the register:</b>	Registered Adult Nurse (2003)
<b>Relevant Location:</b>	Falkirk
<b>Type of case:</b>	Misconduct
<b>Panel members:</b>	Paul O'Connor (Chair, lay member) Patience McNay (Registrant member) James Carr (Lay member)
<b>Legal Assessor:</b>	Graeme Sampson
<b>Hearings Coordinator:</b>	Leigham Malcolm
<b>Nursing and Midwifery Council:</b>	Represented by Ms Jane Carver, NMC Case Presenter
<b>Mr Ramsay:</b>	Present and represented by Ms Jennifer McPhee, of Anderson Strathern
<b>Facts proved by admission:</b>	Charges 2, 3, 4, 15a, 16a, 21, 22, 23 & 24.
<b>No case to answer:</b>	Charges 14, 15b-f, 16b-d, 17, 18, 19 & 20.
<b>Facts proved:</b>	Charges 6, 7, 8, 9a, 11, 12, 25, 26, 27 & 28.
<b>Facts not proved:</b>	Charges 1, 5, 9b, 9c, 10a-c, 13a-d.

**Fitness to practise:**

Impaired

**Sanction:**

**Strike-off**

**Interim order:**

**Interim suspension order (18 months)**

## **Background**

The NMC received a referral from the Interim Head of Nursing at Forth Valley Royal Hospital (the Hospital) on 29 September 2021 in relation to your nursing practice.

The referral alleged that you frequently made comments of a sexual nature and routinely acted in an inappropriate and sexual manner towards numerous colleagues. The referral further alleged that you routinely sent rude and sexual images and videos to numerous female colleagues. The conduct described in the referral was allegedly uninvited, unwanted and breached your colleagues' personal boundaries.

The Hospital carried out a local investigation and you were subsequently dismissed on 4 November 2022 for unprofessional conduct.

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

At the outset of the hearing, Ms Carver, on behalf of the Nursing and Midwifery Council (NMC), informed the panel that the allegations in this case were [PRIVATE], and that it was in the interest of the witnesses for details of the allegations to be kept private. She also informed the panel that the case involved matters relating to [PRIVATE], and that any information relating to [PRIVATE] ought to be kept out of the public domain. For these two reasons, Ms Carver invited the panel to hold the hearing entirely in private pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms McPhee, on your behalf, supported the application.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold

hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

Having heard that the allegations in this case are [PRIVATE], and also that the case involves matters relating to [PRIVATE], the panel considered it to be in the interest of the witnesses and you for the hearing to be held entirely in private.

### **Decision and reasons on application to amend the charge**

The panel heard an application made by Ms Carver to amend the wording of charge 19.

The proposed amendment was to change Colleague A to Colleague B. It was submitted by Ms Carver that the proposed amendment would provide clarity and more accurately reflect the evidence.

19. *Your actions in any one of charges 14 to 18 above were sexually motivated in that you were seeking sexual gratification and/or intended to pursue a future sexual relationship with **Colleague A Colleague B**.*

Ms McPhee informed the panel that her position was neutral in respect of the application.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel was of the view that such an amendment, as applied for, was in the interest of justice. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. The panel decided that it was appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

The panel, therefore, considered the following charges in private hearing:

## Details of charge

*That you, a registered nurse:*

1. *In 2018, sent to Colleague A a Facebook message that read ‘we could go skinny dipping together ‘or words to that effect.*
2. *In April 2020, sent to Colleague A Facebook messages that read:*
  - a) *‘Take a photo in the mirror, top off and send to me and I’ll have a look for a rash [emojis]’;*
  - b) *‘I’m always horny [coronavirus] will never take that, I always want a ride [emojis]’;*
  - c) *‘I’ve packed a bag and heading to yours for my isolation. Staff nurse gang bang [emojis]’;*
  - d) *‘I’ll wear a mask and turn you over facing the other way’;*
  - e) *‘Get the rechargeables out hen, its orgasm time [emojis]’.*
3. *On 15th April 2020, sent to Colleague A a ‘Worldwide Naked Gardening Day’ GIF with a caption that read ‘Needing your bush trimmed [emojis]’*
4. *On 20 April 2020, sent to Colleague A a Facebook message that read “Hey Blondie looking good [emojis]”*
5. *Between August 2020 and February 2021, on one or more occasions, sent to Colleague A lewd and/or pornographic GIFs (moving pictures) via Facebook messenger.*
6. *On 13 August 2020 rubbed Colleague A’s lower back without consent.*

7. *In 2021, said to Colleague A, "I will leave your face like a painter's radio" or words to that effect.*
8. *Between September 2018 and August 2021, one or more occasions, asked Colleague A to give you 'oral pleasure to relieve me' or words to that effect.*
9. *Between September 2018 and August 2021, on one or more occasions, in relation to Colleague A:*
  - a) *Stood closely behind her;*
  - b) *Rubbed your body up against her;*
  - c) *Made hip thrusting movements towards her.*
10. *In or around February/March 2021 whilst colleague A was sitting on a chair in your office:*
  - a) *Straddled her in the chair;*
  - b) *Leant into her;*
  - c) *Pretended to pull up your trouser zipper.*
11. *Your actions in any one of charges 1- 10 above were sexually motivated in that you were seeking sexual gratification and/or intended to pursue a future sexual relationship with Colleague A.*
12. *Your actions in any one or more of charges 1 to 10 above were harassing in that it was unwanted and had the purpose or effect of violating Colleague A's dignity and/or creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague A.*
13. *In 2020, you intimidated and/or bullied Colleague A by:*

- a) *Shouting at her;*
- b) *Telling her she was rude ;*
- c) *Telling her you were more senior than her;*
- d) *Telling her that she was being unprofessional .*

14. *In or around May/ June 2021 in relation to Colleague B :*

- a) *Asked her to go to a hotel with you,*
- b) *Said to her “I would give you the night of your life” or words to that effect.*

15. *Between December 2019 and July 2021, on one or more occasions, in relation to Colleague B:*

- a) *Asked her for a hug/cuddle;*
- b) *Asked her for naked pictures of herself;*
- c) *Asked her for pictures of her breasts ;*
- d) *Asked her for pictures of her bottom;*
- e) *Offered to send her pictures of your penis with a bow tie ;*
- f) *Said to her ‘ I love to fantasise about us in the shower’ or words to that effect.*

16. *Between December 2019 and July 2021, on one or more occasions , in relation to Colleague B :*

- a) *Hugged her;*
- b) *Touched her waist;*
- c) *Touched and/or squeezed her bottom;*
- d) *Rubbed your body against the back of Colleague B’s body.*

17. *In May 2021 in relation to Colleague B:*

- a) *Asked her to take off her tunic;*
  - b) *Massaged her neck;*
  - c) *Kissed the back of her neck.*
18. *In July 2021 in relation to Colleague B:*
- a) *Pinned her against the wall;*
  - b) *Put your hand up her tunic;*
  - c) *Put your hand on to her left breast;*
  - d) *Used her hand to rub your genitals.*
19. *Your actions in any one of charges 14 to 18 above were sexually motivated in that you were seeking sexual gratification and/or intended to pursue a future sexual relationship with Colleague B.*
20. *Your actions in any one or more of charges 14 to 18 above were harassing in that it was unwanted and had the purpose or effect of violating Colleague B's dignity and/or creating an intimidating hostile degrading humiliating or offensive environment for Colleague B.*
21. *In 2019, on one or more occasions, sent Colleague C lewd pictures and/or videos via Facebook messenger.*
22. *On or around 4 April 2020 sent Colleague C a pornographic video via Facebook messenger.*
23. *On or around 30 May 2020 sent Colleague C a lewd video via Facebook messenger.*
24. *On or around 21 February 2021 sent to Colleague C a lewd or pornographic video via Facebook messenger.*

25. *Your actions in any one or more of charges 21 to 24 above were sexually motivated in that you were seeking sexual gratification.*
26. *Between September 2020 and September 2021 whilst Colleague D was kneeling down said to her “see when you’re down there ……………” or words to that effect*
27. *Between September 2020 and September 2021 on one or more occasions, sent Colleague D lewd pictures and/or videos via Facebook messenger.*
28. *Your actions in any one of charges 26 to 27 above were sexually motivated in that you were seeking sexual gratification*

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

Ms McPhee informed the panel that you made full admissions to charges 2, 3, 4, 15a, 16a, 21, 22, 23 & 24.

The panel therefore finds charges 2, 3, 4, 15a, 16a, 21, 22, 23 & 24 proved in their entirety, by way of your admissions.

### **Decision and reasons on application of no case to answer**

The panel noted that no evidence had been advanced by the NMC to support the charges. The panel reached the, inevitable, view that there was no realistic prospect that it would find the facts of charge 14, 15b - 15f, 16b - 16d, 17, 18, 19 and 20 proved. It therefore allowed the application and decided that you had no case to answer in respect of these charges.

## **Decision and reasons on facts**

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Ms Carver and Ms McPhee. The panel also heard and took account of your oral evidence provided under affirmation.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel heard and accepted the advice of the legal assessor. It then considered each of the disputed charges and made the following findings:

The panel found the following charges proved: 6, 7, 8, 9a, 11, 12, 25, 26, 27 & 28.

The panel found the following charges not proved: 1, 5, 9b, 9c, 10a-c, 13a-d.

## **Decision and reasons on misconduct**

The panel accepted the advice of the legal assessor which included reference to *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).

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council* (No. 2) [2000] 1 AC 311 which defines misconduct as a '*word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.*'

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code. It determined that your actions did fall significantly short of the standards expected of a registered nurse, and that your actions amounted to a breach of the Code, specifically:

**1. Treat people as individuals and uphold their dignity**

*To achieve this, you must:*

*1.1 treat people with kindness, respect and compassion*

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

*To achieve this, you must:*

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

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

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

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

*20.7 make sure you do not express your personal beliefs (including political, religious or moral beliefs) to people in an inappropriate way*

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that your conduct breached fundamental tenets of the profession.

There are numerous instances of misconduct in your case, which are sexual in nature, and span a two-year period. The misconduct could be categorised as discriminatory as it was directed towards female colleagues, and colleagues junior in service, rank and/or role to you. The panel was particularly troubled by the power imbalance which persisted as a feature throughout the facts found proved.

[PRIVATE]

The panel reached the view that individually and collectively the facts found proved were serious. Your conduct was sexual in nature, unwanted, persistent, and directed towards female colleagues who were more junior than you. In view of this, the panel found that your actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

### **Decision and reasons on impairment**

The panel next went on to decide if as a result of the misconduct, 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. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

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

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

*'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/ fitness to practise is impaired in the sense that S/He:*

- a) *has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*

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

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

*d) ...*

In the context of your case the panel did not differentiate between colleagues and patients. Your misconduct was sexual in nature and directed towards female colleagues who were more junior than you. It found that your colleagues were caused emotional harm as a result. Further, your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. The panel concluded that limbs a, b, and c of the test set out above are engaged.

Although very difficult, the panel was satisfied that the misconduct in your case is potentially capable of being remediated. Therefore, the panel carefully considered the evidence before it in determining whether you have taken steps to strengthen your practice. The panel took into account of all the information before it including your latest reflective statement.

However, the panel is of the view that there is a risk of repetition based on your incomplete insight into the impact of your misconduct upon your colleagues and the reputation of the nursing profession. [PRIVATE]

As a registered nurse, you would be responsible for providing care to vulnerable women. [PRIVATE]. The panel could not begin to satisfy itself that you no longer pose a risk of repeating the misconduct found proved. It concluded that you continue to pose a risk to women in the workplace, both colleagues and patients. 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.

In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise impaired on the grounds of public interest.

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 your name off the register. The effect of this order is that the NMC register will show that your name 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.

[PRIVATE]

### **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 identified the following aggravating features:

- The misconduct amounted to an abuse of authority.
- The misconduct occurred on numerous occasions, was sexual in nature, and spanned an extended period of time.
- The power imbalance at play, which would have resulted in an environment where people may have felt that they were unable to speak up.
- The emotional harm caused to your colleagues.
- Much of the behaviour occurred whilst you and your colleagues were off duty, outside of a work setting and as such had the potential to also impact upon the families of those receiving the messages.

The panel also identified the following mitigating features:

- You have had a long career and there is evidence that you have good clinical nursing skills.
- The challenging personal circumstances you were experiencing at the time, alongside the pressures on the NHS at the time caused by the Covid-19 pandemic.
- You have fully engaged throughout these regulatory proceedings.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the nature and seriousness of the facts proved in your 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 nature and seriousness of the facts proved, alongside the attitudinal concerns, an order that does not restrict your nursing practice would be inappropriate 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 your misconduct was not at the lower end of the spectrum and that a caution order would be wholly inappropriate in view of the sexual nature of the issues in your case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your 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 that much of the concerning behaviour occurred whilst you and your colleagues were off duty and all of the facts found proved related to personal behaviour, rather than clinical practice. Conditions of practice are more likely to be applicable in a work setting. A conditions of practice order will not be applicable or address the concerning behaviours with colleagues outside of work. The panel could therefore not be satisfied that any conditions formulated would be effective in protecting your colleagues, patients and the public. Furthermore, the panel concluded that the placing of conditions on your registration would not sufficiently address the public interest concerns in your case.

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:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel had regard to the SG noted that the serious breach of the fundamental tenets of the profession evidenced by your actions

is incompatible with you remaining on the register. In this 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?*

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 considered your case to be a difficult balance between retraining and rehabilitating an otherwise clinically competent nurse or ensuring that the public are protected, and that the standards and reputation of the nursing profession is maintained.

The panel bore in mind your intentions at charges 11, 25 and 28, which involved sexual gratification, and/or your pursuit of a future sexual relationship, and charge 12 which was found to have harassed in that it was unwanted and had the purpose or effect of violating the dignity of a colleague and/or created an intimidating, hostile, degrading or humiliating or offensive environment. It also bore in mind the impact that your behaviour and misconduct had upon your colleagues.

The panel was of the view that the findings in this case demonstrate that your actions were serious and to allow you 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. The panel concluded that the effect of your actions would bring the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves. The panel has concluded that nothing short of a strike-off would be sufficient in this case.

The panel considered that this order was necessary to protect the public and mark the importance of maintaining public confidence in the profession.

This will be confirmed to you in writing.

### **Decision and reasons on 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.

The panel took account of the submissions made by both Ms Carver and Ms McPhee in respect of an 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 any potential appeal period.

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

That concludes this determination.