

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

**Substantive Meeting
Monday, 20 January 2025**

Virtual Meeting

Name of Registrant: Jill McLaren

NMC PIN: 14I0429S

Part(s) of the register: Registered Nurse - Mental Health
Nursing – RNMH – September 2017

Relevant Location: Greater Glasgow & Clyde

Type of case: Conviction

Panel members: Dave Lancaster (Chair, lay member)
Dorothy Keates (Registrant member)
Laura Wallbank (Registrant member)

Legal Assessor: John Moir

Hearings Coordinator: Emma Norbury-Perrott

Facts proved: Charge 1

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 Ms McLaren's registered email address by secure email on 9 December 2024.

The panel accepted the advice of the legal assessor.

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

In the light of all of the information available, the panel was satisfied that Ms McLaren 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 12 September 2023 at Glasgow Sheriffs Court were convicted of the following offence;
 - a. On various occasions between 1 July 2018 and 28 September 2019, both dates inclusive, at [PRIVATE], Jill McLaren, being a person who was employed in a hospital in which a mentally disordered person, namely Patient A c/o Police Service Scotland was being given medical treatment, did engage in a sexual activity with or directed towards said Patient A, in that she repeatedly telephoned him, send him text messages, cards, kiss him, engage in oral sex and masturbation with each other.

Contrary to Section 46(1) and 2(b)(i) of the Sexual Offences (Scotland) Act 2009.

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

Background

On 10 October 2019 the NMC received a referral from NHS Greater Glasgow and Clyde where Ms McLaren had been employed as a Staff Nurse in [PRIVATE] (a medium secure mental health unit) since 4 September 2017 until she resigned on 25 August 2019.

The Referrer alleged that on/around 4 October 2019, a patient made a disclosure to the clinical team detailing allegations of an inappropriate sexual relationship, and behaviour, with Ms McLaren relating to himself and two other patients.

The NMC was advised that a formal complaint had been made to Police Scotland. Adult Support & Protection (ASP) referrals were made for all patients and an internal investigation commenced but at a Multi-Agency Adult Support and Protection (ASP) meeting on 22 October 2019, the ASP Investigation was closed due to Police Scotland conducting an investigation.

Ms McLaren was arrested and charged with offences under the Sexual Offences (Scotland) Act 2009 (“the Act”), specifically contravention of S46(1). Ms McLaren subsequently pleaded guilty and was convicted on 12 September 2023 in relation to the charge on the indictment pertaining to Patient A (charge 3) (as amended) in Glasgow Sheriff Court. She pleaded not guilty to the other charges in the indictment but guilty to charge 3 of the indictment (as amended). The pleas were accepted by Procurator Fiscal.

Ms McLaren was convicted on 12 September 2023. She received an 18-month community order with conditions attached.

Decision and reasons on facts

The charge concerns Ms McLaren’s conviction and, having been provided with a copy of the extract of conviction, 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

The panel next considered whether, on the basis of the facts found proved, Ms McLaren's fitness to practise is currently impaired by reason of her conviction. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise safely, kindly, and professionally.

Representations on misconduct

'13) Having established that Miss McLaren has been convicted the panel is invited to go on to consider whether, as a result, she is currently impaired.

14) First, the panel are called to consider whether the facts found proved amount to misconduct, if the facts amount to misconduct, then the panel must go on to consider the issue of impairment.

*15) There is no statutory definition for misconduct however to assist the panel the NMC direct the Fitness to Practice Committee (Committee) to the comments of Page 4 of 4 Lord Clyde in *Roylance v General Medical Council* [1999] UKPC 16 which may provide some assistance when seeking to define misconduct: a. '[331B-E] Misconduct is a word of general effect, involving some act or omission which falls short of what would be*

proper in the circumstances. The standard of propriety may often be found by reference to the rule and standards ordinarily required to be followed by a [nurse] practitioner in the particular circumstances’.

16) As may the comments of Jackson J in Calheam v GMC [2007] EWHC 2606 (Admin) and Collins J in Nandi v General Medical Council [2004] EWHC 2317 (Admin), respectively b. ‘[Misconduct] connotes a serious breach which indicates that the doctor’s (nurse’s) fitness to practise is impaired’. And c. ‘The adjective “serious” must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioner’.

17) Where the acts or omissions of a registered nurse are in question, what would be proper in the circumstances (per Roylance) can be determined by having reference to the Nursing and Midwifery Council’s Code of Conduct.

*18) At the relevant time Miss McLaren’s as a nurse was subject to the provisions of **The Code: Professional Standards of Practice and Behaviour for Nurses and Midwives (2015)**.*

The NMC consider the following provisions of the Code have been breached in this case;

1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion

1.2 make sure you deliver the fundamentals of care effectively

2 Listen to people and respond to their preferences and concerns

To achieve this, you must:

2.4 respect the level to which people receiving care want to be involved in decisions about their own health, wellbeing and care

2.6 recognise when people are anxious or in distress and respond compassionately and politely

3 Make sure that people's physical, social and psychological needs are assessed and respond to

To achieve this, you must:

3.1 pay special attention to promoting wellbeing, preventing ill health and meeting the changing health and care needs of people during all life stages

13 Recognise and work within the limits of your competence

To achieve this, you must:

13.1 accurately identify, observe and assess signs of normal or worsening physical and mental health in the person receiving care

13.4 take account of your own personal safety as well as the safety of people in your care

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

To achieve this, you must:

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

17.2 share information if you believe someone may be at risk of harm, in line with the laws relating to the disclosure of information

17.3 have knowledge of and keep to the relevant laws and policies about protecting and caring for vulnerable people

19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice

To achieve this, you must:

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

20 Uphold the reputation of your profession at all times

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

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

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

18) The NMC's concerns are that Miss McLaren was responsible for overseeing the care of Patient C who at the material time was an inpatient in a psychiatric hospital. The registrant pursued and formed an in appropriate sexual relationship with Patient C who was vulnerable and receiving treatment for his mental health. Miss McLaren failed to safeguard Patient C's safety and posed a risk to his wellbeing causing [PRIVATE]. She did this over a period of time misusing her position as a nurse. In light of the breaches above the NMC consider the concerns amounts to serious misconduct because the actions of Miss McLaren fall significantly short of what would be expected of a registered nurse.

19) The NMC invite the panel to find that conviction is a sufficiently serious departure from the expected standards and amount to misconduct in that Miss McLaren's actions fell far short of what would be proper in the circumstances'

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 includes the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. The panel has referred to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

With regard to impairment the NMC invited the panel to find Ms McLaren's fitness to practise impaired on public protection and public interest grounds stating that:

‘20) Impairment is conceptually forward looking and therefore the question for the panel is whether Miss McLaren is impaired as of today’s date per Cohen v General Medical Council [2008] EWHC 581 (Admin), and Zgymunt v General Medical Council [2008] EWHC 2643 (Admin).

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

“Can the nurse, midwife or nursing associate practise kindly, safely and professionally?”

22) If the answer to this question is yes, then the likelihood is that the professional’s fitness to practise is not impaired.

23) 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.

24) Furthermore, when determining whether the Registrant’s fitness to practise is impaired, the questions outlined by Dame Janet Smith in the 5th Shipman Report (as endorsed in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) are instructive.

Those questions were:

- 1. Has the registrant in the past acted and/or is liable in the future to act as so to put a patient or patients at unwarranted risk of harm; and/or*
- 2. Has the registrant in the past brought and/or is liable in the future to bring the nursing profession into disrepute; and/or*
- 3. Has the registrant in the past committed a breach of one of the fundamental tenets of the nursing profession and/or is liable to do so in the future and/or*

4. Has the registrant in the past acted dishonestly and/or is liable to act dishonestly in the future.

25) The NMC submits that grounds 1, 2, and 3 can be answered in the affirmative in this case. Ground 4 is not relevant to these proceedings.

26) Miss McLaren's actions have breached a fundamental tenet of the nursing profession relating to promoting professionalism and trust in the nursing profession.

27) Nurses occupy a position of privilege and trust. Patients, their families, and colleagues must be able to trust nurses who must make sure that their conduct justifies both their patients' and the public's trust in the profession, at all times. The Registrant's actions are liable to bring the profession into disrepute.

28) Impairment is a forward-thinking exercise which looks at the risk the registrant's practice poses in the future. NMC guidance adopts the approach of Silber J in the case of R (on application of Cohen) v General Medical Council [2008] EWHC 581 (Admin) by asking the questions whether the concern is easily remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated.

29) The Registrant has not taken any action to demonstrate remorse or insight to allay the concerns that the conduct will not be repeated. There is a real risk of repetition as the misconduct is directly linked with the Registrant clinical practice. Whilst reflection and training may not fully remediate the situation, it can provide evidence of remorse and willingness to remedy the concerns, which the panel can then use to assess risk and impairment. In this case, there has been no evidence put forward by the Registrant.

30) During a formal meeting where Miss McLaren was informed of the allegations it was observed she did not appear remorseful or have any

negative feeling towards the situation, but she did comment on [PRIVATE] following the disclosure.

31) Despite Miss McLaren pleading guilty, the NMC consider it concerning that on the facts of this case she grossly abused her position of authority and trust to engage in sexual activity with patients suffering from mental health issues.

32) There are also aggravating factors to be considered, including that the victim is a vulnerable mental health patient and under the care of NHS Greater Glasgow and Clyde. [PRIVATE].

33) With regard to future risk, given the nature of the allegations and the lack of insight the NMC consider there is a real risk of repetition and risk of significant harm to patients were the registrant to be permitted to continue to practice.

34) The NMC guidance FTP-15a entitled:

Can the concern be addressed? - The Nursing and Midwifery Council is also of assistance:

“Decision makers should always consider the full circumstances of the case in the round when assessing whether or not the concerns in the case can be addressed. This is true even where the incident itself is the sort of conduct which would normally be considered to be particularly serious. The first question is whether the concerns can be addressed. That is, are there steps that the nurse, midwife or nursing associate can take to address the identified problem in their practice? It can often be very difficult, if not impossible to put right the outcome of the clinical failing or behaviour, especially where it has resulted in harm to a patient. However, rather than focusing on whether the outcome can be put right, decision makers should assess the conduct that led to the outcome, and consider whether the conduct itself, and the risks it could pose, can be addressed by taking steps, such as completing training courses or supervised practice.”

35) *The conviction relates to a sexual offence. While she has been convicted of one offence, this involved several months of developing a relationship with a vulnerable mental health patient in her care. A conviction leading to a professional being sentenced to a term of imprisonment, including a suspended prison sentence, are examples of conduct which may not be possible to address through training and improvements in clinical practice, as detailed in guidance FTP-15a, due to being behaviours indicative of attitudinal issues. Miss McLaren's actions fall into the category of serious misconduct and therefore it would be difficult to demonstrate through training or any other form of remediation that these concerns could be addressed sufficiently to mitigate the risk of repetition of this behaviour in future.*

Public interest

36) *The NMC consider there is a continuing risk to the public due to the registrant's lack of full insight and remorse.*

37) *In Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) at paragraph 74 Cox J commented that:*

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

38) *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.*

39) *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.*

40) *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.*

41) *Miss McLaren's conduct resulted in a Community Order for 18 Months alongside Supervision; 180 Hours Unpaid Work; Restricted Movement 5 months and Notification Requirements under the Sexual Offences Act 2003; which is a serious concern. The public expect registered nurses to act with integrity and be honest and trustworthy, due to the position that they hold in that they often deal with people who are in vulnerable situations. Under guidance FTP-3c, Serious concerns based on public confidence or professional standards - The Nursing and Midwifery Council the NMC may need to take regulatory action against a professional to promote and maintain professional standards and the public's trust and confidence in the professions it regulates.*

42) *The guidance goes on to say that regulatory action will be taken "when the concerns raise fundamental questions about the ability of the nurse, midwife or nursing associate to uphold the standards and values set out in the Code". These concerns can occur, according to the guidance outside professional practice in relation to a serious crime "which could have a particularly negative impact of public confidence". Miss McLaren was convicted of an offence, in which she abused her position of trust whilst caring for vulnerable patients. Her actions clearly breached the standards*

expected of a registered professional. The registrant's actions have a negative impact on the reputation of the profession and, accordingly, have brought the profession into disrepute.

43) A finding of impairment is required to mark the profound unacceptability of the behaviour, emphasise the importance of the fundamental tenet breached and to reaffirm the proper standards of behaviour.

44) We consider 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.'

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments.

Decision and reasons on misconduct

The panel had regard to the NMC guidance and submissions in the statement of case.

The panel determined that Ms McLaren's conduct breached the following sections of The Code: Professional standards of practice and behaviour for nurses and midwives (2015) ('The Code'):

'1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion

1.2 make sure you deliver the fundamentals of care effectively

3 Make sure that people's physical, social and psychological needs are assessed and responded to

To achieve this, you must:

3.1 pay special attention to promoting wellbeing, preventing ill health and meeting the changing health and care needs of people during all life stages

3.4 act as an advocate for the vulnerable, challenging poor practice and discriminatory attitudes and behaviour relating to their care

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

To achieve this, you must:

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

17.3 have knowledge of and keep to the relevant laws and policies about protecting and caring for vulnerable people

19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice

To achieve this, you must:

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

20 Uphold the reputation of your profession at all times

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

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

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

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

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

23 Cooperate with all investigations and audits

This includes investigations or audits either against you or relating to others, whether individuals or organisations. It also includes cooperating with requests to act as a witness in any hearing that forms part of an investigation, even after you have left the register.'

The panel was satisfied that Ms McLaren's sexual misconduct, involving breach of trust with a vulnerable patient, whilst acting in her clinical role was an extremely serious departure from the expected standards of a registered nurse. Accordingly, the panel determined that her conduct amounted to misconduct.

Decision and reasons on impairment

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

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

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

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

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

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. 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* 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) *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 determined that limbs a), b), and c) of this test are engaged in this case.

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 vulnerable patients were put at risk and were caused mental and emotional harm as a result of Ms McLaren's conduct. Ms McLaren's misconduct, which resulted in her conviction, breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to sexual misconduct and breach of trust extremely serious.

The panel determined that the misconduct relating to Ms McLaren's conviction is very serious and falls considerably short of that expected of a registered nurse. Ms McLaren's inappropriate sexual behaviour with a vulnerable patient, and abuse of a position of trust, demonstrated deep-seated attitudinal issues.

Ms McLaren did not provide any evidence for the panel to consider at the meeting and has not engaged with the NMC during proceedings. The panel noted that Ms McLaren has not demonstrated an understanding of how her actions put patients at a risk of harm, and what she did was wrong, and how this impacted negatively on her patients, colleagues, and the reputation of the nursing profession. The panel determined that Ms McLaren has not

demonstrated any insight into her misconduct, and as a result, there is a serious risk of repetition. The panel therefore determined that a finding of impairment is necessary on the grounds of public protection.

The panel had regard to the very serious nature of Ms McLaren's conviction and determined that public confidence in the profession would be undermined if a finding of impairment were not made, particularly as the misconduct involved vulnerable patients, and abuse of a position of trust. The panel was of the view that a fully informed member of the public, aware of the conviction and all other circumstances of this case, would be appalled if Ms McLaren were able to practise as a registered nurse without restriction. The panel determined that a finding of current impairment on public interest grounds is also necessary to mark the seriousness of the misconduct, the importance of maintaining public confidence in the nursing profession, and to uphold professional standards.

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

The panel noted that in the Notice of Meeting, dated 9 December 2024, the NMC had advised Ms McLaren that it would seek the imposition of a striking-off order if it found Ms McLaren's fitness to practise currently impaired.

With regard to sanction, the NMC submitted;

'A striking-off order is the appropriate sanction in this case as the Miss McLaren's actions, which resulted in her conviction, are fundamentally incompatible with remaining on the register. The registrant's actions of engaging in sexual activity with a vulnerable patient who suffers from mental health, whilst being responsible for providing them care raises significant concerns around her professionalism and trustworthiness. She has engaged in the pursuit of Patient A in terms of engaging in inappropriate communication & a sexual relationship. These activities occurred inside the [PRIVATE] clinic and outside of the clinical setting [PRIVATE].'

Decision and reasons on sanction

Having found Ms McLaren'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:

- An abuse of a position of trust
- A significant degree of planning
- The registrant engaged in sexual activity with a vulnerable patient under her care
- The victim is extremely vulnerable [PRIVATE], the registrant used a false name to approach the victim
- A lack of remediation, remorse and insight
- Actual harm caused to a patient, [PRIVATE].
- Deep seated personality and attitudinal concerns

The panel also took into account the following mitigating features:

- Admitted offence during police interview
- Pled guilty at the court hearing
- [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, and that Miss McLaren was responsible for conduct that undermined the public's trust in nurses and breached the fundamental principles of the profession.

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 Ms McLaren's practice would not be appropriate in the circumstances. The NMC Sanction Guidance (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 Ms McLaren's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Ms McLaren's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of Ms McLaren's misconduct and conviction. The panel determined that a conviction for a sexual offence, which occurred over a significant period of time, was not the kind of misconduct which can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Ms McLaren's registration would not adequately address the seriousness of this case or protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*
- *In cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions; and*
- *In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

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

Ms McLaren's actions were not isolated to a single instance of misconduct but followed a pattern of behaviour with an effect of sexually pursuing a vulnerable patient, demonstrating evidence of harmful deep-seated personality and attitudinal issues. 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?*

Ms McLaren's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Ms McLaren's actions were very serious and to allow her to continue practising would not protect the public, and 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 Ms McLaren's actions in bringing 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 this would be sufficient in this case.

The panel considered that this order was necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

This will be confirmed to Ms McLaren 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 Ms McLaren'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;

'If a finding is made that the Registrant's fitness to practise is impaired on a public protection basis and a restrictive sanction imposed, the NMC consider an interim order in the same terms as the substantive order should be imposed on the basis that it is necessary for the protection of the public and otherwise in the public interest.'

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 any appeal to be resolved. Not to impose an interim suspension order would be inconsistent with the panel's earlier decision.

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

That concludes this determination.