

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

**Substantive Hearing
Thursday, 4 January 2024 – Friday, 5 January 2024
Friday, 2 February 2024**

Virtual Hearing

Name of Registrant: **Simon Thomas Standen**

NMC PIN 95F0147E

Part(s) of the register: V300: Nurse independent/supplementary prescriber (30 October 2015)

Relevant Location: West Yorkshire

Type of case: Conviction

Panel members: Birju Kotecha (Chair, lay member)
Susan Jones (Registrant member)
Georgina Wilkinson (Lay member)

Legal Assessor: Douglas Hogg KC

Hearings Coordinator: Nandita Khan Nitol

Nursing and Midwifery Council: Represented by Alex Radley, Case Presenter

Mr Standen: Present and represented by Thomas Buxton, instructed by the Royal College of Nursing (RCN) (4-5 January 2024)
Present and unrepresented (2 February 2024)

Facts proved: Charges 1a) and 1b)

Facts not proved: none

Fitness to practise: Impaired

Sanction: **Suspension order (12 months)**

Interim order: **Interim suspension order (12 months)**

Details of charge

That you, a registered nurse:

- 1) On 5 October 2021 were convicted of:
 - a) Offering to supply a quantity of methylamphetamine, a controlled drug of Class A, between 1 March 2020 and 31 July 2020.
 - b) Possession of 431 milligrams of methylamphetamine, a controlled drug of class A, on 20 July 2020.

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

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

During your evidence, the panel of its own volition enquired whether your case required exploration of your [PRIVATE]. This was pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules). Mr Buxton on your behalf made an application for parts of the hearing to be heard in private.

Mr Radley, on behalf of the Nursing and Midwifery Council (NMC), indicated that he did not oppose 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 there will be references to your [PRIVATE], the panel determined to hold parts of the hearing in private in order to preserve the confidential nature of those matters. The panel was satisfied that these considerations justify that course, and that this outweighs any prejudice to the general principle of hearings being held in public.

Background

The NMC received a referral from SO2 Clinical and Specialist Nurse Adviser, Infection Prevention and Control (Army), HQ 2nd Medical Brigade on 30 July 2020. You also made a self-referral in this case.

The charges arose whilst you were employed by Yorkshire Ambulance Service NHS Trust as a Consultant Paramedic for Emergency and Critical Care. You were also a registered nursing officer in the Army Reserves (Med. Evac. Regiment).

The alleged facts are that following a police interview, you were charged with two offences related to Class A drugs.

On 5 October 2021, you appeared at Leeds Magistrates' Court and pleaded guilty to both charges. You were sentenced to 12 months imprisonment, suspended for 12 months. You were also ordered to undertake a Rehabilitation Activity Requirement for up to 20 days. Both sentences were ordered to run concurrently.

Decision and reasons on facts

The charges concern your conviction and, having been provided with a copy of the memorandum of conviction dated 5 October 2021, the panel finds that the facts are found proved in accordance with Rule 31(2) and (3). In addition, you admitted the charges.

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 NMC has defined fitness to practise as requiring the registrant to practise kindly, safely and professionally. There is no burden or standard of proof in this respect. It is a matter for the panel's own professional judgement.

Submissions on impairment

Submissions by Mr Radley:

[PRIVATE] This was reported to the police and on 20 July 2020 you were arrested at your home address. Mr Radley said that during your arrest the police officer asked you if there were any drugs on the premises and to your credit, you disclosed that there were some for personal consumption.

Mr Radley referred the panel to drugs expert witness statement contained within the police report dated 20 August 2021, which concluded that:

[PRIVATE]

Mr Radley moved on to 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.

Mr Radley submitted that the question which will help the panel to decide whether your fitness to practise is impaired is whether you can practise kindly, safely and professionally.

Mr Radley submitted your fitness to practise is impaired and that your behaviour breached the NMC Code, and fundamental tenets of the nursing profession. He said that a finding of impairment is required to mark the unacceptability of your behaviour and reaffirm proper standards.

Mr Radley submitted that the panel should also take account of the learning, insight and steps you have taken to strengthen your practice. He acknowledged that you have engaged with the NMC and attended the hearing to explain your case. He said that the panel should also consider any evidence of further relevant training; information relating

to reflection and understanding of the issues raised; details of any steps taken to address the concerns raised by your conviction and evidence from others as to current skills and fitness to practise.

Mr Radley submitted that you have completed your sentence. He also submitted that it is a concern for the NMC whether it is likely that the conduct will be repeated as this will impact on your ability to practise kindly, safely and professionally.

Mr Radley accepted that your conduct did not have a direct or serious consequences on patient care. However, he submitted for the reasons outlined, your fitness to practise is currently impaired.

Your evidence:

[PRIVATE]

[PRIVATE] You further said that all of those things together led to an unprecedented and unforeseen set of circumstances. You said that you had not been a user or abuser of drugs prior to 2020.

You told the panel that you are no longer using illegal substances and completed a drug support program in November 2021. You have recognised your triggers and developed coping mechanisms to overcome stress. You told the panel that now you try to have open conversations with your manager and that you look for ways to reduce or share your workload.

You told the panel that it was your fundamental responsibility to uphold health, wellbeing and safety of others and that you failed to uphold that. You apologised for your behaviour, and you told the panel that your actions had damaged some of your professional relationships. You also told the panel that you have reached out to former colleagues in order to try to rebuild those relationships.

Following panel questions, [PRIVATE]. In response to further panel questions, about others being aware of your professional status when taking illegal substances, you said that they would feel safe in taking drugs with you. In response to a question from the panel as to why you referred to your clinical expertise (as a paramedic) in intravenous drug administration, you stated that you thought you were being set-up by somebody and that you were trying to draw their identity out.

[PRIVATE]

In respect of the impact on the profession, you stated colleagues were shocked and disappointed by your behaviour and you recognised the negative impact on the reputation of the profession. You also mentioned you no longer use such apps or social media that would put you in a position to use these drugs again.

Submissions by Mr Buxton:

Mr Buxton submitted that it was never the NMC's case that there was any public harm caused. [PRIVATE].

Mr Buxton submitted that you had become engaged and partook in the sharing of drugs. However, he said that this case in no way represents commercial supply of drugs. Mr Buxton further submitted that the matter was entirely within your private life and that you have a full understanding and knowledge of how you came to find yourself behaving in this way.

Mr Buxton submitted that you understand and accept the circumstances leading to your arrest in July 2020 do not represent the values, behaviours or conduct expected of you as a registered professional. He said that you recognise the far-reaching consequences that those events in 2020 had on your [PRIVATE] and professional life. Mr Buxton further submitted you accept and acknowledge the impact on the wider public and your colleagues.

Mr Buxton submitted that you are remorseful and apologetic for your behaviour and that you have truly learned a difficult and harsh lesson. He submitted that you have lost everything and that such conduct will not be repeated.

Finally, Mr Buxton submitted that the finding of impairment is a matter for the panel.

The panel accepted the advice of the legal assessor.

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 guidance on impairment as well as the guidance on insight and strengthened practice in the NMC Fitness to Practise Library.

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* [2011] EWHC 927 (Admin) 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 finds that limbs (b) and (c) of the *Grant* 'test' are engaged.

It also found that whilst limb a) was not engaged as there was no evidence of harm to patients and/or others, your actions of offering to supply, or in your words to 'share', drugs to others, [PRIVATE]. The panel considered that sharing recreational drugs carries unpredictable [PRIVATE] and that you, as a senior and experienced nurse and independent prescriber, would ordinarily know about the risk of unprescribed use of illegal drugs.

The panel finds that your conduct clearly brought the profession into disrepute and breached its fundamental tenets including the following obligations found in the NMC Code:

‘19.4 take all reasonable personal precautions necessary to avoid any potential health risks to colleagues, people receiving care and the public.

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

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

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

The panel went on to consider whether you remained liable to act in a way that would put patients at risk of harm, would bring the profession into disrepute and breach the fundamental tenets of the profession in the future. In doing so, the panel considered whether there was any evidence of insight and remediation.

Referring to the NMC guidance, the panel determined that convictions of this kind that lead to a custodial sentence can be difficult to remediate. However, the panel acknowledge the circumstances and context in which the offences occurred, and that you have served your sentence and satisfied all rehabilitation and probation requirements so that you are no longer using recreational drugs. The panel recognise that your offences were not committed for material gain but that nevertheless [PRIVATE] by supplying illegal substances.

Regarding insight, the panel noted that you were convicted of two serious offences, and that you have completed your sentence. You have engaged and cooperated well with your probation officer. The panel had regard to your reflective statement, where you explained in your evidence that at the time you did not recognise the adverse effects it carried [PRIVATE], but you said in evidence that you now understand the risk it carried. The panel considered that you have expressed regret for your actions.

However, it determined that your insight is still developing, as your reflective statement and your evidence demonstrate your insight into the impact your actions have had on you, and the regulator. However, the panel determined that you demonstrated insufficient insight into how your actions impact on the wider public and your colleagues and the wider implication of illegal drug use in society.

The panel next considered whether you have taken any steps to strengthen your practice. The panel noted your evidence, the training you have undertaken and the positive character references you provided. It noted a letter from your probation officer which mentioned that you had completed probation requirement to a high standard and that your actions were out of character, and you are unlikely to commit such conduct again. As such, the panel determined that you have sufficiently remediated the behaviours which led to your conviction.

The panel had regard to the fact that impairment is a forward-thinking exercise, and it must consider whether there is a risk of repetition of the concerns alleged in the future. The panel found that the risk of you repeating the conduct, which led to your conviction, is low. It also bore in mind that no concerns have been raised relating to your clinical practice as a nurse. Accordingly, the panel decided that a finding of impairment is not necessary on the grounds of public protection.

However, 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 and 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 is required. It concluded it is highly serious for a nurse to be convicted of offences relating to a Class A drug. The panel concluded that public confidence in the nursing profession and the NMC as a regulator would be significantly diminished were a finding of impairment not found on public interest grounds.

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 suspension order for a period of 12 months. The effect of this order is that the NMC register will show that your registration has been suspended. 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.

Submissions on sanction

Submissions by Mr Radley:

In his submissions on sanction Mr Radley invited the panel to impose a 12-month suspension order. He outlined what the NMC considered to be the aggravating and mitigating features of this case, and submitted that, because of the seriousness of the facts found proved in this case, a period of suspension from practice would suitably satisfy the public interest.

Mr Radley submitted that your suspended custodial sentence is an aggravating factor. He submitted that you are in a position of trust and that you would have been fully aware of the management and control of Class A Drugs. However, he acknowledged your demonstration of remorse and positive reflective insight. He also mentioned that you had cooperated fully in relation to the NMC proceedings and that you had fully cooperated in relation to the criminal proceedings. Mr Radley further submitted that there are no adverse findings in relation to you and that there are number of testimonials demonstrating your previous good practice.

However, Mr Radley submitted that your professionalism and trustworthiness had been called into question and in order to maintain public confidence in the profession and uphold the proper standards of conduct a sanction is necessary to demonstrate that your behaviour was unacceptable. He asked the panel to consider the test from the perspective of a reasonable person who is familiar with the facts of this particular case. Finally, Mr Radley submitted that you are subject to an interim suspension order and that in light of the decided case law, the panel can take this into account when considering sanction.

In response to panel questions, Mr Radley confirmed that you have been under an interim suspension order for a total duration of 30 months.

Submissions by Mr Buxton:

Mr Buxton submitted that the panel has adjudicated your impairment on public interest grounds only and that the panel should wholly and solely consider its deliberation on the basis of wider public interest.

Mr Buxton submitted that the appropriate and proportionate sanction that meets the public interest of this case is one of caution. He submitted that the panel has discretion in terms of applying a caution order of between one to five years. Mr Buxton submitted that caution is deemed appropriate in the less serious cases and this case has no public protection concerns. He submitted that you have fully remediated and demonstrated insight. He further submitted that an informed bystander knowing all the facts of the case would understand the reason for imposing such an order.

Mr Buxton submitted that the unfortunate events were entirely out of character and that you have fully reformed. He submitted that you have learnt your lessons from these events. Additionally, he submitted that, you have not only taken responsible and appropriate steps to remediate but you have also successfully engaged in professional practice (non-patient facing). Mr Buxton submitted that the testimonials that have been provided to the panel describe you as skilled, experienced, extremely well educated and fully committed to the care of others.

Mr Buxton submitted that the panel has already concluded in the impairment determination that the likelihood of repetition of your conviction is low. He further said that it is highly unlikely that you will engage in this behaviour again. Mr Buxton submitted that you had been two steps away from going to prison and that you appreciated this as a clear marker to abide by the law and follow the code of the professional practice. Mr Buxton submitted that you have learnt your lesson and that you have an understanding of wider implications of your behaviour as you fully understand how the public and colleagues would react to such matters.

Mr Buxton submitted that that the reflective pieces indicate that you have a complete understanding of the wider implications of your actions, not only of upholding standards but in the wider public interest. He submitted that to the extent that the panel says your insight is limited, you have spent time and careful thought reflecting, and that your demeanour attests to someone whose journey through insight is complete.

[PRIVATE]

Mr Buxton submitted that if the panel felt that a caution order would not suffice, it should look at the next most less restrictive order. He submitted that this is not the type of case where conditions of practice would either be appropriate or workable. However, he submitted that you are a highly regarded experienced practitioner and it would be in the public interest to return you back into practice.

Finally, Mr Buxton submitted that you are effectively fully rehabilitated in its true sense. Accordingly, he submitted that if the panel was not with him with the caution order, he invited the panel to impose a short suspension order of three months to allay any concerns the panel had. He submitted that this would reflect the circumstances, and also your remediation, remorse and contrition. Mr Buxton submitted that a short suspension would mark the behaviour, but also reflect the fact that you have been suspended for the best part of two years.

Decision and reasons on sanction

Having found you 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:

- As a nurse you were aware or should have been aware of the risk and consequences of taking and offering to supply Class A drugs.
- Conviction resulting in a suspended custodial sentence.
- Referring to oneself as a paramedic in the course of offering to supply Class A drugs.

The panel also took into account the following mitigating features:

- Multiple positive testimonials were provided which attest to your character and clinical practice.
- Demonstration of remorse and remediation of the factors that led to your conviction.
- You have fully cooperated with the probation service.
- Evidence of some insight and steps taken to address the concerns.

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 interest 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.'*

In the panel's judgement, you had been convicted of a highly serious offence relating to Class A drugs. Therefore, the panel considered that your misconduct 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 nursing registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel was of the view that there are no practical or workable conditions that could be formulated, given the seriousness and the nature of the conviction in this case. The panel noted that the concerns in this case relate solely to your conduct and behaviour outside of your clinical practice; there were no identifiable areas of clinical nursing practice which needed to be addressed. The panel also determined that the public interest elements of this case would not be met by the imposition of a conditions of practice order, given your conviction.

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

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel considered the conduct, which led to the conviction, to be very serious. [PRIVATE] The panel did not identify deep-seated or attitudinal concerns that led to the behaviours. The panel saw sufficient insight to consider that the risk of repetition to be minimal.

The panel further bore in mind the positive testimonials presented on your behalf and that there has been no repetition of the conduct found proved which led to your conviction. The panel considered that a period of temporary removal from the register was necessary to mark the seriousness of the case, declare and uphold the relevant professional standards expected of a registered nurse, and maintain trust and confidence in the professions and the NMC as regulator. The panel determined that a period of suspension will provide you adequate time to further develop your insight and to gain a full understanding of how your actions impacted the profession and society.

It did go on to consider whether a striking-off order would be proportionate. However, the panel concluded that it would be disproportionate since the risk of repetition is minimal as you have demonstrated some insight and provided multiple positive testimonials. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in your case to impose a striking-off order.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction. The panel noted the hardship such an order will inevitably cause you. However, this is outweighed by the public interest in this case.

The panel considered that this order is 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.

Next, in considering the length of the suspension order, the panel took into account the SG (SAN-1), *Factors to consider before deciding on Sanctions*, which states:

'The fact that a nurse, midwife or nursing associate was previously under an interim order, and for how long, are relevant background factors in deciding on what a proportionate length of sanction might be.'

However, it would usually be wrong to simply deduct or discount the length of time for which the nurse, midwife or nursing associate was previously restricted or suspended under an interim order from the sanction order the panel is thinking about making.'

The panel considered the above relevant guidance and acknowledged that you had been under an interim suspension order for over two years. At the impairment stage, the panel concluded that the risk of you repeating the conduct, which led to your conviction, is low and that there is no identified potential risk of harm to the public. However, the panel considered the public interest issues in this case to be so serious that only a 12-month suspension would uphold public confidence and the professional standards expected of a registered nurse. Consequently, taking into account all the circumstances of the case, the panel determined that a suspension order for a period of 12 months was appropriate in this case to mark the seriousness of the misconduct.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Your attendance and engagement at a future review hearing.
- An updated reflective piece covering the impact on the profession and society when a nurse is convicted on possessing and supplying Class A drugs.
- Any updated testimonials and references from your current employer.

Interim order

As the suspension 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 suspension sanction takes effect.

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

Submissions on interim order

The panel took account of the submissions made by Mr Radley. He invited the panel to make an interim suspension order for a period of 12 months to cover any appeal period until the substantive suspension order takes effect. He said that such an order is necessary to declare uphold proper standards of conduct for the same reasons as the substantive suspension order.

You said that you understood the rationale for the application, and you did not oppose it.

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary on the grounds of 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 12 months to uphold the public interest throughout the period in which any appeal of this order may be made.

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

This will be confirmed to you in writing.

That concludes this determination.