

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

**Substantive Hearing
Thursday 2 May – Friday 3 May 2024**

Nursing and Midwifery Council
2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of Registrant: Paul Meechan

NMC PIN 96I0678S

Part(s) of the register: Nurses part of the register Sub part 1
RNMH: Mental health nurse, level 1 (20
September 1999)

Relevant Location: Cardiff

Type of case: Conviction

Panel members: Peter Wrench (Chair, Lay member)
Judith McCann (Registrant member)
James Hurden (Lay member)

Legal Assessor: Peter Jennings

Hearings Coordinator: Anya Sharma

Nursing and Midwifery Council: Represented by Giedrius Kabasinskas, Case
Presenter

Mr Meechan: Present and unrepresented

Facts proved: All

Facts not proved: None

Fitness to practise: Impaired

Sanction: Striking-off order

Interim order: Interim suspension order (18 months)

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

At the outset of the hearing, Mr Kabasinkas made a request that this case be held partly in private on the basis that proper exploration of your case involves [PRIVATE]. He submitted that the Nursing and Midwifery Council's (NMC) position in relation to holding the whole of the hearing in private is neutral. This application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

You indicated to the panel that you would prefer for the entirety of proceedings to be held in private on the basis that proper exploration of your case involves reference to [PRIVATE].

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.

The panel determined to go into private session in connection with [PRIVATE] as and when such issues are raised. It was satisfied that this was justified by the need to protect your privacy. The panel was not however satisfied that conducting the whole hearing in private would be justified, because of the seriousness of the charges and the need for public accountability.

Details of charge

That you, a registered nurse:

1. On 2 May 2023 at Cardiff Magistrates' Court, were convicted of:
 - a) Distributing indecent photographs, namely 17 Category A images contrary to Section 1 of the Protection of Children Act 1978;
 - b) Distributing indecent photographs, namely 4 Category B images contrary to Section 1 of the Protection of Children Act 1978;

- c) Possessing extreme pornographic image/images portraying an act which involved sexual interference with a corpse contrary to Section 63 of the Criminal Justice and Immigration Act 2008;
- d) Possessing 28 prohibited images of children contrary to Section 62 of the Coroners and Justice Act 2009;
- e) Engaging in sexual communication with a child contrary to Section 156A of the Sexual Offences Act 2003;
- f) Possessing indecent photographs, namely 78 Category A images contrary to Section 160 of the Criminal Justice Act 1988;
- g) Possessing indecent photographs, namely 105 Category B images contrary to Section 160 of the Criminal Justice Act 1988;
- h) Possessing indecent photographs, namely 90 Category C images and videos contrary to Section 160 of the Criminal Justice Act 1988;
- i) Possessing extreme pornographic image/images portraying an act of intercourse/oral sex with a dead/alive animal contrary to Section 63 of the Criminal Justice and Immigration Act 2008;
- j) Causing/inciting a boy aged 13 to 15 to engage in sexual activity contrary to Section 8 of the Sexual Offences Act 2003

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

The charges concern your conviction. You admitted all of the charges and the panel had been provided with a copy of the certificate of conviction. The panel accordingly finds the facts proved in accordance with Rule 24(5).

Background

On 19 January 2022 you were referred to the NMC by the Adult Safeguarding Team at Cardiff City Council (the Council) after being arrested on 7 December 2021. The Council stated that on 8 December 2021 they received a Section 5 Professional Concerns referral

from the Metropolitan Police advising them that you had been arrested for possessing indecent images of children.

Following your arrest, a safeguarding meeting was held during which it was confirmed you had resigned [PRIVATE] after being suspended by your employer.

On 2 May 2023, you pleaded guilty to 10 offences at Cardiff Magistrates' Court. On 23 June 2023, at Newport (South Wales) Crown Court, you were sentenced to a number of immediate custodial sentences to run concurrently, the longest one being 32 months in respect of inciting a boy of 13 to 15 to engage in sexual activity.

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 a registrant's suitability to remain on the register unrestricted.

Submissions on impairment

Mr Kabasinkas addressed the panel on the issue of impairment and reminded the panel to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. He made reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin). Mr Kabasinkas also referred the panel to relevant parts of the NMC Guidance.

Mr Kabasinkas submitted that it is the NMC's case that your fitness to practise is impaired by way of your conviction. He submitted that the first three limbs of *Grant* are engaged in this case and referred the panel to relevant sections of the NMC Code.

Mr Kabasinskas submitted that whilst there are no clinical concerns in relation to your nursing practice, it is clear from the information before the panel that you cannot practise safely, kindly and effectively. He submitted that when considering impairment on the grounds of public protection, the panel should take into account that at the time of your sentencing, you were made subject to a Sexual Harm Prevention Order (SHPO) for a period of 10 years. Mr Kabasinskas submitted that the SHPO being put in place demonstrates that you present a risk of sexual harm to the public and speaks for itself in relation to the risk of repetition.

Mr Kabasinskas submitted that a finding of impairment must be made in light of the serious nature of your conviction and the need to maintain public confidence in the nursing profession.

You told the panel that in documentation you have provided to the NMC, you have acknowledged that your fitness to practice is impaired in a 'continuous way'. You did not accept that your fitness to practice is permanently impaired. You said that you did not necessarily agree with all of the points made on behalf of the NMC, but you did not want to say anything further.

The panel accepted the advice of the legal assessor which included reference to the principles derived from a number of relevant judgments and to the approach which the panel should take to the question of impairment.

Decision and reasons on impairment

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

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

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

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

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

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. 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 ... conviction ... 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 ... 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 ... profession; and/or*

d) ...

The panel determined that the first three limbs of the test as set out in *Grant* are engaged. The panel found that individual(s) were put at risk as a result of the offences which led to your conviction. Your conduct brought the nursing profession into disrepute and you breached its fundamental tenets of complying with the law and upholding the profession's standards and values.

Regarding insight, the panel took account of the documentation before it, in which you set out that you recognise and understand that what you have done is wrong, and your belief that it would not happen again. However, the panel was of the view that the information before it does not agree with this. The panel noted the pre-sentence report, which concluded that you *'present as a medium risk of causing serious harm towards children under the age of 18 years old'*.

The panel noted that whilst there are no clinical concerns in relation to your nursing practice, the charges which have been found proved by way of your conviction are of an extremely serious nature, and as a result of your conviction, you are also subject to a sexual harm prevention order for a period of 10 years, indicating that the judge was of the view that there was a risk against which the public required protection. The panel noted that whilst you are currently a sentenced prisoner, you have completed nearly 12 months of your sentence and would be eligible for parole at the halfway point of your sentence. Accordingly, in the absence of a finding of impairment, you would be able to return to unrestricted practice on your release. The panel therefore determined that a finding of impairment on the grounds of public protection is necessary in the circumstances, to ensure that any concerns in relation to the protection of the public are met.

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 also to uphold/protect the wider public interest, which includes promoting and maintaining public confidence in the nursing and midwifery professions and in their effective regulation, and upholding proper professional standards for members of those professions. The panel was of the view that an informed member of the public would be shocked if you were permitted to practise without restriction, and that a finding of impairment on public interest grounds is therefore also required to mark the seriousness of a conviction for such offences when committed by a registered nurse.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired, on both public protection and public interest grounds.

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike you off the register. As a result of this order, the NMC register will show that you have been struck off.

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. It took account of the submissions of Mr Kabasinkas and your submissions. The panel accepted the advice of the legal assessor as to its powers and the principles which should guide its decision.

Submissions on sanction

Mr Kabasinkas referred the panel to relevant sections of the NMC's Sanction Guidance and set out what the NMC submitted were the aggravating and mitigating features of the case.

Mr Kabasinkas then took the panel through each sanction available for the panel to impose. He submitted that to take no action or to impose a caution order would not be

appropriate or proportionate in view of the seriousness of the case, and that an order that does not restrict your nursing practice would not satisfy the public interest and public protection issues identified.

Mr Kabasinkas submitted that to impose a conditions of practice order would also not be appropriate in the circumstances. He submitted that it would not be possible to formulate practicable or workable conditions to address the risks identified in this case.

Mr Kabasinkas submitted that the panel has two available sanctions, namely a suspension order and a striking-off order. He submitted that the seriousness of the offences and your conviction is fundamentally incompatible with you staying on the NMC register, and that the only appropriate sanction in this case would be striking off.

Mr Kabasinkas referred the panel to the Judge's Sentencing Remarks dated 23 June 2023, and set out that you have completed nearly 11 months of your sentence and are eligible to be released from prison on licence in October 2024. However, your sentence will not be completed until February 2026. Mr Kabasinkas submitted that the significance of this is that the maximum duration of a suspension order that the panel can impose is for a period of 12 months, and when applying the 28-day appeal period where the sanction does not come into effect, any suspension imposed by the panel would not come into effect until June 2024 and could only run until June 2025 at the latest.

Mr Kabasinkas submitted that it is solely a matter for the panel to impose the appropriate sanction in this case, but the panel should take into account all of the circumstances of the case, as well as the public protection and public interest concerns.

You told the panel that you do not oppose the potential strike-off decision, and that you fully accept that your actions have not brought you to a good standing in the nursing profession. You explained to the panel that prior to this, you had an unblemished period of 24 years of good standing in the nursing profession. You set out to the panel that you are sad that this seems to have been obliterated by the impact of your actions.

You told the panel that you are not of the view that your actions are excusable, but that in terms of the context, your offending was not intentional [PRIVATE].

[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 took into account the following aggravating features:

- The seriousness of your conviction in relation to Category A, B and C images, other illegal extreme pornographic images and your engagement in sexual communication with Child A
- The vulnerability of Child A, who you knew was 13 years old, but you persisted in your communication to incite them to engage in sexual activity
- The offences took place and were repeated on several occasions over an extended period of time between December 2020 and December 2021

The panel took into account the following mitigating features:

- You had made admissions at an early stage
- You had sought to remove yourself from the NMC register by way of agreed removal but nevertheless engaged with the hearing

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that your conviction 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 your registration would be a sufficient and appropriate response. The panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public, nor be in the public interest. Also, the panel is of the view that there are no practical or workable conditions that could be formulated, given the extremely serious nature of your convictions.

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 the panel's view, this was not a single instance: you were convicted of 10 offences taking place over the period of a year. The nature of those offences does indicate harmful deep-seated problems. While there is no evidence of repetition of this behaviour since then, you have been in prison. As the panel has already stated in its determination on impairment, it found that there is a risk that you will repeat your behaviour.

However, more importantly, the offences for which you were convicted were a significant departure from the standards expected of a registered nurse and were extremely serious breaches of the fundamental principles of the nursing profession. In the panel's judgement, your actions were fundamentally incompatible with you remaining on the nursing register.

The panel further noted that the maximum period of 12 months suspension, which is available to it, would (assuming it took place after the 28-day appeal period) end before you had completed your sentence of imprisonment. The relevant case law sets a general principle that a professional should not be allowed to resume practice until a sentence of imprisonment has been completed, and so a suspension order at this point would be insufficient.

Accordingly, 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?*

As the panel has just stated, it determined that your actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with you remaining on the register. The panel was satisfied that 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 taking into account all the evidence before it, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of your actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct himself, the panel has concluded that nothing short of this would be sufficient in this case.

The panel considered that this order was necessary to protect the public, to mark the importance of maintaining public confidence in the profession, and to declare to the public and the profession the standards of behaviour required of a registered nurse.

This will be confirmed to you in writing.

The panel noted that you had indicated at the conclusion of your submissions in relation to the sanction stage that you did not wish to return to the hearing for the handing down of the sanction decision and any submissions on an interim order.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period or in the event of an appeal until the appeal has been determined, the panel has considered whether an interim order, until the striking-off sanction takes effect, 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 is in your own interests.

Submissions on interim order

The panel took account of the submissions made by Mr Kabasinskas. He submitted that an interim order is necessary on the grounds of both public protection and public interest, given the seriousness of the case and the panel's findings.

Mr Kabasinskas invited the panel to impose an interim suspension order for a period of 18 months to cover the 28-day appeal period, or the time until an appeal can be heard, and to mitigate any risk.

The panel heard and accepted the advice of the legal assessor as to the approach it should take to making an interim order.

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. In reaching this decision, the panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order. The panel was satisfied that an order was necessary because of the risk it had found and because, in the light of its finding that your behaviour was incompatible with continued registration, to allow you to practise pending any appeal would be inconsistent with its findings and would not meet the public interest.

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 cover the 28-day appeal period or the time until any appeal can be determined. The panel had regard to the impact that the order will have on you, and the panel is satisfied that this order, for this period, is the appropriate and proportionate order in the circumstances of your case.

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.