

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

**Substantive Hearing
Friday 5 January 2024 and Thursday 28 March 2024**

Virtual Hearing

Name of Registrant: **Rusty Jay Tayhopon**

NMC PIN 19J0291E

Part(s) of the register: Registered Adult Nurse - Sub Part 1
RNA: Adult Nurse, Level 1 - February 2020

Relevant Location: Worcester

Type of case: Conviction

Panel members: Carolyn Tetlow (Chair, Lay member)
Peter Wrench (Lay member)
Frances Mary Clarke (Registrant member)

Legal Assessor: Graeme Sampson

Hearings Coordinator: Margia Patwary (5 January 2024)
Zahra Khan (28 March 2024)

Nursing and Midwifery Council: Represented by Assad Badruddin, Case
Presenter

Mr Tayhopon: Present and not represented at the hearing on 5
January 2024
Not present and not represented at the hearing
on 28 March 2024

Facts proved: Charge 1

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

During your oral evidence, matters in relation to your [PRIVATE] were raised. Therefore, the panel of its own volition determined that your evidence should be heard in private when such issues are raised in order to protect your privacy.

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.

Mr Badruddin on behalf of the Nursing and Midwifery Council (NMC) supported the application to the extent that any reference to your [PRIVATE] should be heard in private.

You also supported this application.

Details of charge

That you, a registered nurse:

1. On 25 May 2023, were convicted of making indecent photograph/pseudo photograph of a child x3 / possessing a prohibited image of a child/possessing extreme pornographic image / images portraying an act of intercourse/oral sex with a dead / live animal.

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

Background

You were referred to the NMC on 5 July 2021 by Worcestershire Acute Hospitals NHS Trust (the Trust).

You had been employed at the Trust since March 2020 and at the relevant time, you were under investigation for possession and distribution of indecent images. Following an interview under caution with West Mercia Police, you admitted to being in possession of unlawful images.

During your interview with the police, you made full admissions to the allegations. You were convicted at Worcester Magistrates Court on 25 May 2023 of making indecent photograph/pseudo photograph of a child x 3/ possessing a prohibited image of a child/ possessing extreme pornographic image/images containing an act of intercourse/oral sex with a dead/live animal.

Following your conviction, you were sentenced at Worcester Crown Court on 7 July 2023 to 14 months imprisonment, were made subject to a Sexual Harm Prevention Order for 10 years, and ordered to sign on the Sex Offender Register for 10 years. [PRIVATE].

Decision and reasons on facts

At the outset of the hearing, you informed the panel that you admit to charge 1 but you do not accept that your fitness to practice is currently impaired.

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

The charge concerns your conviction. Having been provided with a copy of the certificate of conviction dated 1 September 2023, the panel finds that the facts are found proved in accordance with Rules 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

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.

The panel took into account all the documentary evidence in this case together with the submissions made by Mr Badruddin, your oral evidence and the submissions made by you.

Submissions on impairment

Mr Badruddin 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. Mr Badruddin referred to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) and *Council for the Regulation of Health Care Professionals v (1) General Dental Council and (2) Fleischmann* [2005] EWHC 87 (QB).

Mr Badruddin invited the panel to take the view that your fitness to practise is impaired on both grounds of public protection and public interest.

Mr Badruddin directed the panel to the terms of "The Code: Professional standards of practice and behaviour for nurses and midwives (2018) (the Code) and to the specific paragraphs where, in the NMC's view, your conviction amounted to a breach of those standards.

Mr Badruddin submitted that your conviction for making and possessing indecent images falls well below the standard expected of a registered nurse and raises fundamental concerns regarding your position as a registered nurse.

Mr Badruddin submitted that the first three limbs of Dame Janet Smith's test set out in the case of *Grant* are engaged. He submitted that whilst no patients were harmed as a result of your conviction, there was potential for harm as patients and their families may be deterred from accessing healthcare services if they were aware of your conviction. He further submitted that due to the nature of your conviction, a finding of impairment is needed to uphold public confidence in the nursing profession and the NMC as its regulator.

Mr Badruddin submitted that your conviction itself does not relate to your clinical practise however, it relates to the production and possession of sexual images relating to children and other extreme images. He further submitted that your conviction demonstrates the level of seriousness of your offence and this is further demonstrated by the fact that you are currently serving a 14 month custodial sentence and that you are subject to a Sexual

Harm Prevention Order and are required to register on the Sex Offender Register, both of which are for 10 years.

Mr Badruddin submitted that you had breached fundamental tenets of the profession and that your conduct is not easily remediable. He invited the panel to find impairment on grounds of public protection and public interest.

The panel also heard evidence from you under affirmation.

You told the panel that you acknowledge your conviction was bad behaviour and unlawful behaviour and that your integrity was personally and professionally affected.

You stated that you have been working in the healthcare industry since 2011 and have been providing services for service users and vulnerable adults for more than 12 years. You told the panel that your offending occurred during the years 2018 to 2021 and at this time you were a student nurse. You registered with the NMC in 2020.

In relation to your conviction, you clarified to the panel that you were convicted for possession of indecent images and not matters relating to the distribution of such images.

[PRIVATE]

You took the panel through your documentary evidence and referred the panel to the fire in Oswestry nursing home in November 2022. You said that there were newly qualified nurses in the building but due to their inexperience in the job, you took leadership and managed to evacuate staff and 60 plus residents to a safer place. You stated that without your delegation and leadership, there would have been lives lost.

You told the panel that there is only one judge that matters to you, and that is God. He knows what you have been through, the good and the bad.

You said to the panel that you would like it to take into account the services you have provided to the public for many years and the positive testimonials you have provided in your evidence and asked it not to judge you for what the NMC have brought forward.

In answering questions from the panel, you did not dissent from the proposition that the nature of your offence suggests that you pose a risk to children. However, you denied ever having acted in a way which was directly harmful to children.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin).

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.

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. To justify that trust, nurses must act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper

professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

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

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that 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) ...'*

Although this relates to misconduct, it can equally be applied to a conviction. The panel found that the behaviour that led to your conviction had 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 your fitness to practice impaired in relation to your conviction, which it considered to be extremely serious. The panel considered that whilst no harm was caused to patients as a result of your actions, there was potential for harm as families may be reluctant to access medical services if they were aware of your conviction. Furthermore, the nature of your offence and the sentence you received inevitably highlights a concern that you may

pose a continuing risk to children, a concern which your answers to the panel's questions did nothing to dispel.

The panel went on to consider whether there is a risk of repetition and in doing so it assessed your current insight, remorse and remediation.

Regarding insight, the panel noted that you have not demonstrated any real understanding of the serious nature of your conviction. The panel determined that you have very limited insight and that you do not recognise the extent to which your actions will have impacted on public trust, your colleagues and the reputation of the nursing profession.

Regarding remorse, the panel was concerned that, when asked whether you had sexual interest in children, you did not deny this. Further the panel noted that you had not expressed any remorse or apologised for your actions.

In its consideration of whether you have remedied your practice, the panel took into account your evidence. However, the panel noted that your custodial sentence is still ongoing, and you remain on the Sex Offenders Register and subject to a Sexual Harm Prevention Order.

The panel considered that your behaviour will be difficult to remediate. The panel is of the view that there remains a risk to the public due to the serious nature of your conviction and your ongoing sentence. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection in these circumstances.

The panel found that the behaviour which led to your conviction posed a risk to patients and the wider public. You have breached 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 your behaviour and your conviction extremely serious and your fitness to practice currently impaired.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health safety and well-being of the public and patients, and to uphold/protect the wider public interest, which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that, in this case, a finding of impairment on public interest grounds is also required. The panel noted that your conviction is public knowledge, and finding no impairment on public interest grounds would undermine public trust and confidence in the nursing profession.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.

The hearing was adjourned due to lack of time at the end of the impairment stage and resumed to consider sanction on 28 March 2024.

Decision and reasons on service of Notice of Hearing for 28 March 2024

The panel was informed at the start of the resuming hearing that Mr Tayhopon was not in attendance and that the Notice of Hearing letter had been sent to Mr Tayhopon by recorded delivery and by first class post to his address, provided by the Home Office, on 20 March 2024. The panel noted a 'customer receipt' stamp dated 21 March at 14:27.

The panel was further informed that a previous Notice of Hearing dated 25 January 2024 had been sent to Mr Tayhopon by recorded delivery and by first class post to his address in prison, where he remained until 5 February 2024.

Mr Badruddin submitted that the NMC had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notices of Hearing provided details of the allegation, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mr Tayhopon's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In light of all of the information available, the panel was satisfied that Mr Tayhopon has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34. Specifically, it noted that Rule 34 (1) (b) states that:

'Any notice of hearing required to be served upon the registrant shall be delivered by sending it by a postal service or other delivery service in which delivery or receipt is recorded to, or by leaving it at, where this differs from, and it appears to the Council more likely to reach the registrant at, the registrant's last known address...'

The panel concluded that, having been informed by the Home Office that Mr Tayhopon was residing at the address to which the second Notice of Hearing had been sent, that he was electronically tagged, having been bailed from an Immigration Removal Centre and was required to report weekly, this was the address most likely to reach him, even though it was not the address on the NMC register.

Decision and reasons on proceeding in the absence of Mr Tayhopon on 28 March 2024

The panel next considered whether it should proceed in the absence of Mr Tayhopon. It had regard to Rule 21 and heard the submissions of Mr Badruddin who invited the panel to continue in the absence of Mr Tayhopon. He submitted that Mr Tayhopon had voluntarily absented himself.

Mr Badruddin submitted that there had been no engagement at all by Mr Tayhopon with the NMC in relation to these adjourned proceedings, despite having attended on the previous occasion. He also referred to a Proceeding in Absence (PIA) Bundle that details a chronology of the NMC's numerous attempts to contact Mr Tayhopon by post and telephone, but there had been no response from him. As a consequence, there was no reason to believe that an adjournment would secure his attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*' as referred to in the case of *R v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel decided to proceed in the absence of Mr Tayhopon. In reaching this decision, the panel considered the submissions of Mr Badruddin and the advice of the legal assessor. It had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mr Tayhopon;
- Mr Tayhopon has not engaged with the NMC and has not responded to any of the letters sent to him about this hearing;
- Numerous attempts have been made to contact Mr Tayhopon by telephone, but although the phone rang it was then disconnected;
- Mr Tayhopon was made aware of this resuming date by the panel at the end of the initial hearing;
- The panel has regard to a customer receipt for the second Notice of Hearing dated 21 March 2024 at 14:27;

- There is no evidence before the panel that is new to Mr Tayhopon;
- Mr Tayhopon is currently on bail from the Home Office, having previously been held in an Immigration Removal Centre;
- Mr Tayhopon has already submitted character references and he has previously addressed the panel on his views on sanction, when he submitted that a conditions of practice order should be imposed;
- The panel is aware that there are currently severe restrictions on Mr Tayhopon's ability to use electronic devices to access the internet, but he could have joined the hearing by telephone;
- Mr Tayhopon was present on the last occasion but is not here today so it is highly likely that he has disengaged from the process and voluntarily absented himself;
- There is no reason to suppose that adjourning would secure Mr Tayhopon's attendance at some future date; and
- There is a strong public interest in the expeditious disposal of this very serious case.

There is some disadvantage to Mr Tayhopon in proceeding in his absence at this stage. Although the evidence upon which the NMC relies has been sent to Mr Tayhopon at his current address, he will not be able to give evidence on his own behalf at the sanction stage. However, the limited disadvantage is the consequence of Mr Tayhopon's decisions to absent himself from the hearing, waive his rights to attend, and/or be represented, and to not provide evidence or make submissions on his own behalf.

In these circumstances, the panel decided that it is fair to proceed in the absence of Mr Tayhopon. The panel will draw no adverse inference from Mr Tayhopon's absence during the next stages of the process.

Sanction

The panel considered this case very carefully and decided to make a striking-off order. It directs the registrar to strike Mr Tayhopon off the register. The effect of this order is that the NMC register will show that Mr Tayhopon has been struck-off the register.

In reaching this decision, the panel 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 noted that it had now been provided with the Judge's Sentencing Remarks which were not before it on the last occasion. Those remarks will, of course, have been heard by Mr Tayhopon at the time so would not be new to him. Those remarks illustrated the gravity of the case.

The panel accepted the advice of the legal assessor.

Submissions on sanction

Mr Badruddin informed the panel that in the original Notice of Hearing, dated 4 December 2023, the NMC had advised Mr Tayhopon that it would seek the imposition of a striking-off order if the panel found Mr Tayhopon's fitness to practise currently impaired.

Mr Badruddin submitted that a striking off order is the most appropriate order, given the nature of the concerns. In relation to aggravating features, he submitted that the following are engaged:

- The nature and seriousness of the convictions as the allegations relate to a conviction for criminal offences involving the production/possession of indecent images of very young children and bestiality;
- The aggravating factors include the extreme vulnerability of the children depicted and the pain suffered by them;
- The significantly high volume of pictures and moving images in Mr Tayhopon's possession (approx. 2100 different media items) stored by himself for personal use, including sharing with others. These items included 879 Category A images and

671 videos of the utmost seriousness, as detailed in the Judge's Sentencing Remarks;

- Mr Tayhopon was sentenced to immediate period of imprisonment of 14 months;
- Mr Tayhopon is also subject to a Sexual Harm Prevention Order and required to sign the Sex Offenders' Register, both for a period of 10 years; and
- Very limited evidence of reflection, insight or remorse in respect of the conduct leading to the conviction.

In relation to mitigating features, Mr Badruddin submitted that the following are engaged:

- No previous regulatory concerns; and
- Mr Tayhopon has admitted to the concerns and pleaded guilty at court.

In taking the available sanctions in ascending order, Mr Badruddin submitted that the panel must first consider whether to take no action. He submitted that, given the seriousness of Mr Tayhopon's actions and the fact that the sentence has not been completed, this would be wholly inappropriate. It would not address the public protection and public interest concerns and present a risk to the reputation of the profession.

Similarly, Mr Badruddin submitted that a caution order is not suitable as it only addresses conduct on the lower end of the spectrum and the seriousness of this offence does not fall within that category.

Mr Badruddin submitted that a conditions of practice order would not be appropriate as the regulatory concerns are not linked to Mr Tayhopon's clinical practice and so it would not be possible to formulate conditions which could be considered workable, measurable, or proportionate to address the concerns in this case. He submitted that such a sanction would not address the public protection and public interest components which are engaged. He submitted that Mr Tayhopon's submission that he could be placed on conditions which restricted him from face-to-face interaction with patients is not workable or proportionate due to the seriousness of the conviction.

Mr Badruddin submitted that the panel must then go on to consider whether a suspension order would be an appropriate sanction. He submitted that there are a number of applicable factors including the seriousness of this case which, considering all factors, does at the very least warrant a temporary removal from the register. However, he submitted that a period of suspension would not uphold public confidence in nurses or maintain professional standards of conduct as the conduct, underpinning the conviction, was a significant departure from the standards expected of a registered nurse and would not be adequately addressed by a suspension order.

Mr Badruddin submitted that this is due to the nature of the conviction itself and the conduct behind it. He referred to the sentencing remarks which shows that Mr Tayhopon was identified by the courts as still having a medium risk of harm to children. Further, he submitted that Mr Tayhopon was given a custodial sentence for a reason and that was because the Court considered his conduct so serious that there was no alternative option. He submitted that the operational period of the custodial sentence will continue to run until September 2024 and the ancillary orders will run over a period of 10 years. However, he submitted that the panel must take into account that even if a suspension order was put into place for one year, Mr Tayophon will still be subject to 10 years of ancillary orders.

Mr Badruddin submitted that the principle in *Fleischmann* is that:

'... where a practitioner has been convicted of a serious criminal offence or offences he should not be permitted to resume his practice until he has satisfactorily completed his sentence'.

Mr Badruddin submitted that those 10 years, although not forming part of the custodial sentence, still do form part of the overall operational sentence. He submitted that a suspension order will not sufficiently address the concerns in this case.

Mr Badruddin submitted that the conviction is fundamentally incompatible with continued registration. It would be entirely inappropriate to allow a Registered Nurse who has been convicted of such serious offences, involving the direct downloading, storing and distribution of extreme images and videos depicting the sexual assault and rape of children, resulting the nurse going into custody and registering on the sex offenders register, to remain on the nursing register. He submitted that there is no argument which can be raised to allow Mr Tayophon to stay on the nursing register.

Mr Badruddin submitted that there would be significant damage to public confidence in nurses, midwives and nursing associates if Mr Tayophon were allowed to continue to practise as a nurse and allowing him to do so would deter patients from accessing healthcare, rendering the public at direct risk of harm. He also submitted that confidence in the profession and in the NMC as a regulator would not be upheld unless Mr Tayophon was struck off from the register today.

Decision and reasons on sanction

Having heard Mr Badruddin's submissions and having read the Judge's Sentencing Remarks, the panel considered 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:

- Nature and seriousness of the conviction
- Extreme vulnerability of the very young children depicted in the material and the pain they suffered
- The volume of material that was found (2100 different media items stored)

- Given the quantity of material involved, the misconduct has clearly gone on for a long period of time
- NMC Guidance lists the offences as a Specified Offence
- Mr Tayhopon was sentenced to an immediate period of imprisonment of 14 months, which is ongoing (although he has been released on license from imprisonment and is currently subject to immigration bail)
- Mr Tayhopon is also subject to serious ancillary orders for a period of 10 years
- Offence indicates a deep-seated attitudinal problem
- Remains a risk to children

The panel also considered whether any mitigating features are engaged and disagreed that Mr Tayhopon having no previous regulatory concerns is a mitigating feature as he only entered the register in 2019.

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

The panel 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 Mr Tayhopon's 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 Mr Tayhopon'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 Mr Tayhopon'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 conviction. The misconduct identified in this case was not something that can be addressed through retraining or supervision, as it was not related to clinical practice. Further, the panel concluded that the placing of conditions on Mr Tayhopon's registration would not adequately address the seriousness of this case and would not 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; and*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour.*

The conduct demonstrated by the conviction was a shocking and sustained 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 Mr Tayhopon's actions is fundamentally incompatible with Mr Tayhopon remaining on the register.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate, or proportionate sanction as Mr Tayhopon downloaded a vast quantity of extreme videos including sexual assault and rape of very young children and bestiality.

The panel had regard to FTP-2c-1: 'Directly referring specified offences to the Fitness to Practise Committee', which states:

'We may pass the case directly to the Fitness to Practise Committee for their decision if:

- a nurse, midwife or nursing associate has been sentenced to imprisonment (including a suspended prison sentence), and/or*
- the conviction was for a specified offence.*

Specified offences are offences which are, by definition, particularly serious. The nature of these convictions would raise fundamental questions about a nurse, midwife or nursing associate's ability to uphold the standards and values set out in the Code'.

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?*

Mr Tayhopon's actions were an appalling departure from the standards expected of a registered nurse and are fundamentally incompatible with him remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mr Tayhopon's actions were so serious that to allow him to continue practising, or to suspend him temporarily from the register, would seriously damage 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 effect of Mr Tayhopon's 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 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 Mr Tayhopon in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel 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 Mr Tayhopon's own interests until the striking-off sanction takes effect.

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

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 conviction 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 as to do otherwise would be incompatible with its earlier findings. The panel decided that the length of this interim suspension order should be 18 months to cover the likely time taken by an appeal should one be lodged.

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

That concludes this determination.