

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

**Substantive Meeting
Friday, 10 May 2024**

Virtual Meeting

Name of Registrant:	Nathaniel Reuben Arnold
NMC PIN	9712557E
Part(s) of the register:	Nurses part of the register Sub part 1 RNA: Adult nurse, level 1 (30 September 2000)
Relevant Location:	London
Type of case:	Conviction
Panel members:	Nicholas Rosenfeld (Chair, Lay member) Patience McNay (Registrant member) Anne Phillimore (Lay member)
Legal Assessor:	Nigel Pascoe
Hearings Coordinator:	Franchessca Nyame
Consensual Panel Determination:	Accepted
Facts proved:	Charges 1, 2a and 2b
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim order:	Interim suspension order (18 months)

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that that the Notice of Meeting had been sent to Mr Arnold's registered email address by secure email on 21 March 2024.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the charges and the fact that this case would be decided at a meeting no earlier than 27 May 2024.

The panel noted an email from Mr Arnold's representative at the Royal College of Nursing (RCN) dated 26 April 2024 which confirmed that Mr Arnold was '*happy to waive the notice period.*'

In the light of all of the information available, the panel was satisfied that Mr Arnold has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Details of charge

That you, a registered nurse:

- 1) On 27 March 2023, at Westminster Magistrates' Court, were convicted of 'on 14/12/2021 at London in the Borough of Kensington and Chelsea possessed extreme pornographic images, namely 72 which portrayed in an explicit and realistic way an act which resulted or was likely to result in serious injury to a person's anus, breasts or genitals and which were grossly offensive, disgusting or otherwise of an obscene character and a reasonable person looking at the image would think that any such person was real.
- 2) On 19 April 2023, at the Central Criminal Court, were convicted of:
 - a. 'cause grievous bodily harm with intent to do grievous bodily harm'.
 - b. 'theft -other- including theft by finding'

Consensual Panel Determination

At the outset of this meeting, the panel was made aware that a provisional agreement for a Consensual Panel Determination (CPD) had been reached with regard to this case between the Nursing and Midwifery Council (NMC) and Mr Arnold.

The agreement, which was put before the panel, sets out that Mr Arnold's fitness to practise is currently impaired by reason of his conviction. It is further stated in the agreement that an appropriate sanction in this case would be a striking-off order.

The panel considered the provisional CPD agreement reached by the parties.

That provisional CPD agreement reads as follows:

'The Nursing & Midwifery Council ("the NMC") and Nathaniel Arnold, PIN 9712557E ("the Registrant") (collectively "the Parties") agree as follows:

- 1. The Registrant requested that his case be dealt with by way of a CPD meeting.*

The charge

- 2. The Registrant admits the following charges:*

That you, a registered nurse:

1) On 27 March 2023, at Westminster Magistrates' Court, were convicted of 'on 14/12/2021 at London in the Borough of Kensington and Chelsea possessed extreme pornographic images, namely 72 which portrayed in an explicit and realistic way an act which resulted or was likely to result in serious injury to a person's anus, breasts or genitals and which were grossly offensive, disgusting or otherwise of an obscene character and a reasonable person looking at the image would think that any such person was real.

- 2) *On 19 April 2023, at the Central Criminal Court, were convicted of:*
- a. *'cause grievous bodily harm with intent to do grievous bodily harm'.*
 - b. *'theft -other- including theft by finding'*

The facts

3. *The Parties agree that the facts as set out by the Recorder of London, HHJ Mark Lucraft KC, in passing sentence on the Registrant fully articulate the facts underlying the Registrant's convictions. A copy of the Judge's sentencing remarks is appended to this agreement as Appendix 1.*

Impairment

4. *The Registrant's fitness to practise is currently impaired by reason of his convictions.*
5. *Impairment is not defined in legislation. Whether a Registrant's fitness to practise is impaired is a matter for the Fitness to Practise Committee's professional judgment.*
6. *The NMC publishes guidance on impairment. This guidance is intended to assist panel's and promote consistency in decision making. It suggests the following question as one which can usefully be asked by panel's considering whether a nurse, midwife or nursing associate's fitness to practise is impaired:*

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

7. *Guidance can also be found in case law. The following considerations were suggested by Dame Janet Smith in her Fifth Report from Shipman and approved in*

the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) by Cox J;

- *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*
- *Has in the past brought and/or is liable in the future to bring the professions into disrepute; and/or*
- *Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the professions; and/or*
- *Has in the past acted dishonestly and/or is liable to act dishonestly in the future?*

8. In this case:

- *The nature of the Registrant's conduct involves causing harm. The parties agree that the Registrant's experience as a nurse is particularly relevant in that, by this experience, he was well aware of the risks involved in his carrying out a medical process away from a proper medical setting.*
- *The parties also agree, when considering harm, that it is relevant to note the harm caused to the people depicted in the extreme pornographic images, which the Registrant gained sexual pleasure from.*
- *The reputation of the profession is, amongst other things, predicated on its members acting in accordance with the law. The Registrant did not do so and that, by itself, the Parties agree, brings the profession into disrepute. The nature of the Registrant's offending is closely linked to his nursing practice (stealing medication from his employer, using his medical knowledge to pursue his criminal conduct) and this, the Parties agree, further exacerbates the degree to which the Registrant's actions have brought the professions into disrepute.*

- *Whilst noting that not every breach will require a finding of impairment, the Parties agree that the fundamental tenets of the profession are spoken to by the provisions of the Code. The Parties agree that the following provisions are engaged:*

1 Treat people as individuals and uphold their dignity.

1.1 treat people with kindness, respect and compassion.

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

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

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

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

18 Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations.

20 Uphold the reputation of your profession at all times

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

20.2 act with honesty and integrity at all times ...

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

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

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

- *Finally, the Registrant's conviction for theft is a dishonesty offence. The Parties agree the dishonesty involved in this theft is particularly serious in that it was accomplished by the Registrant abusing the trust placed in him as a nurse.*

9. *The Parties note that impairment is a forward-looking exercise.*

10. *In Cohen v General Medical Council [2008] EWHC 581 (Admin) the court set out three matters which it described as being 'highly relevant' to the determination of the question of current impairment;*

- *Whether the conduct that led to the charge(s) is easily remediable.*
- *Whether it has been remedied.*
- *Whether it is highly unlikely to be repeated.*

11. *The Parties agree that the conduct which has led to the charges in this case is not easily remediable.*

12. *Whilst noting what the Judge referred to in sentencing as the Registrant's 'motivation to change' the Parties acknowledge that those comments need to be viewed in the context of sentencing for criminal offending. When the Registrant's conduct is considered in the context of continued nursing registration it is so fundamentally opposed to the principles of care and compassion as to be difficult, if not impossible, to remediate.*

13. *The Registrant has not provided any material to the NMC which suggests he has remediated. Nevertheless, it is noted that he completed a programme run by 'Safer Lives' prior to being sentenced. Whilst the completion of this programme and the Registrant's acceptance of the CPD agreement go some way to demonstrating insight they do not, the Parties agree, come close to resolving the issues in this case, demonstrating that the conduct is highly unlikely to be repeated or that the*

public interest (referred to in more detail below) does not require a finding of current impairment.

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

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

15. *As set out above, the Registrant's conduct is incompatible with the fundamental principles which underpin nursing practice. Whatever is to be made of continued risk (which, for the avoidance of doubt, the Parties agree exists in the light of limited remediation) 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.*

16. *Simply, the Parties agree that a nurse convicted of undertaking an illegal surgical procedure, stealing from his employer to facilitate those procedures and possessing multiple images of people being harmed from which he derived sexual gratification is a nurse who, if allowed to return to unrestricted practice, would cause the public to lose confidence in the professions, consider the standards of the professions were considerably lower than they should be and, as a result, mean that the public were less likely to use the services of nurses, midwives and nursing associates when they had need of them.*

17. Accordingly, the Parties agree that, the Registrant's fitness to practise is impaired on public protection and public interest grounds.

Sanction

18. The appropriate sanction in this case is a striking off order.

19. The Parties have considered the NMC guidance on considering sanctions in serious cases and note the following relevant aspects:

- *The Registrant's dishonesty involved a vulnerable victim, a direct risk to a quasi-patient and premeditated deception. All of these features are said to be most likely to call into question whether a nurse, midwife or nursing associate should be allowed to remain on the register.*
- *The Registrant's conduct involves serious (criminal) sexual misconduct.*
- *The Registrant's conduct involved the abuse of a vulnerable person.*
- *The Registrant's conduct is criminal conduct for which he is still serving his sentence (2 years imprisonment suspended for 2 years i.e. the Registrant will be subject of his sentence until 15 January 2026).*

20. The Parties acknowledge that the panel will want to consider sanction in ascending order of seriousness. The Parties considered taking no further action, imposing a caution for 1-5 years and imposing a conditions of practice order for 1-3 years and concluded that the Registrant's offending was too serious for any of those disposals to be appropriate. As to conditions, the Parties considered in addition to seriousness, that no workable conditions could be formulated.

21. The Parties therefore gave careful consideration to suspension or striking off.

22. *As to suspension, the Parties considered the NMC's guidance and concluded that the Registrant's conduct is so serious as to be fundamentally incompatible with continued registration.*

23. *Having provisionally rejected suspension as a sanction on the basis that it would run contrary to the NMC's guidance, the Parties next considered a striking off order. The Parties noted that the 'key considerations' for such a disposal are:*

Do the regulatory concerns about the nurse, midwife or nursing associate raise fundamental questions about their professionalism?

Can public confidence in nurses, midwives and nursing associates be maintained if the nurse, midwife or nursing associate 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?

24. *The Parties had regard to the provisions of the Code and the NMC's guidance on considering sanctions in serious cases (both referred to above) and concluded that the regulatory concerns do raise fundamental questions about the Registrant's professionalism.*

25. *Accordingly, the Parties agreed that public confidence could not be maintained if the Registrant was not removed from the register and that a striking off order is the only sanction sufficient to protect patients, members of the public and maintain professional standards.*

26. [PRIVATE].

Maker of allegation comments

27. *The maker of the allegation in this case was the relevant police force. In line with the NMC's guidance on consensual panel determinations their comments have not been sought.*

Interim order

28. *An interim order is required in this case.*

29. *The interim order is necessary for the protection of the public and otherwise in the public interest for the reasons given above and on the basis that it would be inconsistent for a striking off order to be imposed (and thereby it be said that the Registrant's conduct was fundamentally incompatible with continued registration) and them be entitled to practise whilst the appeal period elapsed/any appeal was awaiting determination.*

30. *The interim order should be for a period of 18 months in the event that the Registrant seeks to appeal the panel's decision. The interim order should take the form of an interim suspension order.*

The Parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings impairment and sanction is a matter for the panel. The Parties understand that, in the event that a panel does not agree with this provisional agreement, the admissions to the charges and the agreed statement of facts set out above, may be placed before a differently constituted panel that is determining the allegation, provided that it would be relevant and fair to do so.'

Here ends the provisional CPD agreement between the NMC and Mr Arnold. The provisional CPD agreement was signed by Mr Arnold and the NMC on 12 April 2024.

Decision and reasons on the CPD

The panel determined to accept the CPD.

The panel heard and accepted the legal assessor's advice. He referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. He reminded the panel that they could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Mr Arnold. Further, the panel should consider whether the provisional CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the professions and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

The panel noted that the facts of the charges were proved by way of Mr Arnold's conviction. Accordingly, the panel was satisfied that the charges are found proved as set out in the signed provisional CPD agreement.

Decision and reasons on impairment

The panel then went on to consider whether Mr Arnold's fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Mr Arnold, the panel exercised its own independent judgement in reaching its decision on impairment.

The panel considered whether Mr Arnold's fitness to practise is currently impaired by reason of conviction. In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 February 2024, 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.'

The panel was satisfied that all four limbs of the *Grant* test were engaged. The panel determined that Mr Arnold's fitness to practise is currently impaired on public protection grounds given that there was no evidence before it suggesting that Mr Arnold had demonstrated any insight, remediation or strengthening of his practice. Further, dishonesty is an attitudinal issue which is often difficult to remedy. As such, the panel was satisfied that Mr Arnold is liable in the future to put patient(s) at unwarranted risk of harm, breach fundamental tenets of the nursing profession, bring the profession into disrepute, and/or act dishonestly.

The panel also determined that a finding of continuing impairment on public interest grounds is required to maintain public confidence in the nursing profession and uphold proper standards of conduct and performance.

In this respect the panel endorsed paragraphs four to 17 of the provisional CPD agreement.

Decision and reasons on sanction

Having found Mr Arnold's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel 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 Registrant's dishonesty involved a vulnerable victim, a direct risk to a quasi-patient and premeditated deception. All of these features are said to be most likely to call into question whether a nurse, midwife or nursing associate should be allowed to remain on the register.
- The Registrant's conduct involves serious (criminal) sexual misconduct.
- The Registrant's conduct involved the abuse of a vulnerable person.
- The Registrant's conduct is criminal conduct for which he is still serving his sentence (2 years imprisonment suspended for 2 years i.e. the Registrant will be subject of his sentence until 15 January 2026).

The panel also took into account the following mitigating features:

- [PRIVATE].

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

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 Mr Arnold'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 Arnold's conduct 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 Arnold's registration would be a sufficient and appropriate response. The panel was mindful that any conditions imposed must be relevant, proportionate, measurable and workable. The

panel bore in mind the seriousness of the facts found proved and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. Although conditions could be formulated to address Mr Arnold's clinical practice, the panel determined that it was not able to formulate conditions of practice that would adequately address the dishonesty and other concerns in this case.

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

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

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*

- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

Mr Arnold's actions raise fundamental questions about his professionalism and significantly undermined the standards expected of a registered nurse. The panel considered Mr Arnold's actions to be fundamentally incompatible with him remaining on the register. The panel determined that the findings in this particular case demonstrate that Mr Arnold's actions were serious and to allow him to continue practising would undermine public confidence in the nursing 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 agreed with the CPD that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the circumstances of the misconduct, Mr Arnold's actions have brought the profession into disrepute and would adversely affect the public's view of how a registered nurse should conduct himself, therefore the panel 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.

Decision and reasons on interim order

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 Arnold's own interest. The panel heard and accepted the advice of the legal assessor.

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the

facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel agreed with the CPD 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 appeal period.

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

That concludes this determination.