

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

11 June 2021

Virtual Meeting

Name of registrant:	Jack Andrew Newey-Bradley
NMC PIN:	12I0027E
Part(s) of the register:	Registered Nurse (Sub Part 1) Adult Nursing – September 2012 Registered Midwife – May 2015
Area of Registered Address:	West Midlands
Type of Case:	Conviction
Panel Members:	Catrin Davies (Chair, Lay member) Marcia Smikle (Registrant member) Georgina Foster (Lay member)
Legal Assessor:	Charles Conway
Panel Secretary:	Caroline Pringle
Consensual Panel Determination:	Accepted
Facts proved:	All
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim Order:	Interim suspension order (18 months)

Decision on service of notice of hearing

The panel considered whether notice of this meeting has been served in accordance with Rules 11A and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 ('the Rules').

The panel accepted the advice of the legal assessor. The panel noted that, under the amendments made to the Rules during the Covid-19 emergency period, a notice of hearing or meeting can be sent to a registrant's registered address by recorded delivery and first class post or to a suitable email address on the register.

The panel noted that Mr Newey-Bradley confirmed in an email to the NMC on 20 May 2021 that he was content to waive the full statutory notice period so that his case could be heard sooner (Mr Newey-Bradley having signed and returned his consensual panel determination ('CPD') agreement in the same email).

Notice of this substantive meeting was subsequently sent to Mr Newey-Bradley by email to his registered email address on 24 May 2021.

The notice informed Mr Newey-Bradley that a panel of the Fitness to Practise Committee would hold a meeting to consider his case on or after 9 June 2021. The notice included the charge which the panel would consider at the meeting, as well as informing Mr Newey-Bradley that the panel would decide whether his fitness to practise is currently impaired as a result of that charge and, if so, whether a sanction is required. Mr Newey-Bradley was asked to provide any additional submissions or documents for the panel by 7 June 2021.

In these circumstances, the panel was satisfied that there had been effective service. It noted that Mr Newey-Bradley has engaged with the NMC and agreed a CPD for this panel's consideration, which represents an agreed position between the NMC and Mr Newey-Bradley. The panel was therefore also satisfied that it was both appropriate and fair to proceed with this matter at a meeting.

Consensual panel determination

The panel was provided with a provisional agreement of a consensual panel determination ('CPD') which had been reached between the NMC and Mr Newey-Bradley.

The agreement sets out Mr Newey-Bradley's full admission to the charge. It also sets out that Mr Newey-Bradley accepts that his fitness to practise is currently impaired by reason of his conviction. The provisional agreement proposes that a striking-off order would be the appropriate sanction.

The provisional agreement reads as follows:

The Nursing & Midwifery Council and Jack Andrew Newey-Bradley, PIN 12I0027E ("the Parties") agree as follows:

- 1. Mr Bradley is content for his case to be dealt with by way of a CPD meeting. He understands that if the panel determines that a more severe sanction should be imposed, the panel will adjourn the matter for this provisional agreement to be considered at a CPD hearing.*

The charge

- 2. Mr Newey-Bradley admits the following charges:*

That you, a Registered Nurse:

At Wolverhampton Crown Court on 14th September 2020 were convicted of:

"Count 1 – Making an indecent photograph of a child

Count 2 & 3 – Making an indecent photograph of a child

Count 4 – Distribute indecent photograph/pseudo-photograph of a child".

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

The facts

- 3. Mr Newey-Bradley appears on the register of nurses, midwives and nursing associates maintained by the NMC. Mr Newey-Bradley registered as an Adult Nurse on 7 September 2012 and as a Midwife on 8 May 2015.*
- 4. On 27 November 2019, the NMC received a referral from Mr Newey-Bradley's employer, Director of Mountain Healthcare ("the Referrer"). The Referrer advised that Mr Newey-Bradley worked for Mountain Healthcare as a Clinical Lead, providing frontline healthcare to detainees in police custody by West Midlands Police and Thames Valley Police. The Referrer also advised that Mr Newey-Bradley also practises as a Midwife and that this was likely to be in the West-Midlands area.*
- 5. On 11 October 2019, the Referrer was notified by West Midlands Police ("the Police") that Mr Newey-Bradley had been arrested under the Obscene Publications Act. The Police subsequently confirmed that their investigation surrounded Mr Newey-Bradley engaging in online conversations with another party, an undercover online police officer, discussing the sexual abuse of children. During the conversation, Mr Newey-Bradley is alleged to have spoken about his sexual interest in male children under the age of 11 and what he would like to do sexually with these children. He also asked the other party for photographs of the other party's child.*
- 6. As a result of this conversation a warrant was obtained to search the home address of Mr Newey-Bradley. The warrant was executed on 10 October 2019. An initial search of the property identified indecent images of children on electrical devices within the property. Mr Newey-Bradley was arrested and interviewed by the Police. Mr Newey-Bradley refused to answer any questions, only providing a prepared statement denying possession of indecent images of children and denying asking*

the other party for photographs. Mr Newey-Bradley was released on conditional bail pending a full forensic examination of the devices seized from his property.

7. *A full forensic examination of the devices identified the following images:*
 - *Category A images of children: 21 still images and 3 moving videos*
 - *Category B images of children: 23 still images*
 - *Category C images of children: 20 still images*
8. *On an unknown date Mr Newey-Bradley was re-interviewed and he admitted possessing indecent images of children.*
9. *On 9 April 2020, Mr Newey-Bradley was charged with three counts of making indecent images of children and one count of distributing indecent images of children and bailed to appear at court.*
10. *On 14 September 2020 Mr Newey-Bradley appeared at Wolverhampton Crown Court and was convicted of the following offences:*
 - *Count 1 – Making an indecent photograph of a child*
 - *Counts 2 & 3 – Making an indecent photograph of a child*
 - *Count 4 – Distribute indecent photograph/pseudo photograph of a child*
11. *Mr Newey-Bradley was sentenced to a total of 16 months imprisonment (8 months for Count 1, and 4 months concurrently for Counts 2, 3 and 4) suspended for 24 months. The sentence was imposed with the following:*
 - *A rehabilitation activity requirement for 30 days*
 - *An unpaid work requirement of 100 hours*
 - *To pay a victim surcharge*
 - *Forfeiture and destruction order of the items seized*
12. *Mr Newey-Bradley is also required to comply with the requirements of the sexual notification register for 10 years and is also subject to a Sexual Harm Prevention Order for 10 years which prevents most forms of contact with children.*

Impairment

13. *Mr Newey-Bradley's fitness to practise is currently impaired by reason of his conviction.*

14. *The parties have considered the factors outlined by Dame Janet Smith in her Fifth Report from Shipman, 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?*

15. *Limbs a, b and c are engaged in this case.*

Limb A

16. *Limb a relates not only to patients, but also the wider public. Children suffer harm as a result of indecent images being made, possessed and distributed. Offences involving indecent images of children exploit children and amount to an abuse of children. Mr Newey-Bradley's conduct which resulted in his conviction caused harm to the public, namely the children who were the subject of the indecent images.*

17. *Further, although Mr Newey-Bradley's offending behaviour took place in his private life, the nature of the conviction is such that patients, particularly children, were placed at unwarranted risk of harm.*

Limb B

18. *The seriousness of Mr Newey-Bradley's conduct which resulted in his conviction cannot be overstated. The public would be appalled to know that a nurse and midwife had engaged in such conduct and such conduct causes serious damage to the reputation of the nursing and midwifery professions.*

19. *Additionally, nurses and midwives are placed in position of trust, to care for and protect the people in their case. Conduct which exploits children and causes harm either directly or indirectly to anyone, particularly children, undermines that trust.*

20. *Further, Mr Newey-Bradley's conduct has resulted in a conviction and attracted a significant criminal sentence; namely a suspended custodial sentence. Nurses and midwives must act lawfully and abide by the laws of the country. By failing to do so, Mr Newey-Bradley has brought the reputation of the professions into disrepute.*

Limb C

21. *Nurses and midwives are expected to act with honesty, integrity and trustworthiness at all times. Conduct in contravention of that expectation breaches that fundamental tenet of the profession. Mr Newey-Bradley's conduct which resulted in his conviction caused harm to children and completely lacked integrity and trustworthiness and amounted to a significant breach of fundamental tenets of the profession.*

22. *The parties also considered the case of Cohen v General Medical Council [2008] EWHC 581 (Admin) in which 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.*

23. *Mr Newey-Bradley has been convicted of offences of possessing and distributing indecent images which involve the abuse and exploitation of children. He has been convicted of an offence that is so serious that the NMC calls it a specified offence*

(FTP-2c-1). The nature of the offence is also such that it is described by the NMC as a concern which is more difficult to put right (FTP-3a). Mr Newey-Bradley's conduct and the resulting conviction, therefore, cannot be said to be easily remediable. Therefore, these are serious concerns which are difficult to put right.

Remediation, reflection, training, insight, remorse

24. Mr Newey-Bradley has provided a statement to the NMC (received on 9 March 2021) which is appended to this agreement at Appendix 1. In that statement Mr Newey-Bradley has not provided any evidence of insight into the effect of his conduct on either the children who were the subject of the indecent images, nor the reputation of the nursing and midwifery professions. He has not shown any remorse either. Rather, Mr Newey-Bradley seeks to blame others for his actions and focusses on how his conviction and these proceedings have affected him personally. Mr Newey-Bradley has not provided any evidence of remediation of the concerns and there is nothing to suggest that he no longer presents a risk of repeating the conduct alleged. Therefore, there is a high risk of repetition of the conduct in this case.

Public protection impairment

25. A finding of impairment is necessary on public protection grounds.

26. Mr Newey-Bradley's offending behaviour amounts to an abuse and exploitation of children. Further, such conduct places patients in his care, particularly children, at significant risk of unwarranted harm. In the absence of any evidence to suggest the risk to the public has been addressed and reduced, the risk must be said to remain such that a finding of impairment on public protection grounds is required.

Public interest impairment

27. A finding of impairment is necessary on public interest grounds.

28. 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.”

29. Mr Newey-Bradley's conduct is extremely serious involving behaviour which amounts to an abuse of children. Such conduct is capable of seriously damaging public confidence in the nursing and midwifery professions. The subject matter of the conduct is sufficient to engage the public interest alone.

30. The conduct has also resulted in a criminal conviction as well. Whilst not all criminal convictions would undermine confidence in nurses and midwives, criminal offending certainly can do so and it certainly does so here, given the nature of the conviction.

31. Given the nature of the conduct in this case, and given the fact the conduct resulted in a conviction for a serious sexual offence, public confidence in the profession and the NMC as the regulator, would be seriously undermined if a finding of impairment was not made such that a finding of impairment on public interest grounds is required.

32. Mr Newey-Bradley's fitness to practice is impaired on public protection and public interest grounds.

Sanction

33. The appropriate sanction in this case is that of a striking-off order.

34. The aggravating features of the case are as follows (this list is non-exhaustive):

- Children suffer harm as a result of indecent images being created, possessed and distributed.*

- *Mr Newey-Bradley's conviction resulted in a significant criminal sentence; namely 16 months in custody, suspended for 24 months.*
- *Mr Newey-Bradley is subject to notification requirements (the sexual offenders' register) for a period of ten years and is also subject to a Sexual Harm Prevention Order for ten years.*
- *Mr Newey-Bradley has demonstrated no evidence of insight or remorse.*

35. The mitigating features of the case are as follows (non-exhaustive):

- *Mr Newey-Bradley has no previous regulatory concerns.*
- *Mr Newey-Bradley entered a guilty plea before trial.*

36. To take no further action would not be appropriate. It is only on very rare occasions that to take no further action would be appropriate where a finding of impairment has been made. That is because some form of sanction is required to protect the public and/or address the public interest. Mr Newey-Bradley is impaired on both public protection and public interest grounds and there are no exceptional circumstances in this case that would justify taking no further action.

37. To impose a caution order would not be appropriate. A caution order imposes no restrictions on a registrant's practice and, therefore, would do nothing to protect the public from the risk of harm identified in this case. Further, the nature and seriousness of the conviction are such that a more severe sanction is required in order for the public interest to be addressed.

38. To impose a conditions of practice order would not be appropriate. Albeit public protection concerns have been identified, there are no suitable conditions that can be imposed that would properly address the risks present in this case. Furthermore, given the nature and seriousness of the concern, a conditions of practice order would fail to address the very significant public interest in this case.

39. *To impose a suspension order would not be appropriate. Given the lack of insight demonstrated in this case and risk of repetition of the conduct, a temporary removal from the register would not be sufficient to protect the public. Furthermore, the conduct in this case is fundamentally incompatible with ongoing registration and gravely undermines patients' and the public's trust and confidence in nurses and midwives. Given the nature and seriousness of the conviction, a suspension order would fail to address the very significant public interest in this case.*
40. *Additionally, as a general rule a registrant should not be permitted to start practising again until they have completed a sentence for a serious criminal offence as set out in the case of Council for the Regulation of Health Care Professionals v [1] General Dental Council and [2] Fleischmann [2005] EWHC 87 [QB]). The period of sentence in this case (24 months) would exceed the period for which any alternative sanction can be imposed, including suspension. Further, Mr Newey-Bradley's conviction led to him being placed on the sexual notification register for 10 years and is also subject to a Sexual Harm Prevention Order for 10 years.*
41. *NMC guidance makes clear that a striking-off order will very often be the only appropriate and proportionate sanction in cases involving sexual misconduct and that any conviction for indecent images is likely to involve a fundamental breach of the public's trust in nurses and midwives (SAN-2).*
42. *Mr Newey-Bradley's conviction demonstrates a fundamental breach of the public's trust in nurses and midwives and raises fundamental questions about his professionalism. Public confidence in the nursing and midwifery professions can only be maintained if he is permanently removed from the register. Mr Newey-Bradley's behaviour is fundamentally incompatible with him remaining on the register and members of the public would be dismayed if a registered nurse and midwife with such a serious conviction were to be allowed to remain on the register.*
43. *The only appropriate and proportionate sanction is, therefore, that of a striking-off order. A striking-off order is the only sanction that will adequately protect the public and address the public interest in this case.*

Referrer's comments

44. The Referrer was contacted for their views on the proposed sanction and had no comments to make.

Interim order

45. An interim order is required in this case. The interim order is necessary for the protection of the public and is otherwise in the public interest for the reasons given above. The interim order should be for a period of 18 months in the event Mr Newey-Bradley seeks to appeal against 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.

This provisional agreement was signed by Mr Newey-Bradley and the NMC on 20 May 2021.

Decision and reasons on the consensual panel determination:

The panel decided to accept the CPD agreement.

The panel accepted the legal assessor's advice. He advised the panel that it could accept, amend or outright reject the provisional agreement reached between the NMC and Mr Newey-Bradley.

The panel noted that Mr Newey-Bradley had admitted the charge against him. It was also provided with a certificate of conviction which confirmed that on 14 September 2020 at Wolverhampton Crown Court Mr Newey-Bradley was convicted of:

- Count 1 – Making an indecent photograph of a child
- Count 2 & 3 – Making an indecent photograph of a child
- Count 4 – Distribute indecent photograph/pseudo –photograph of a child.

The panel was therefore satisfied that the facts are proved in this case.

The panel noted that Mr Newey-Bradley also admits that his fitness to practise is currently impaired by reason of his conviction. However, the question of current impairment remains a matter for the panel's independent judgement.

The panel agreed that Mr Newey-Bradley's conviction has, in the past, placed patients at unwarranted risk of harm, breached fundamental tenets of the profession and brought the profession into disrepute, for the reasons set out in paragraphs 16 – 21.

The panel bore in mind that the issue it had to determine was that of current impairment. It therefore had to look to the future and consider whether Mr Newey-Bradley's conviction was likely, in the future, to put patients at unwarranted risk of harm, breach fundamental tenets of the profession or bring the profession into disrepute. In this regard, it considered the three questions posed by Silber J in *Cohen v GMC* [2008] EWHC 581 (Admin):

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

The panel agreed that the nature of Mr Newey-Bradley's conduct was difficult to remediate, for the reasons given in paragraph 23 of the CPD agreement.

The panel considered that Mr Newey-Bradley's reflective piece showed no insight into the significant harm that was caused by his conduct, nor the impact that his conviction has had on the reputation of the nursing and midwifery professions and public confidence in those professions. Mr Newey-Bradley's reflective piece expresses no

remorse and is focused solely on the impact of the criminal and NMC proceedings on his own life. Although the Crown Court sentencing remarks suggest that Mr Newey-Bradley was engaging with a rehabilitation service at that time, he has provided no evidence of this to the NMC and no evidence of any other remediation. The panel therefore concluded that there is a high risk of repetition in this case.

Accordingly, it determined that a finding of current impairment was required on public protection grounds, for the reasons given in paragraph 26.

The panel also endorsed paragraphs 27 – 31 of the CPD agreement and agreed that a finding of current impairment was also required on public interest grounds, for the reasons set out in those paragraphs.

The panel then moved on to consider sanction. In reaching its decision the panel had regard to all the information before it and accepted the advice of the legal assessor. It took into account the Sanctions Guidance. It had regard to the principle of proportionality and bore in mind that the purpose of a sanction is not to be punitive, although it may have that effect.

The panel agreed with the aggravating and mitigating factors set out in paragraphs 34 and 35 of the CPD agreement.

The panel then turned to the question of whether the sanction proposed in the CPD agreement is appropriate. In so doing it considered each available sanction in turn, starting with the least restrictive sanction and moving upwards.

The panel first considered whether to take no action. It agreed with paragraph 36 that to take no action in this case would not be appropriate, given the identified risk to the public should Mr Newey-Bradley be allowed to practise unrestricted. The panel was also of the view that to take no further action would be wholly insufficient to protect the public interest.

The panel also agreed with paragraph 37 that to impose a caution order, which imposes no restriction on Mr Newey-Bradley's practice, would also be inappropriate for the same reasons as taking no further action.

The panel then considered a conditions of practice order. It agreed with paragraph 38 that there were no practical or workable conditions which could be formulated to protect the public and satisfy the public interest, given the serious nature of the conviction in this case.

The panel next moved on to consider a suspension order. It agreed that this order would not be appropriate, for the reasons given in paragraphs 39 and 40. It was of the view that Mr Newey-Bradley's conviction, and his subsequent lack of insight, was fundamentally incompatible with remaining on the register. A period of temporary suspension would therefore be insufficient to protect the public and insufficient to maintain public confidence in the nursing and midwifery professions and the NMC as a regulator.

The panel agreed with paragraph 41 that Mr Newey-Bradley's offending behaviour is a fundamental breach of the trust that the public places in registered nurses and midwives. The panel considered that the public, and fellow registered professionals, would be shocked if an individual who had been convicted of such serious offences was not permanently removed from the NMC register. The panel therefore agreed with paragraphs 41 – 43, that the only sanction that was sufficient to protect the public and satisfy the public interest in this case was a striking-off order.

The panel also agreed with paragraph 45 that an interim suspension order was necessary to protect the public, and was otherwise in the public interest. The panel therefore made an 18 month interim suspension order to cover the 28 days before the striking-off order comes into effect and, should Mr Newey-Bradley seek to appeal this decision, the time it will take for any appeal to be heard.

That concludes this determination.