

Nursing and Midwifery Council

Fitness to Practise Committee

Substantive Meeting

30 September 2021

Virtual Meeting

Name of registrant:	Mr Marc Blair Renwick
NMC PIN:	88Y1168E
Part of the register:	Registered Mental Health Nurse – RN3 (1991)
Area of registered address:	Leeds
Type of case:	Conviction
Panel members:	Derek McFaul (Chair, lay member) Laura Wallbank (Registrant member) Tanya Tordoff (Registrant member)
Legal Assessor:	Maria Clarke
Panel Secretary:	Leigham Malcolm
Facts proved:	Charges 1a & 1b
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 was informed that the Notice of Meeting had been sent to Mr Renwick's registered email address on 16 August 2021.

The panel took into account that the Notice of Meeting provided details of the Charges as well as the time-frame during which Mr Renwick's case would be considered.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Renwick 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, as a registered nurse:

1. Were convicted on 12 November 2020 at Leeds Magistrates' Court of:

a. 'On 31/12/2018 at [address] made indecent photographs, namely 5 Cat A images found on exhibit AMW1, of a child, Contrary to sections 1(1)(a) and 6 of the Protection of Children Act 1978.'

b. 'On 31/12/2018 at [address] made indecent photographs, namely 106 Cat C images found on exhibit AMW1, of a child, Contrary to sections 1(1)(a) and 6 of the Protection of Children Act 1978.'

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

Decision and reasons on facts

The charges concern Mr Renwick's conviction and the panel were provided with a Memorandum of Entry in the Register of Leeds Magistrates Court dated 10 December 2020. This Memorandum confirms details of the Charges and related pleas of guilty. The Memorandum also set out details of the sentence imposed. The panel also had sight of a letter from West Yorkshire Police dated 22 February 2021 with the case summary details. The panel also took account of Mr Renwick's Case Management Form sent to the NMC, signed and dated both June and July 2021, in which he admitted the Charges. In these circumstances the panel finds that the facts are proved.

Background

On 31 December 2018 the West Yorkshire Police received a call from an electronics repairs shop stating that one of their technicians had found indecent images on a mobile phone that had been brought in for repairs by Mr Renwick earlier that day. Mr Renwick was subsequently charged in line with Section 1(1) and 6 of the Protection from Children's Act 1978.

Mr Renwick was convicted on 12 November 2020 after he had pleaded guilty to the charge, admitting that he had 5 "Cat A" images and 106 "Cat C" images on his phone. Mr Renwick was sentenced to a community order and sexual harm prevention order.

The panel took account of the foregoing evidence adduced by the NMC which confirm that Mr Renwick was convicted as set out in the Charges. The panel also bore in mind that Mr Renwick admitted the NMC's Charges which were set out in the Case Management Form sent to him.

The panel therefore found the Charges 1a and 1b proved.

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, Mr Renwick's fitness to practise is currently impaired by reason of Mr Renwick's 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.

Decision and reasons on impairment

The NMC requires the panel to bear in mind its overarching objective to protect 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. The panel has taken account of the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

The panel also accepted the advice of the legal assessor who referred the panel to the case of Grant.

The panel next went on to decide if as a result of the conviction, Mr Renwick's 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 fitness to practise is impaired in the sense that s/he:

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) ...*

The panel noted that there was no evidence before it of direct patient harm. However, the panel could not rule out any future harm being caused given the nature of the offences of which Mr Renwick has been convicted.

The panel also considered Mr Renwick's conviction for sexual related offences to be most serious and to gravely undermine the public's trust in the nursing profession.

The panel also bore in mind that in the Case Management Form sent to him by the NMC Mr Renwick accepted that his fitness to practise as a registered nurse is currently impaired.

The panel finds that Mr Renwick's conviction breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

From the evidence before it, the panel found evidence only of self-centred insight and remorse, and none of remediation whatsoever. Mr Renwick has submitted nothing to the panel regarding the impact of his conviction on patients and the reputation of the nursing profession.

Given the limited insight and remorse, as well as the absence of any remediation, the panel reached the view that there is a risk of repetition. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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 was also required. The panel considered the public's confidence in the profession would be gravely undermined otherwise.

Having regard to all of the above, the panel was satisfied that Mr Renwick's fitness to practise is currently impaired.

Decision and reasons on sanction

Having found Mr Renwick's 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 NMC's Sanctions Guidance (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:

- Conviction for a sexual offence involving minors;
- Limited insight and remorse;
- The absence of any remediation.

The panel was unable to identify any mitigating features but noted that Mr Renwick admitted the offences.

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 Renwick'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 Renwick's 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 Mr Renwick'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 nature of the charges in this case. Furthermore, the panel concluded that the placing of conditions on Mr Renwick'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. However, 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 Renwick's actions is fundamentally incompatible with him 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 Renwick's actions were significant departures 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 case demonstrate that Mr Renwick's actions were serious and to allow him to continue practising would undermine 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 matters it identified, in particular the effect of Mr Renwick'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 sanction 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 Renwick in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Mr Renwick's own interest 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 facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months due to allow for any potential appeal period.

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

That concludes this determination.

