

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

**Substantive Meeting
Monday, 18 December 2023**

Virtual Meeting

Name of Registrant: Stuart John Greig

NMC PIN: 1312299S

Part(s) of the register: Registered Nurse – Learning Disabilities
RNLD – 5 September 2016

Relevant Location: Lanarkshire

Type of case: Conviction

Panel members: Nicola Dale (Chair, lay member)
Jonathan Coombes (Registrant member)
Asmita Naik (Lay member)

Legal Assessor: Juliet Gibbon

Hearings Coordinator: Clara Federizo

Facts proved: All charges found proved by admission

Facts not proved: None

Fitness to practise: Impaired

Sanction: **Striking-off order**

Interim order: **Interim suspension order (18 month)**

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that the Notice of Meeting had been sent to Mr Greig's registered address by recorded delivery and by first class post.

The panel noted that the Notice of Meeting was sent to Mr Greig's current address on 16 November 2023. The panel had sight of the extract from the recorded delivery post book and the printout from the 'Track and Trace' service.

Further, the panel noted that the Notice of Meeting was also sent to Mr Greig's representative.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the charges, the time, date and the fact that this meeting was to be heard virtually.

In light of all the information available, the panel was satisfied that Mr Greig 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) Were convicted on 16 December 2022 at Hamilton Sheriff Court for assaulting Person A on 1 January 2007 and 5 December 2009, contrary to section 1 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.

[ADMITTED]

2) Were convicted on 16 December 2022 at Hamilton Sheriff Court for assaulting Person B on various occasions between 1 May 2018 and 31 May

2019 and those assaults were aggravated, contrary to section 1 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016. **[ADMITTED]**

3) Were convicted on 16 December 2022 at Hamilton Sheriff Court for Contacting Person B in breach of bail conditions on various dates between 17 December 2018 and 20 February 2019, contrary to the Criminal Procedure (Scotland) Act 1995, Section 27(1)(b); and the offence was aggravated contrary to section 1 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016. **[ADMITTED]**

4) Were convicted on 16 December 2022 at Hamilton Sheriff Court for assaulting Person C on various dates between 1 May 2019 and 25 March 2021 and those assaults were aggravated, contrary to section 1 of the Abusive behaviour and Sexual harm (Scotland) Act 2016. **[ADMITTED]**

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

Background

The charges arose whilst Mr Greig was employed as a registered nurse Personal Independence Payment (PIP) Clinical Assessor with NHS Lanarkshire.

On 31 March 2021, the NMC received a self-referral from Mr Greig. He informed the NMC that he had been arrested and charged by the police on 26 March 2021 under the Scottish Domestic Abuse legislation. He advised that he had pleaded not guilty, and a trial date had been set for August 2021.

On 25 August 2021, Mr Greig's representatives informed the NMC that the case in August had been discontinued, that new allegations had come to light and there was going to be a fresh prosecution on a petition procedure.

On 16 December 2022, the matter was called at Hamilton Sheriff Court, where Mr Greig pleaded guilty to the charges as set out above. The case was adjourned for sentencing until 7 February 2023. He received a 22-month custodial sentence.

Mr Greig is currently serving his sentence at [PRIVATE].

Decision and reasons on facts

The panel noted the Case Management Form completed and signed by Mr Greig on 22 November 2023, where he made full admissions to all the charges.

The panel also noted that the charges concern Mr Greig's conviction and, having been provided with a copy of the 'Extract Conviction', dated 27 February 2023, the panel finds that the facts are found proved in accordance with Rule 31 (2) and (3). These state that:

- '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.'*

The panel therefore finds charges 1, 2, 3 and 4 proved in their entirety, by way of Mr Greig's admissions and in light of his convictions.

Fitness to practise

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

of Mr Greig's convictions. 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.

Impairment

The NMC asked 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 referred to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) ('Grant').

The panel had regard to the submissions from the NMC. The NMC referred the panel to relevant areas of The Code: Professional standards of practice and behaviour for nurses and midwives (2015) and invited the panel to find that Mr Greig's fitness to practise is currently impaired on public protection grounds due to the attitudinal nature of the convictions, the prolonged period over which his actions took place, and the lack of full insight. It is submitted that there is a real and significant risk that Mr Greig will repeat similar conduct in the future.

The NMC also invited the panel to find impairment on public interest grounds as Mr Greig's conduct engages the public interest because of the serious offences that he was convicted of.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments and guidance set out in the Fitness to Practise library.

Decision and reasons on impairment

The panel next went on to decide if, as a result of the conviction, Mr Greig'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 and to maintain professional boundaries. 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 *Grant* in reaching its decision. In paragraph 74, she said:

'In determining whether a practitioner's fitness to practise is impaired... 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) ...

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*

d) *...'*

The panel found that limbs b) and c) of the test, as set out above, were engaged. It considered that Person A, Person B and Person C were caused actual physical and emotional harm as a result of Mr Greig's misconduct, which led to his conviction. Mr Greig has been convicted of several aggravated assault charges against multiple women. The incidents span a period of nearly 20 years.

Mr Greig's actions had breached the fundamental tenets of the nursing profession and has therefore brought its reputation into disrepute.

The panel determined the following sections of the Code are relevant, and have been breached:

'20 Uphold the reputation of your profession at all times

To achieve this, you must:

- 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, treating people fairly and without discrimination, bullying or harassment*
- 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'*

Whilst the panel noted that Mr Greig made admissions and self-referred to the NMC, the panel determined that Mr Greig had not demonstrated any insight. There was no information before it to indicate that Mr Greig has any understanding of how his actions had harmed others and how this has impacted negatively on the reputation of the nursing profession. The panel has seen no reflections nor expression of remorse.

In its consideration of whether Mr Greig has taken steps to strengthen his practice, the panel noted that Mr Greig is currently serving a custodial sentence. The panel had no information before it to suggest that any remediation had taken place nor had it received any information regarding any training and learning undertaken in order to strengthen his practice.

The panel determined that the misconduct in this case is difficult to put right as it involves behavioural and attitudinal issues. The panel concluded that a significant risk of repetition remains and there is no evidence placed before it to suggest that Mr Greig is not 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 and 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 a reasonable and informed member of the public would be concerned if a finding of impairment were not made in light of the nature of convictions and having no evidence of remediated attitude and behaviour. Therefore, it determined that a finding of impairment on public interest grounds was required to uphold professional standards and maintain public confidence.

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

Sanction

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

In reaching this decision, the panel has had regard to all the evidence that has been provided in this case and has had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor, who referred it to the case of *Council for Healthcare Excellence v (1) General Dental Council and (2) Fleishmann* [2005] EWHC 87.

Sanction

The panel noted that in the Notice of Meeting the NMC had advised Mr Greig that it would seek the imposition of a striking-off order if it found Mr Greig's fitness to practise currently impaired. The panel noted NMC's written representation as follows (some parts omitted):

"...The offences relate to multiple and persistent abusive offending in a domestic context with his different partners between 2007 and 2021. Temporary removal is insufficient to reflect the seriousness of the case.

Mr Greig's behaviour is underpinned by deep-seated personality/attitudinal problems, demonstrated by e.g., his breach of bail conditions.

The behaviour giving rise to the conviction is fundamentally incompatible with being a registered professional.

The concerns are directly linked to a risk of damaging the public's confidence in the profession e.g., whilst Mr Greig's misconduct took place in his personal life, it calls into question his professionalism and trustworthiness in the workplace. Consequently, the public may be led to avoiding use of health and care services.

Balancing the aggravating and mitigating factors in this case, a striking-off order would appear to be the only appropriate to mark the seriousness of the concerns, protect the public, and maintain trust and confidence in the profession."

Decision and reasons on sanction

Having found Mr Greig'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 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:

- A pattern of misconduct over a long period of time
- Seriousness of conviction and conduct which caused actual harm to Person A, Person B and Person C
- No evidence of insight into his conduct

The panel determined that there were no mitigating factors in this case.

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 Greig'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 the type of behaviour that led to Mr Greig's convictions 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 Greig'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 which did not involve clinical concerns. The conduct identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Mr Greig'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 a suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*
- *In cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions; and*
- *In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

The panel concluded that none of the above factors were applicable. The panel also concluded that a period of suspension is not sufficient to protect the public due to evidence of deep-seated personal and attitudinal problems which raised fundamental questions about Mr Greig's professionalism. Therefore, it determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

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

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?*

The panel determined that Mr Greig's actions were a significant departure from the standards expected of a registered nurse and are fundamentally incompatible with him remaining on the register. The panel considered that Mr Greig's convictions were for serious offences 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 Greig's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves, 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 standards of behaviour required of a registered nurse.

This will be confirmed to Mr Greig 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 Greig's own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

The panel took account of the representations made by the NMC that:

“If a finding is made that the registrant’s fitness to practise is impaired on a public protection basis is made and a restrictive sanction imposed we consider an interim order in the same terms as the substantive order should be imposed on the basis that it is necessary for the protection of the public and otherwise in the public interest.

If a finding is made that the registrant’s fitness to practise is impaired on a public interest only basis and that their conduct was fundamentally incompatible with continued registrant (sic) we consider an interim order of suspension should be imposed on the basis that it is otherwise in the public interest.”

Decision and reasons on interim order

The panel accepted the advice of the legal assessor. It 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.

The panel was satisfied that an interim suspension 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. To do otherwise would be incompatible with its earlier findings.

The period of this order is for 18 months to allow for the possibility of an appeal to be made and determined.

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

That concludes this determination.