

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

**Substantive Hearing  
Monday 9 October 2023**

Virtual Hearing

<b>Name of Registrant:</b>	Emanoil Ionescu
<b>NMC PIN</b>	12E0229C
<b>Part(s) of the register:</b>	Registered Nurse – Sub Part 1 Adult Nursing – 25 May 2012
<b>Relevant Location:</b>	Newcastle Upon Tyne
<b>Type of case:</b>	Misconduct/Conviction
<b>Panel members:</b>	Museji Ahmed Takolia (Chair, Lay member) Susan Tokley (Registrant member) Matthew Wratten (Lay member)
<b>Legal Assessor:</b>	Megan Ashworth
<b>Hearings Coordinator:</b>	Anya Sharma
<b>Nursing and Midwifery Council:</b>	Represented by James Edenborough, Case Presenter
<b>Mr Ionescu:</b>	Not present and unrepresented at the hearing
<b>Consensual Panel Determination:</b>	Accepted agreement of the parties
<b>Facts proved:</b>	All (by admission)
<b>Facts not proved:</b>	None
<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	<b>Striking-off order</b>

**Interim order:**

**Interim suspension order (18 months)**

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Mr Ionescu was not in attendance and that the Notice of Hearing letter had been sent to Mr Ionescu's registered email address by secure email on 29 August 2023.

Further, the panel noted that the Notice of Hearing was also sent to Mr Ionescu's representative at Thompsons Solicitors on 29 August 2023.

Mr Edenborough, on behalf of the Nursing and Midwifery Council (NMC), submitted that it 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 agreed that the Notice of Hearing, dated 29 August 2023, 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 Ionescu's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In the light of all of the information available, the panel was satisfied that Mr Ionescu has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

## **Decision and reasons on proceeding in the absence of Mr Ionescu**

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

absented himself. Mr Edenborough referred the panel to the email from Mr Ionescu's representative which sets out as follows:

*'To confirm, neither the registrant or a representative propose to be in attendance at the hearing. We will await the outcome accordingly.'*

Mr Edenborough informed the panel that a provisional Consensual Panel Determination (CPD) agreement had been reached and signed by Mr Ionescu on 2 October 2023.

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 has decided to proceed in the absence of Mr Ionescu. In reaching this decision, the panel has considered the submissions of Mr Edenborough and the advice of the legal assessor. It has 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:

- Mr Ionescu has engaged with the NMC and has signed a provisional CPD agreement which is before the panel today;
- There is no reason to suppose that adjourning would secure his attendance at some future date; and
- There is a strong public interest in the expeditious disposal of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mr Ionescu.

## **Details of charge**

*That you, a registered nurse:*

1. *On or about 9 July 2017 touched Colleague A on the bottom.*
2. *The touching as specified in Charge 1 was:*
  - (a) Deliberate*
  - (b) Sexually motivated in that the act was in pursuit of sexual gratification*
  - (c) Amounted to harassment in that:*
    - i. It was unwanted conduct of a sexual nature and/or*
    - ii. It violated Colleague A's dignity*
    - iii. Created an intimidating, hostile, degrading humiliating or offensive environment for Colleague A*
3. *On an unknown date prior to 9 July 2017 put your arms around the waist of an unknown Colleague.*
4. *The touching as specified in Charge 3 was sexually motivated in that the act was in pursuit of sexual gratification.*
5. *On an unknown date prior to 9 July 2017 asked an unknown Colleague to sit on your lap and "come to Santa for a present" or words to that effect.*
6. *The touching as specified in Charge 5 was sexually motivated in that the act was in pursuit of sexual gratification.*

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

*That you, a registered nurse:*

7. *On 22 September 2022, at the Crown Court sitting at Newcastle Upon Tyne, were convicted of sexually assaulting a female.*

*AND in respect of charge 7, your fitness to practise is impaired by reason of your conviction.*

### **Consensual Panel Determination**

At the outset of this hearing, Mr Edenborough informed the panel that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between the NMC and Mr Ionescu.

The agreement was put before the panel in two stages, in light of Rule 29(2) which states:

*'The Fitness to Practise Committee may consider one or more categories of allegation against a registrant provided always that an allegation relating to a conviction or caution is heard after any allegation of misconduct has been heard and determined.'*

The first part of the agreement put before the panel was in relation to the allegation of impairment by reason on misconduct. The panel announced its findings on the facts and whether they amounted to misconduct, following which the remainder of the agreement was placed before the panel. The panel then went on to consider the allegation of impairment by reason of conviction, followed by impairment and sanction in respect of both allegations.

The agreement, which was put before the panel, sets out Mr Ionescu's full admissions to the facts alleged in the charges, that his actions amounted to misconduct and that his fitness to practise is currently impaired by reason of that misconduct and is impaired by

reason of his conviction. It is further agreed between parties to the agreement that an appropriate sanction in this case would be a striking off order.

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

That provisional CPD agreement reads as follows:

***Fitness to Practise Committee***

***Consensual panel determination (“CPD”): provisional Agreement***

***Part 1***

*The Nursing & Midwifery Council (“the NMC”) and Emanoil Ionescu (“the Registrant”), PIN 12E0229C (“the Parties”) agree as follows:*

*1. The Registrant is aware of the CPD hearing. The Registrant does not intend to attend the hearing and is content for it to proceed in his and his representative’s absence. The Registrant and his Representative, will make themselves available by telephone should clarification on any point be required, or should the panel wish to make amendments to the provisional agreement.*

***The charges***

*2. The Registrant admits the following charges:*

*That you, a registered nurse:*

*1. On or about 9 July 2017 touched Colleague A on the bottom.*

*2. The touching as specified in Charge 1 was:*

- (a) Deliberate*
- (b) Sexually motivated in that the act was in pursuit of sexual gratification*
- (c) Amounted to harassment in that:*
  - (i) It was unwanted conduct of a sexual nature and/or*
  - (ii) It violated Colleague A's dignity*
  - (iii) Created an intimidating, hostile, degrading humiliating or offensive environment for Colleague A*

*3. On an unknown date prior to 9 July 2017 put your arms around the waist of an unknown Colleague.*

*4. The touching as specified in Charge 3 was sexually motivated in that the act was in pursuit of sexual gratification.*

*5. On an unknown date prior to 9 July 2017 asked an unknown Colleague to sit on your lap and "come to Santa for a present" or words to that effect.*

*6. The touching as specified in Charge 5 was sexually motivated in that the act was in pursuit of sexual gratification.*

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

### ***The facts***

*3. The Registrant appears on the register of nurses, midwives and nursing associates maintained by the NMC as a registered nurse and has been on the NMC register since 25 May 2012.*

*4. The Registrant was referred to the NMC on 4 March 2019 by the Head of Compliance at Prestwick Care. At the relevant time the Registrant was working as a*



nurse at the Melton House Nursing Home (“the Home”) which is under the management of Prestwick Care.

5. On 10 July 2017, the Registrant was on duty and encountered one of his colleagues, Colleague A, in a corridor at the Home. Colleague A was aged 18 at the time and worked in the kitchen. The Registrant asked Colleague A if she was okay and she explained that she had had a stressful day. He went on to ask her if she would like a hug to make her feel better.

6. The Registrant went to hug Colleague A and bent down as if to pick her up. The Registrant put his arm around Colleague A, under her buttocks. Colleague A felt the Registrant’s hand on her buttocks and tried to move away. After one or two seconds, the Registrant let go.

7. The Registrant was interviewed regarding this incident and described what had happened as an “involuntary touch”. He said the touching of Colleague A’s bottom had not been intentional. The Registrant accepted that this could be deemed as inappropriate behaviour. The Registrant also accepted that there had been two prior incidents, one where the Registrant had put his hands round the waist of a female colleague and another where he had asked a female colleague to sit on his lap and had said “come to Santa for a present”.

### **Misconduct**

8. The parties are in agreement that the above admitted facts amount to misconduct.

9. In the case of *Roylance v General Medical Council (No.2)* [2000] 1 AC 311, Lord Clyde stated that:

‘misconduct is a word of general effect, involving some act or omission which falls

*short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by the medical practitioner in the particular circumstances’.*

*10. The Parties agree that the Registrant’s conduct fell seriously short of the standards of behaviour expected of registered nurses. Moreover, the Registrant accepts that his actions breached the following paragraphs of the 2015 NMC Code of Conduct*

*(‘the Code’):*

***1 Treat people as individuals and uphold their dignity***

*To achieve this, you must:*

*1.1 treat people with kindness, respect and compassion*

*1.5 respect and uphold people’s human rights*

***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*

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

*11. Whilst not every breach of the code will amount to misconduct, it is agreed that the Registrant’s unwanted sexually motivated behaviour and harassment towards 3 colleagues constitutes a serious departure from the standards expected of any nurse and amounts to serious misconduct.*

***END OF PART 1***

**\*\*AT THIS STAGE THE PANEL ARE REQUESTED TO MAKE A DETERMINATION IN RELATION TO PART 1 OF THE AGREEMENT PRIOR TO ITS CONSIDERATION OF PART 2.**

**Emanoil Ionescu - CPD continued.**

**Part 2**

**Charge relating to the Registrant's conviction:**

*12. The Registrant admits the following charge:*

*That you, a registered nurse:*

*7. On 22 September 2022, at the Crown Court sitting at Newcastle Upon Tyne, were convicted of sexually assaulting a female.*

*AND in respect of charge 7, your fitness to practise is impaired by reason of your conviction.*

**The facts relating to the conviction**

*13. On 26 February 2019, there was a further incident at the Home involving the Registrant and another colleague.*

*14. The Registrant encountered his colleague (Colleague B) in the dining room of the Home and was informed by another member of staff that it was Colleague B's last week at the Home. The Registrant gave Colleague B a hug, putting his hand around her waist, then lifted her, with force, onto a bench. The Registrant then grabbed Colleague B's legs, pulled them apart, and pushed himself closer.*

*Colleague B could feel the Registrant's penis through his clothing. The Registrant then said to Colleague B: "Don't worry, I will use a condom". The Registrant then wrapped his arms round Colleague B, embracing her, before pulling Colleague B off the bench and walking away.*

15. *Colleague B felt disgusted and violated. She felt that the Registrant had intruded into her personal space. She reported the matter to the police and the Registrant was charged with sexual assault. The Registrant pleaded guilty to that offence on the first day of the trial on 22 September 2022.*

16. *On 22 November 2022 the Registrant was sentenced at Newcastle upon Tyne Crown Court. The Judge handed down a Community Sentence for 2 years with a Rehabilitation Activity Requirement for 30 days and an unpaid work requirement for 200 hours. The Certificate of Conviction also records that the Registrant was placed on a Barring List by the Disclosure and Barring Service and subject to the sex offender notification requirements for a period of 5 years. In addition the Registrant was ordered to pay a victim surcharge of £90.*

#### *Conviction and the NMC Code*

*The Registrant's conviction amounts to a breach of the following standard:*

#### **20. Uphold the reputation of your profession at all times.**

*To achieve this, you must:*

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

17. *It is agreed between the parties that the Registrant's fitness to practise is currently*

*impaired by reason of his misconduct and conviction.*

#### **Impairment**

18. *The NMC's guidance in relation to impairment DMA-1 explains that impairment is not defined in legislation but is a matter for the Fitness to Practise Committee to decide. This involves a consideration of both the nature of the concern and the*

*public interest and it may be helpful to consider whether the nurse concerned can practise kindly, safely and professionally.*

*19. The parties agree that consideration of the nature of the concern involves looking at the factors set out 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, namely;*

*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 professions 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 professions; and/or*

*d. ...*

*20. The parties agree that the first three factors cited above are engaged in this case. The Registrant's serious sexual misconduct and his conviction for a sexual assault have placed others at unwarranted risk of emotional and psychological harm. The Registrant has brought the profession into disrepute by acting in such a manner and having committed a criminal offence. His behaviour has breached fundamental tenets of the profession in that he has failed to treat colleagues with dignity and serious misconduct and the commission of a criminal, sexual offence undermines the promotion of professionalism and trust in nursing. It is also agreed, for the reasons explained in detail below concerning insight and remediation, that the Respondent is liable to repeat such behaviour in the future.*

*21. The Parties have 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.*

*22. In relation to remediation, the Parties highlight the NMC guidance FTP-3a:*

*“Serious*

*concerns which are more difficult to put right” ], which includes: “Concerns relating to harassment, including sexual harassment, relating to the professional context”.*

*23. Of further relevance is the following extract from the NMC guidance FTP-3b:*

*“Serious concerns which could result in harm to patients if not put right” :]:*

***“Prioritise people***

*The evidence shows that the nurse, midwife or nursing associate has failed to:*

- *uphold people’s dignity, treat them with kindness, respect and compassion  
...”*

*24. The Parties agree that the Registrant’s misconduct and convictions involve behaviour which amounts to sexual harassment in the professional context and which has failed to respect and uphold people’s dignity. These are concerns which are difficult to address and, in any event, as the Registrant has stepped away from and been barred from nursing practise with limited reflection and there will be little if no opportunity to remediate..*

*Remorse, reflection, insight, training and strengthening practice*

25. *The Registrant has notified the NMC, by way of a returned Case Management Form signed 8 September 2023, that he admits the charges and accepts that his fitness to practise is impaired.*

26. *The Registrant provided a written reflection to the NMC on 12 July 2023. In this statement the Registrant confirmed that he has not practised as a nurse since February 2019 and does not intend to return to nursing.*

27. *In relation to the Registrant's demonstration of remorse, insight, and reflection, the panel is directed to the following extract from the Registrant's written statement:*

*"I have realised that my action on the day of the incident can affect other people including my family and myself and this incident have been an eye opener for me and I do sincerely regret my actions from that day. Working as a Nurse I do understand the risk to the patients, staff if I was to be allowed to continue to practice. Since I have start working in 2019 in the pizza shop I have never been subject to a warning or disciplinary. I would like to apologise to my Ex-colleague for my inappropriate behaviour and I am very sorry for my actions from that day, if I could go back in time I would not repeat my inappropriate behaviour.*

*Currently I am working as a shift manager in a pizza delivery shop. My employer have been informed about my conviction and he put in place measures to minimise the risks, I am not allowed to make deliveries to the customers and I cannot work shifts with a female member of staff there have to be a third person in the shop at all times whilst the female member of staff is on shift. I do understand the severity of my conviction and I do comply with the rules.*

*I do understand and acknowledge the impact has the incident has had on the female member of staff and also the impact on my family. If for the public to find out about my criminal record I believe that they will be judging me by the cover not for me as a person due to the nature of my conviction. I believe if for the public to find*

*out about my criminal record my family will be affected due to the nature of my criminal record and I do not wish for my family to suffer because of my actions and for them to have their dignity intact. If for the public to know about my criminal record the trust and professionalism will be compromised and they will no longer feel safe for me to care for them and their needs.*

*I do not have any intentions to work as a Nurse in the future due to my criminal conviction, even though I have loved to work as a nurse. I will consider retraining in a different area than nursing for a better life for my family.” [sic]*

#### *Public protection impairment*

*28. A finding of impairment is necessary in this case, on public protection grounds.*

*29. Charges 1 to 6 relate to the Registrant’s inappropriate behaviour towards colleagues at work. Charge 7 relates to the Registrant’s conviction for sexual assault. The offence took place in the workplace and the victim was a junior colleague. As such, whilst there is no evidence to suggest that the Registrant has acted inappropriately towards patients, the misconduct and conviction do impact directly on the Registrant’s professional practice.*

*30. The Registrant accepted, at local level, that his behaviour towards colleagues in 2017 was inappropriate, and indicated that he would act differently in future. Yet this did not prevent the 2019 incident, for which the Registrant received his criminal conviction and this is demonstrative of the Registrant’s lack of insight and the likelihood of the repetition of such behaviour.*

*31. During the Registrant’s local investigation interview, the Registrant claimed to have obtained consent from Colleague B. When questioned why the Registrant thought this, the Registrant stated: “I had no resistance when I gave her a hug or*



*picked her up". The Registrant then went on to say, "It took her 4 hours to report it, if she felt that offended it would have been reported straight away".*

*32. By way of his 12 July 2023 written reflection, referenced above, the Registrant has demonstrated some recognition of, and remorse for, the impact of his actions which led to his criminal conviction. However, there is no mention of the misconduct referred to at charges 1 to 6 nor reflection of the actual/potential harm in respect of his colleagues. This absence of reflection or acknowledgement is indicative of the Registrant's limited insight and the associated risk of a repetition of his behaviour.*

*33. The Registrant's conduct, taken as a whole, suggests a pattern of behaviour which may be indicative of a harmful deep-seated attitudinal issue towards women, and into which the Registrant's insight is limited.*

*34. No evidence has been provided concerning any training or steps taken by the Registrant to address such matters.*

*35. The Parties are in agreement that the concerns have not been adequately addressed and, in such circumstances, there remains a real risk of repetition.*

*36. It is therefore agreed that the Registrant is currently a risk to the health, safety or wellbeing of the public (which includes colleagues) and that his fitness to practise is impaired on the grounds of public protection.*

#### *Public interest impairment*

*37. A finding of impairment is also necessary on public interest grounds.*

*38. 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.”*

*39. Consideration of the public interest requires a Fitness to Practise Committee to decide whether a finding of impairment is needed to uphold proper professional standards and conduct and/ or to maintain public confidence in the profession.*

*40. In considering the NMC’s statutory duty to (1) declare and uphold proper professional standards and conduct and (2) maintain public confidence in the profession, the Fitness to Practise Committee will need to consider whether the concerns are easy to put right. However, there are types of misconduct that are so serious that, even if the professional has started to address the behaviour, a finding of impairment is still required either to uphold proper professional standards and conduct or to maintain public confidence in the profession.*

*41. The concerns in this case relate to the Registrant’s inappropriate and sexually harassing behaviour toward others as well as criminal behaviour of a similar nature. The Registrant has demonstrated a pattern of behaviour on a number of occasions, towards different people and the seriousness of the behaviour escalated in the commission of a sexual offence. In relation to Colleague A, there was a disparity in professional status (with the Registrant being a senior nurse in a position of responsibility and Colleague A being a kitchen assistant). Colleague B was also a junior member of staff. The Judge’s remarks from the Registrant’s sentencing hearing indicate that she suffered actual harm as a result of the incident.*

*42. The Registrant's misconduct and conviction has brought the nursing profession into disrepute and breached fundamental tenets of the profession. The Registrant poses a risk to the health, safety and wellbeing of the public (which includes colleagues). Accordingly, a finding of impairment is necessary in order to protect the public and the wider public interest. If no finding of impairment were made, public confidence in the profession and the NMC as regulator would be seriously undermined.*

*43. The Parties therefore agree that the Registrant's fitness to practice is impaired on public interest grounds.*

### **Sanction**

*44. The parties agree that the appropriate and proportionate sanction in this case is that of a striking off order.*

*45. In considering sanction reference has been made to the NMC's published sanctions guidance.*

*46. The parties have agreed the following as aggravating features:*

- The Registrant has demonstrated a pattern of conduct which constituted unwanted sexually motivated behaviour and harassment which has culminated in a criminal conviction for a sexual assault which caused actual harm.*
- The Registrant's lack of insight into his own behaviour and particularly the impact upon victims.*

*47. The parties have agreed the following as mitigating features:*

- *Some local admissions were made at local level in respect of the sexual misconduct matters and the Registrant did plead guilty to the offence of sexual assault albeit on the first day of trial when the victim would have been expecting to have to give evidence.*

*48. The Registrant has demonstrated some limited regret, reflection and insight.*

*49. The parties have considered the available sanctions in ascending order, considering the least restrictive first. However, taking no further action and a caution order were discounted straight away as inappropriate on account of the fact that a public protection issue had been identified which would require a more serious restriction of practice.*

*50. A conditions of practice order might be appropriate to address identifiable areas of a nurse's clinical practice in need of assessment or training but such a sanction is inappropriate in the face of evidence of harmful deep-seated attitudinal issues as present in this case. The Registrant's sexual misconduct and criminal conviction are attitudinal concerns associated with the complete lack of respect and dignity shown by the Registrant towards female colleagues. Conditions could not be formulated to guard against the behaviour of the Registrant and such a sanction would be insufficient to protect the public or satisfy the wider public interest considerations of maintaining trust in the profession or upholding professional standards.*

*51. It is agreed in the circumstances of this case that a suspension order would be an inappropriate sanction because the serious sexual misconduct and conviction are fundamentally incompatible with continued registration given the pattern of escalating behaviour and the underlying harmful, deep-seated attitudinal issues. The seriousness of this case requires permanent removal from the register. The Registrant's conviction has resulted in the Registrant being placed on the Barring List by the Disclosure and Barring Service, the sex offender's register and he has*

*received a suspended custodial sentence.*

*52. The parties agree that a striking off order is the only sanction which will be sufficient to protect the public and maintain professional standards. Public confidence in the profession would be undermined if the Registrant were not permanently removed from the register given the circumstances of this case. In reaching this conclusion the parties have had regard to The NMC guidance SAN-2: "Considering sanctions for serious cases" which states:*

*"Sexual misconduct will be particularly serious if the nurse, midwife or nursing associate has abused a special position of trust they hold as a registered caring professional. It will also be particularly serious if they have to register as a sex offender. The level of risk to patients will be an important factor, but the panel should also consider that generally, sexual misconduct will be likely to seriously undermine public trust in nurses, midwives and nursing associates.*

*...*

*Panels deciding on sanction in cases about serious sexual misconduct will, like in all cases, need to start their decision-making with the least severe sanction, and work upwards until they find the appropriate outcome. They will very often find that in cases of this kind, the only proportionate sanction will be to remove the nurse, midwife or nursing associate from the register. If the panel decides to impose a less severe sanction, they will need to make sure they explain the reasons for their decision very clearly and very carefully. This will allow people who have not heard all of the evidence in the case, which includes the victims, to properly understand the decision."*

*53. The same guidance goes on to say, in relation to criminal convictions or cautions:*

*"In the criminal courts, one of the purposes of sentencing is to punish people for offending. When making its decision passing sentence, the criminal court will look*

*carefully at the personal circumstances of the offender. In contrast, the purpose of the Fitness to Practise Committee when deciding on a sanction in a case about criminal offences is to achieve our overarching objective of public protection. When doing so, the Committee will think about promoting and maintaining the health, safety and wellbeing of the public, public confidence in nurses, midwives and nursing associates, and professional standards.*

*It's clear that the Committee's purpose isn't to punish the nurse, midwife or nursing associate for a second time. Because of this, the sentence passed by the criminal court isn't necessarily a reliable guide to how seriously the conviction affects the nurse, midwife or nursing associate's fitness to practise. So, the personal circumstances or mitigation of the nurse, midwife or nursing associate is also less likely to be useful or helpful to the Fitness to Practise Committee when making a sanction decision than it would have been to the criminal court.*

*Cases about criminal offending by nurses, midwives or nursing associates illustrate the principle that the reputation of the professions is more important than the fortune of any individual member of those professions. Being a registered professional brings many benefits, but this principle is part of the 'price' [Bolton v Law Society [1994] 1 WLR 512]."*

### **Referrer's comments**

*54. On 25 September 2023 the referrer was informed of the proposed CPD and was invited to provide their comments. As yet no response has been received.*

### **Interim order**

*55. In the event that a striking-off order is imposed, it will not take effect until 28 days after the deemed receipt of the decision letter. Should an appeal be lodged the striking off order would not take effect at all and the registrant would be*

*permitted to practise without restriction pending an appeal. For this reason the parties agree, in light of everything outlined above, that it is necessary for the protection of the public and because it is otherwise in the public interest, to impose an interim suspension order for 18 months to cover the eventuality of an appeal and an appeal hearing. It is anticipated that it would take a period of 18 months for any appeal to be resolved. Should no appeal be lodged, the striking-off order would come into effect as described above, and the interim order would fall away. The parties agree that the interim order should be one of suspension as opposed to conditions of practice because no conditions could be formulated to guard against the behaviour at the centre of this case which founds the basis of impairment.*

*The Parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings of fact, 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 to determine matters,, provided that it would be relevant and fair to do so.*

*Here ends the provisional CPD agreement between the NMC and Mr Ionescu. The provisional CPD agreement was signed by Mr Ionescu and the NMC on 2 October 2023.*

## **Decision and reasons on the CPD**

The panel decided to accept the CPD agreement of the parties.

The panel heard and accepted the legal assessor's advice. Mr Edenborough 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 Ionescu. 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 Mr Ionescu admitted the facts of the charges. Accordingly, the panel was satisfied that the charges are found proved by way of Mr Ionescu's admissions, as set out in the signed provisional CPD agreement.

### **Decision and reasons on impairment**

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

In respect of misconduct and conviction, the panel determined that Mr Ionescu's actions fell seriously short of the standards expected of a registered nurse. It had sight of The Code: Professional standards of practice and behaviour for nurses and midwives (2015) ('The Code') and noted that Mr Ionescu accepts that his actions breached paragraphs 1.1, 1.5 20.1, 20.2, 20.3, 20.4 and 20.5 of the Code.

In this respect, the panel endorsed paragraphs 8 to 17 of the provisional CPD agreement in respect of misconduct and conviction.

The panel then considered whether Mr Ionescu's fitness to practise is currently impaired by reason of misconduct and impaired by reason of his conviction. It noted that it is agreed between the parties that Mr Ionescu's fitness to practise is currently impaired by reason of his misconduct and conviction. The panel took into account the serious nature of Mr Ionescu's sexual misconduct, as well as his conviction for a sexual assault which involved



behaviour which amounts to sexual harassment in the professional context, and which has failed to respect and uphold people's dignity. It was of the view that these are serious concerns which are difficult to address in relation to reflection and remediation, even more so given that Mr Ionescu has stepped away and been barred from nursing practise.

The panel also considered Mr Ionescu's written statement dated 12 July 2023, in which he confirmed that he has not practised as a nurse since February 2019 and does not intend to return to nursing. Whilst Mr Ionescu has demonstrated some recognition and remorse for the impact of his actions which led to his criminal conviction, there is little reflection on his misconduct referred to at charges 1 to 6, nor of the actual/potential harm in respect of Mr Ionescu's colleagues.

The panel also agreed that Mr Ionescu's conduct taken as a whole suggests a pattern of behaviour which may be indicative of a harmful deep-seated attitudinal concern. It considered that the NMC has not been provided with any evidence in relation to any training or steps taken by the NMC to address these matters. The panel was of the view that in the absence of reflection and acknowledgment of the impact of Mr Ionescu's actions on his victims, this represents limited insight and poses a serious risk of repetition. The panel therefore accepted that Mr Ionescu's fitness to practise is impaired on both public protection and public interest grounds.

In this respect the panel endorsed paragraphs 18 to 43 of the provisional CPD agreement.

### **Decision and reasons on sanction**

Having found Mr Ionescu'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:

- Mr Ionescu has demonstrated a pattern of conduct which constituted unwanted sexually motivated behaviour and harassment in the workplace (2017)
- Mr Ionescu's criminal conviction in the workplace (2019) for a sexual assault caused actual harm to his victim
- Mr Ionescu's lack of insight into his own behaviour and particularly the impact upon victims.

The panel also took into account the following mitigating features:

- Some admissions were made at local level in respect of the sexual misconduct matters and Mr Ionescu did plead guilty to the offence of sexual assault albeit on the first day of trial when the victim would have been expecting to have to give evidence.

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 Ionescu'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 Ionescu's misconduct and 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 Ionescu'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. The misconduct and conviction identified in this case were not something that can be addressed through retraining, in particular the deep-seated attitudinal concerns. Furthermore, the panel concluded that the placing of conditions on Mr Ionescu'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;*
- *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 Ionescu's actions is fundamentally incompatible with Mr Ionescu 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 Ionescu's actions were serious and caused actual harm to his victims. They are a significant departure from the standards expected of a registered nurse and are fundamentally incompatible with him remaining on the register. The panel therefore concluded that the findings in this particular case demonstrate that Mr Ionescu's actions were so serious, that 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 agreed with the CPD 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 Ionescu'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 Ionescu in writing.

## **Decision and reasons on interim order**

As the striking-off order cannot take effect until the end of the 28-day appeal period or if Mr Ionescu appeals, until that appeal is withdrawn or otherwise finally disposed of, 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 Ionescu's own interests until the striking-off sanction takes effect.

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 by admission 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 any 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 Ionescu is sent the decision of this hearing in writing.

That concludes this determination.