

Nursing and Midwifery Council

Fitness to Practise Committee

Substantive Meeting

12 October 2020

Virtual Hearing

Name of registrant: Mr Theodoros Skountzos

NMC PIN: 16C0299C

Part of the register: Registered Nurse (Sub Part 1)
Adult Nursing – March 2016

Area of registered address: Greece

Type of case: Conviction

Panel members: Michael Murphy (Chair, Registrant member)
Pauline Esson (Registrant member)
Alice Rickard (Lay member)

Legal Assessor: Oliver Wise

Panel Secretary: Leigham Malcolm

Facts proved: Charge 1

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 at the start of this meeting that the Notice of Meeting had been sent to Mr Skountzos' registered email address on 28 August 2020.

The panel took into account that the Notice of Meeting provided details of the allegations, the date, time and venue of the meeting.

The panel accepted the advice of the legal assessor.

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

Details of charge

That you, a registered nurse

- 1. On 21 August 2019, at Central London Magistrates Court, were convicted of the offences of one count of distributing an indecent photograph/pseudo photograph of a child and three counts of making an indecent photograph/pseudo photograph of a child contrary to Part 2 of the Sexual Offences Act 2003.*

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

Decision and reasons on facts

The charge concerns Mr Skountzos' conviction and, having been provided with a copy of the certificate of conviction, the panel finds that the facts are found proved in accordance with Rule 31 paragraphs (2) and (3). These state:

- ‘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.’*

On 30 November 2017, Metropolitan Police officers executed a search warrant at Mr Skountzos’ home address. A search was conducted and a number of electronic items, including computers, hard drives and a mobile phone were seized. A forensic examination was completed on the electronic items.

An indecent sexual image was found on Mr Skountzos’ mobile phone during the forensic examination. A comparison was carried out between the image found on Mr Skountzos’ mobile phone and the Child Abuse Image Database (CAID), which indicated that no images contained on the phone were known to the CAID database.

Two portable hard drives were also forensically examined by the Police. These devices contained 8,137 and 5,139 indecent sexual images, respectively, which are known to CAID.

The sexual images found across Mr Skountzos’ devices were categorised as follows:

- Category A = **933** (3.20% of entire collection)
- Category B = **1,608** (5.50% of entire collection)
- Category C = **26,537** (91.30 % of entire collection)

Total Unique Indecent Images = **29,078**

During the forensic examination of Mr Skountzos' mobile phone, an instant messaging application ("app") named "KIK" was found, including an indecent image of a child which was classified by the Police as a category C image. This same image was also found on Mr Skountzos' mobile phone.

Mr Skountzos was interviewed under caution. Mr Skountzos' attended the Police interview voluntarily and provided a prepared statement, which stated:

- 1) I accept that a large number of indecent images have been downloaded by myself on to various devices which were found in my room.*

- 2) I have not paid for any images, or traded any of these images, except on two occasions where I have profiled 5 suspect individuals, who are more likely involved in indecent images and I will provide you with their details separately so you can investigate them.*

Mr Skountzos went on to answer "no comment" to all other questions during the Police interview. Mr Skountzos was advised that a police disclosure would be made as he was working as a nurse.

On 25 July 2019, Mr Skountzos was handed a Postal Charge Requisition which required him to attend Westminster Magistrates Court on 21 August 2019. Mr Skountzos attended Westminster Magistrates Court on 21 August 2019 where he pleaded guilty to four offences:

1. Distribute an indecent photograph / pseudo-photograph of a child;
2. Make indecent photograph / pseudo-photograph of a child (category A);
3. Make indecent photograph / pseudo-photograph of a child (category B); and
4. Make indecent photograph / pseudo-photograph of a child (category C).

Mr Skountzos appeared for sentencing at Isleworth Crown Court on 16 October 2019. He was sentenced to:

- a. 200 hours of unpaid work;
- b. 12 months imprisonment (suspended for 2 years);
- c. Registration on the Sex Offenders Register for 10 years; and
- d. Sexual Harm Prevention Order for 10 years.

Fitness to practise

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

The NMC invited 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).

Decision and reasons on impairment

The panel accepted the advice of the legal assessor and went on to decide if as a result of the conviction, Mr Skountzos' 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 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* [2011] EWHC 927 (Admin) 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) ...
- 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 was of the view that Mr Skountzos' conduct and subsequent conviction had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not take Mr Skountzos' conduct and conviction extremely seriously.

The panel bore in mind that the indecent images found on Mr Skountzos' electronic devices included Category A indecent images of children; these were described by the sentencing judge as 'the most disgusting images that one can imagine'. The panel noted that Mr Skountzos pleaded guilty in court and it took account of the sentencing judges' reference to the Lucy Faithful sex offender course that Mr Skountzos undertook, however, there was no evidence before the panel that completion of the course had led to any remediation. On the evidence available, the panel considered Mr Skountzos to have demonstrated limited insight into the seriousness of his conduct and the consequences of his conviction in respect of his ability to practise as a registered nurse. Further, there was no evidence before the panel that Mr Skountzos had expressed any remorse for his conduct.

If allowed to practise unrestricted as a registered nurse, Mr Skountzos' will have contact with children. The panel bore in mind that the overarching objective of the NMC is to protect, promote and maintain the health, safety and well-being of the public and patients. The panel considered that for the protection of the public a finding of impairment in Mr Skountzos' case was necessary. Further, given the nature of Mr Skountzos' conduct and the seriousness of the case, the panel decided that a finding of impairment was otherwise in the public interest.

Decision and reasons on sanction

Having found Mr Skountzos fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case.

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

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

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 decision on sanction is a matter for the panel independently exercising its own judgement.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the nature and the seriousness of the case. The panel decided that taking no further action would do nothing to protect the public and would therefore be inappropriate. It then considered the imposition of a caution order but again determined that that this would also be inappropriate in view of the nature and the seriousness of the case.

The panel next considered whether placing conditions of practice on Mr Skountzos' 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 issue in this case. The concerns arising from Mr Skountzos' conviction cannot be addressed by way of a conditions of practice order. The panel concluded that the placing of conditions on Mr Skountzos' registration would not protect the public nor would it sufficiently satisfy the public interest.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The conduct, as highlighted by the facts found proved, was a serious departure from the standards expected of a registered nurse. The panel decided that the serious breach of the fundamental tenets of the profession evidenced by Mr Skountzos' 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 Skountzos' 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 particular case demonstrate that Mr Skountzos' 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 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 Skountzos' 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 protect the public and 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 Skountzos 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, 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 Skountzos' 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 bore in mind its reasons set out earlier in its decision for the substantive order. It 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 to ensure that the public are protected during 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 Skountzos is sent the decision of this hearing in writing.

That concludes this determination.