

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

**Substantive Meeting
Wednesday 22 June 2022 – Thursday 23 June 2022**

Virtual Meeting

Name of registrant:	Timothy Stuart Stone
NMC PIN:	11A0062W
Part(s) of the register:	Registered Nurse Adult Nursing RNA – March 2011
Relevant Location:	Cardiff
Type of case:	Misconduct
Panel members:	Gregory Hammond (Chair, lay member) Jonathan Coombes (Registrant member) Laura Wallbank (Registrant member)
Legal Assessor:	Ian Ashford-Thom
Hearings Coordinator:	Shela Begum
Facts proved by admission:	1a, 1b, 1c, 1d, 1e, 3, 5, 7, 9, 11a, 11b, 11c, 13a, 13b, 13c, 13d, and 15
Facts proved:	2, 4, 6, 8, 10, 12, 14 and 16
Facts not proved:	None
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 dated 25 April 2022 had been sent to Mr Stone's registered address by recorded delivery and by first class post.

The panel had regard to the Royal Mail 'Track and trace' printout which showed the Notice of meeting was delivered to Mr Stone's registered address on 27 April 2022. The panel noted that this had also be signed for.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegations, and the earliest date that the meeting could be held. Additionally, responses from Mr Stone indicate that he has received the notice of meeting and that he did not want this case to be considered in a hearing.

In the light of all of the information available, the panel was satisfied that Mr Stone 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 one or more dates after August 2015 and in relation to Colleague A;
 - a) Sent a message making reference to "blow jobs";
 - b) Sent a message saying "hey sexy how are you" or words to that effect;
 - c) Sent a message saying "it's Tim, I found you really attractive at work "or words to that effect;
 - d) Sent a message saying "what are you wearing?" or words to that effect;
 - e) Sent a message saying "ha ha xxx I said been horny all the time" or words to that effect.

- 2) Your actions in charge 1 were sexually motivated as they were in pursuit of a future sexual relationship.
- 3) In December 2018 you sent a naked photo of yourself to Colleague A on Snap Chat.
- 4) Your actions in charge 3 were sexually motivated as they were in pursuit of a future sexual relationship.
- 5) On 15 July 2018 you sent a Facebook message to Colleague B saying “were you talking dirty? Or wanted a quick snog or grope”.
- 6) Your actions in charge 5 were sexually motivated as they were in pursuit of a future sexual relationship.
- 7) On 4 August 2018 you sent a photograph to Colleague B showing that you had an erection.
- 8) Your actions in charge 7 were sexually motivated as they were in pursuit of a future sexual relationship.
- 9) On 26 September 2018 you sent a Facebook message to Colleague B saying “Fuck yum, golden skin on Colleague B.
- 10) Your actions in charge 9 were sexually motivated as they were in pursuit of a future sexual relationship.
- 11) On 16 November 2017 you sent messages to Colleague C which said;
 - a) ““what are you guys wearing”;
 - b) “yup just being a little cheeky”;
 - c) “sorry I just think you’re hot”.

12) Your actions in charge 11 were sexually motivated as they were in pursuit of a future sexual relationship.

13) On 5 May 2017 you sent a messages to Colleague D saying;

- a) "I'm hard as fuck in bed";
- b) "You wanna see";
- c) "I wanna suck your cock";
- d) "I've seen how hard you get. I've seen your bulge".

14) Your actions in charge 13 were sexually motivated as they were in pursuit of a future sexual relationship.

15) On a date after 5 April 2017 you sent a photograph to Colleague D showing that you had an erection.

16) Your actions in charge 15 were sexually motivated as they were in pursuit of a future sexual relationship.

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

Decision and reasons on facts

At the outset of the meeting, the panel noted the written representations from Mr Stone which stated that Mr Stone has made admissions to charges 1a, 1b, 1c, 1d, 1e, 3, 5, 7, 9, 11a, 11b, 11c, 13a, 13b, 13c, 13d, and 15.

The panel therefore finds charges 1a, 1b, 1c, 1d, 1e, 3, 5, 7, 9, 11a, 11b, 11c, 13a, 13b, 13c, 13d, and 15 proved in their entirety, by way of Mr Stone's admissions.

In reaching its decisions on the disputed facts, the panel took into account all the documentary evidence in this case together with the representations made by the NMC and from Mr Stone and his representative.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel had regard to the written statements of the following witnesses on behalf of the NMC:

- Colleague A: Band 5 staff nurse, Intensive Care
- Colleague B: Band 5 Critical Health Assessor
- Colleague C: Health Care Support Worker
- Colleague D: Band 5 staff nurse, Emergency Department

The panel also had regard to written representations from Mr Stone's representative.

Background

The charges arose whilst Mr Stone was employed as a registered nurse by Cardiff & Vale University LHB (the Trust). Mr Stone allegedly sent unwanted sexually suggestive and explicit messages and images to four, more junior, work colleagues.

Colleague A allegedly received messages over a period from 2015 to December 2018 which were sexually explicit and included photographs of Mr Stone's semi naked and naked body. Colleague B was allegedly sent messages that were sexually suggestive and explicit between July 2018 and September 2018. Colleague C allegedly received messages in November 2017 that were sexually suggestive, and Colleague D was allegedly sent messages that were explicit and sexually suggestive in April 2017.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor.

The panel then considered each of the disputed charges and made the following findings.

Charge 2

- 1) Your actions in charge 1 were sexually motivated as they were in pursuit of a future sexual relationship.

This charge is found proved.

In reaching this decision, the panel took into account screenshots of the conversation between Mr Stone and Colleague A and the written witness statement of Colleague A.

The panel noted that within the screenshots of the messages, Mr Stone makes reference to being '*horny*' a number of times. The panel determined that Mr Stone's messages to Colleague A became progressively more sexual in nature and revealed an intention to create an environment where a sexual encounter could be instigated.

In determining whether this charge can be found proved or not, the panel first considered whether Mr Stone's actions were sexually motivated and it bore in mind the case law outlined in the advice provided by the legal assessor and the sexual boundaries guidance by the Professional Standards Authority (PSA). Based on the evidence before it, the panel concluded that Mr Stone's messages to Colleague A could be considered sexually motivated.

The panel next considered whether these actions were in pursuit of a future sexual relationship. The panel noted that the Oxford dictionary's defines 'relationship' as '*the way in which two or more people are connected, or the state of being connected*'. The panel understood that a 'relationship' could mean a single encounter that connects two individuals or a number of encounters over an extended period of time. The panel therefore concluded that, on the basis of this definition, Mr Stone's actions were in pursuit of a sexual relationship as the messages from him indicate that his intentions were more likely than not to create the conditions for a sexual encounter to take place between himself and Colleague A.

The panel therefore finds this charge proved.

Charge 4

- 4) Your actions in charge 3 were sexually motivated as they were in pursuit of a future sexual relationship.

This charge is found proved.

In reaching this decision, the panel took into account the witness statement of Colleague A.

Colleague A's written statement states:

*"Snapchat allows people to send pictures and messages to others but these do not save, they disappear after a few seconds...
... I do not recall what [Mr Stone's] Snapchat user name was. I responded asking "who is this" and he replied something like "it's Tim, I found you really attractive at work" initially I just brushed it off however as time went on the messages became more explicit and he would send me pictures of him in his boxers then it escalated to full frontal nudity."*

The panel noted that Mr Stone has made admissions to charge 3. The panel concluded that these actions were sexually motivated and that Mr Stone's actions in charge 3 had the intention of leading to a sexual encounter with Colleague A. The panel concluded that it could not determine any reasons for why someone would send pictures of their genitalia on a social media platform other than if it were sexually motivated.

The panel considered whether these actions were in pursuit of a future sexual relationship. The panel noted the Oxford dictionary's definition of 'relationship' and it understood that a 'relationship' could mean a single encounter that connects two individuals or a number of encounters over an extended period of time. The panel therefore concluded that, on the basis of this definition, Mr Stone's actions in charge 3 were sexually motivated as they were more likely than not in pursuit of a future sexual relationship.

Charge 6

- 6) Your actions in charge 5 were sexually motivated as they were in pursuit of a future sexual relationship.

This charge is found proved.

In reaching this decision, the panel took into account the written witness statement of Colleague B and the documentation which evidences the Facebook conversations between Mr Stone and Colleague B.

The panel noted that in response to Mr Stone's comment in which he states "*were you thinking dirty talk? Or wanted a quick snog or grope*", Colleague B responds "*Gosh no not at all. Please don't do that*". The panel further noted that Mr Stone goes onto state "Ok I won't unless you ask me to".

The panel considered that Mr Stone asked for clarification and then proceeded to use the words 'snog' and 'grope' and it was of the view that this was suggestive of him seeking an opportunity to instigate a sexual encounter. The panel is also of the view that by saying "*I won't unless you ask me to*", Mr Stone was indicating that he was open to his earlier suggestions. The panel determined from Mr Stone's comments during this conversation that on the balance of probabilities his actions in charge 3 were sexually motivated and with the intention of pursuing a sexual encounter with Colleague B.

The panel considered whether these actions were in pursuit of a future sexual relationship. The panel noted the Oxford dictionary's definition of 'relationship' and it understood that a 'relationship' could mean a single encounter that connects two individuals or a number of encounters over an extended period of time. The panel concluded that Mr Stone's messages and responses indicate that his actions were sexually motivated and more likely than not were in pursuit of a sexual relationship with Colleague B.

Charge 8

- 8) Your actions in charge 7 were sexually motivated as they were in pursuit of a future sexual relationship.

This charge is found proved.

In reaching this decision, the panel took into account the documentation evidencing the Facebook conversation between Mr Stone and Colleague B.

The panel noted that before sending the photograph of himself, Mr Stone had asked “*what you wearing now then*” and “*Can I see*”. Colleague B responded “*No...*” to which Mr Stone responded “*Why not*” and “*I’ll show you my boxers*”. The panel further noted that Colleague B states “*Come on now. I’m not into that*”.

After sending the photograph, Mr Stone stated “*I’m so horny for you*” to which Colleague B responded “*Not appropriate*”. The panel took into account that the response from Colleague B also stated “*... you have been out of order. I am in a happy relationship. I don’t see why you have had to send me what you have. And I thought you would have been intelligent enough to have got the hint!*”. The panel determined that, based on these responses, the sexual nature of Mr Stone’s messages was not reciprocated by Colleague B.

The panel determined that Mr Stone’s actions in charge 7 were sexually motivated. The panel was of the view that his actions were driven by an intention to initiate a sexual encounter with Colleague B. The panel considered whether these actions were in pursuit of a future sexual relationship. The panel referred to the Oxford dictionary’s definition of ‘relationship’ and it understood that a ‘relationship’ could mean a single encounter that connects two individuals or a number of encounters over an extended period of time. The panel concluded on the balance of probabilities that his actions were in pursuit of a sexual relationship. The panel therefore finds this charge proved.

Charge 10

10) Your actions in charge 9 were sexually motivated as they were in pursuit of a future sexual relationship.

This charge is found proved.

The panel had regard to the documentation evidencing the Facebook messages exchanged between Mr Stone and Colleague B on 26 September 2018. The panel noted that Mr Stone stated “*Fuck yum*” and “*Golden skin on sexy [Colleague B]*”. In response to this Colleague B states “*Tim!! Your[sic] my manager.*” to which Mr Stone responded “*Doesn’t matter to me*”.

The panel bore in mind the nature of these messages, and Mr Stone’s response to Colleague B. The panel considered that the initial comments “fuck yum” and “golden skin” could on their own be perceived as complimentary, but further considered the messages which followed from Mr Stone and the context of these, and concluded that Mr Stone’s messages were sexually motivated. The panel considered Mr Stone’s actions in charge 9 to be with the intention of creating an environment where a sexual relationship could progress.

The panel considered whether these actions were in pursuit of a future sexual relationship. The panel noted the Oxford dictionary’s definition of ‘relationship’ and it understood that a ‘relationship’ could mean a single encounter that connects two individuals or a number of encounters over an extended period of time. The panel therefore determined on the balance of probabilities that Mr Stone’s actions in charge 9 were sexually motivated as there were in pursuit of a future sexual relationship.

Charge 12

12) Your actions in charge 11 were sexually motivated as they were in pursuit of a future sexual relationship.

This charge is found proved.

The panel took into account the witness statement of Colleague C and the documentation evidencing the conversations between Mr Stone and Colleague C.

The panel noted that Mr Stone's comments were suggestive of him trying to create an environment where a sexual relationship could progress. It considered that Mr Stone stated "*just think you ur[sic] hot*" and it is of the view that the word 'hot' in these circumstances had a sexual connotation. The panel is of the view that the comments made by Mr Stone during this conversation were leading and driven by the intention of creating the conditions for a future sexual encounter.

The panel considered whether these actions were in pursuit of a future sexual relationship. The panel noted the Oxford dictionary's definition of 'relationship' and it understood that a 'relationship' could mean a single encounter that connects two individuals or a number of encounters over an extended period of time. The panel determined that Mr Stone's actions were sexually motivated as they were more likely than not in pursuit of a future sexual relationship.

Charge 14

14) Your actions in charge 13 were sexually motivated as they were in pursuit of a future sexual relationship.

This charge is found proved.

The panel took into account the witness statement of Colleague D and the documentation evidencing the conversations between Mr Stone and Colleague D.

The panel considered the comments admitted by Mr Stone in charge 3 in which he states "*I'm hard as fuck in bed*", "*I wanna [sic] suck your cock*" and "*I've seen how hard you get. I've seen your bulge*".

The panel was of the view that these comments are wholly unambiguous and that the intention behind these comments was not open to misinterpretation. The panel was of the view that Mr Stone's actions in charge 13 were sexually motivated.

The panel considered whether these actions were in pursuit of a future sexual relationship. The panel noted the Oxford dictionary's definition of 'relationship' and it understood that a 'relationship' could mean a single encounter that connects two individuals or a number of encounters over an extended period of time. The panel determined that Mr Stone's messages were in pursuit of a future sexual relationship. The panel therefore finds this charge proved.

Charge 16

16) Your actions in charge 15 were sexually motivated as they were in pursuit of a future sexual relationship.

This charged is found proved.

In reaching this decision, the panel took into account the witness statement of Colleague D. Colleague D states:

"Tim had sent me some messages when I was at university in the choir via Whatsapp... he also sent me pictures of himself in his underwear with an erection."

The panel noted that Mr Stone has made admissions to charge 15 and accepted that he had sent photographs showing that he had an erection.

The panel could not determine any reason for why a photograph showing Mr Stone with an erection would be sent to Colleague D other than having the intention to create or instigate an environment where a sexual encounter could occur.

The panel took into consideration that the Oxford dictionary defines 'relationship' as *'the way in which two or more people are connected, or the state of being connected'* and adopted the understanding that a relationship could be defined as a single encounter that connects two individuals or a number of encounters over an extended period of time.

The panel therefore determined that Mr Stone's actions in charge 15 were sexually motivated and were more likely than not in pursuit of a future sexual relationship. The panel therefore finds this charge proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider whether the facts found proved amount to misconduct and, if so, whether Mr Stone's fitness to practise is currently impaired. 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 panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel determined whether the facts found proved amounted to misconduct. Secondly, only if the facts found proved amounted to misconduct, the panel then decided whether, in all the circumstances, Mr Stone's fitness to practise is currently impaired as a result of that misconduct.

Representations on misconduct and impairment

In coming to its decision, the panel had regard to the case of *Roylance v GMC (No. 2)* [2000] 1 AC 311 which defines misconduct as a 'word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.'

The NMC invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' ("the Code") in making its decision.

The NMC identified the specific, relevant standards where it said Mr Stone's actions amounted to misconduct. The NMC considered the misconduct in this case to be serious

because Mr Stone repeatedly targeted junior colleagues who were new to the Hospital. The NMC considers this to be an abuse of his position as a senior colleague. The NMC considers Mr Stone's behaviour to have fallen significantly short of what would have been expected of a registered nurse. The NMC noted that this behaviour continued after he was asked to stop following an informal meeting a more senior nurse.

The NMC requires the panel to bear in mind its overarching objective to protect the public and the wider public interest. This includes 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).

In relation to Mr Stone's fitness to practise, the NMC invited the panel to make a finding of impairment on public interest grounds to declare and uphold proper standards of conduct and behaviour. The NMC considers that Mr Stone's conduct has fallen significantly short of what would be expected from a registered nurse and if no action were to be taken the public confidence in the profession as a whole would be undermined. The NMC proposes that a finding of current impairment is therefore required to maintain public confidence in the profession and declare and uphold proper professional standards.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311 and *Grant* above.

Decision and reasons on misconduct

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel decided that Mr Stone's actions did fall significantly short of the standards expected of a registered nurse, and that Mr Stone's actions amounted to a breach of the Code. Specifically:

'Promote professionalism and trust

You uphold the reputation of your profession at all times.

You should display a personal commitment to the standards of practice and behaviour set out in the Code.

You should be a model of integrity and leadership for others to aspire to.

This should lead to trust and confidence in the professions from patients, people receiving care, other health and care professionals and the public.

20 Uphold the reputation of your profession at all times

20.1 keep to and uphold the standards and values set out in the Code

20.2 ..., treating people fairly and without... 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... cause them upset or distress

20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to

20.10 use all forms of spoken, written and digital communication (including social media and networking sites) responsibly, respecting the right to privacy of others at all times'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel determined that Mr Stone's actions in the charges found proved demonstrate a serious falling short of what was expected of him as a registered nurse. The panel determined that his actions related to sexual misconduct and were serious in nature. The panel noted that Mr Stone's actions in the charges found proved demonstrated an abuse of trust as he was in a senior position and his actions involved sending messages and photographs that were of a sexual nature to junior colleagues, some of whom were new in post.

The panel found that the concerns raised by the charges found proved are serious and relate to breaches of the fundamental tenets of the nursing profession, in relation to promoting professionalism and trust. The panel determined that Mr Stone's actions were deplorable.

The panel noted the impact of Mr Stone's misconduct on his colleagues and that Colleague C reported "*Tim's behaviour made me not want to go to work*". It also noted that Colleague D reported "*I was a little bit uncomfortable because in the messages he had said he had been looking at my private area whilst at work but I tried not to think about it*".

The panel found that Mr Stone's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mr Stone'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. 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/their 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 finds that patients were not put at risk or caused physical or emotional harm as a result of Mr Stone's misconduct. However, the panel considered the case of *Grant* and found that limbs b and c were engaged in this case. It determined that Mr Stone's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. The panel found that Mr Stone's sexual misconduct and unprofessional behaviours towards his junior colleagues occurred both on social media and in the work place.

The panel noted that Mr Stone stated "*I found you really attractive at work*" and "*I've seen your bulge*" referring to instances of being in the work place. The panel further noted that when his junior colleagues did not reciprocate the unprofessional behaviours, Colleague C reported that "*After the conversation, we still had to work together and he was quite stropky with me. For example there was a shift where a Patient had died and Tim wanted to lay out the body and wash it and wrap the body up himself. This is usually a two person job. I didn't want to be childish so I said not to be stupid and helped him. It was very awkward working shifts with him.*"

Colleague A reported that "*[Mr Stone] was obviously ignoring me and was very standoffish and obviously disgruntled. He made me feel very uncomfortable, like I had done something wrong...*".

The panel determined that Mr Stone has demonstrated personality and attitudinal concerns, in respect of his inappropriate sexual behaviours towards colleagues and in his behaviour towards his colleagues when his advances were not encouraged or reciprocated. The panel noted that one of the victims of Mr Stone's harassment left the employer as a result of his actions. The panel therefore determined that Mr Stone's actions negatively impacted on his colleagues and the nursing profession.

Regarding insight, the panel considered that Mr Stone did make admissions to a majority of the charges. The panel also had regard to the letter from Mr Stone's representative dated 1 May 2022 which stated "*Mr Stone is sorry that the process has had to go this far. He understands his mistake and shows complete remorse for his errors and actions.*" However, the panel could not be satisfied that Mr Stone has demonstrated insight into, or an understanding of, how and why his actions were wrong and the associated negative implications of them. Mr Stone has not demonstrated that he understands how his behaviour has impacted negatively on his colleagues and on the reputation of the nursing profession. The panel therefore determined that Mr Stone's insight into his misconduct is negligible. Mr Stone has not demonstrated that he understands the importance of acting professionally towards colleagues nor has he demonstrated an understanding of professional responsibility.

The panel found that the misconduct in this case is not easily remediable. The panel carefully considered the evidence before it and determined that Mr Stone has not demonstrated any steps he has taken to address his unprofessional behaviours or demonstrated how he would ensure that his misconduct would not be repeated.

The panel therefore concluded that there is a risk of repetition based on Mr Stone's negligible insight into his misconduct and the negative impact of this on his colleagues and the nursing profession.

The panel bore in mind the overarching objectives of the NMC 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. This 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 finding of impairment on public interest grounds is required because public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore finds Mr Stone's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mr Stone'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 Stone off the register. The effect of this order is that the NMC register will show that Mr Stone has been struck-off the register.

Representations on sanction

The panel noted that in the Notice of Meeting, dated 25 April 2022, the NMC had advised Mr Stone that it would seek the imposition of a striking-off order if it found Mr Stone's fitness to practise currently impaired.

The panel had regard to the conflicting indications from Mr Stone either that he does not wish to practise again and would like to voluntarily withdraw from the register, or to the evidence in the letter from Mr Stone's representative dated 1 May 2022 which stated:

"He however has wishes and hopes... he would be able to return to nursing as he feels this is his vocation and calling in life. He would like to stress that at no point we're[sic] patients ever exposed to any harm and that it's the views of a few people that he once considered as friends have created this case and that he never thought that it would go this far. Mr Timothy Stone always has and always will have patient wellbeing at the forefront of his mind and actions",

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 and the NMC's

guidance for considering serious cases, specifically cases of sexual misconduct. The panel accepted the advice of the legal assessor.

Decision and reasons on sanction

Having found Mr Stone'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 decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Abuse of a position of trust;
- Mr Stone was a senior nurse and his actions affected junior colleagues;
- There were multiple victims of his harassment;
- The impact of the misconduct resulted in one of the colleagues leaving the employer;
- Lack of sufficient insight into the impact of his behaviours;
- A pattern of misconduct over a significant period of time; and
- The misconduct continued after an informal warning was given as a result of the concerns being raised.

The panel also took into account the following mitigating features:

- Admissions to a number of the charges; and
- Remorse expressed on Mr Stone's behalf by his representative.

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, an order that does not restrict Mr Stone'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 Stone's misconduct 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 Stone's registration would be a sufficient and appropriate response. The panel is of the view that there are no practicable or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining. The panel was not satisfied that conditions of practice could be formulated to adequately address the concerns as they relate to sexual misconduct as well as behavioural and attitudinal concerns. Furthermore, the panel concluded that the placing of conditions on Mr Stone's registration would not address the seriousness of this case and would not meet the public interest.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The panel had regard of the SG and it determined that a suspension order would not be the appropriate sanction in this case as Mr Stone's misconduct occurred over several instances and demonstrated a pattern of consistent unprofessional behaviours and sexual misconduct. It noted that Mr Stone received a warning and his actions of sexual misconduct continued to occur. The panel considered that when Mr Stone's behaviours were not reciprocated by his colleagues he was described as "*standoffish*" and made others feel "*uncomfortable*". The panel found that this demonstrates evidence of deep-seated personality or attitudinal concerns. The panel therefore concluded that a suspension order was not the appropriate sanction in this case.

The conduct, as highlighted by the facts found proved, was a significant 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 Stone's actions is fundamentally incompatible with Mr Stone 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 Stone'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 determined that the findings in this particular case demonstrate that Mr Stone's misconduct was 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 impact of Mr Stone's actions on his junior colleagues which brought the profession into disrepute, the panel concluded that nothing short of a striking-off order 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 Stone 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 Stone's own interest until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Representations on interim order

The panel took account of the representations made by the NMC that if a finding of impairment on Mr Stone's fitness to practise is made and a restrictive sanction is imposed, then an interim order in the same terms of the sanction should be imposed on both public protection and public interest grounds.

The NMC state that if a finding is made that Mr Stone's fitness to practise is impaired on public interest grounds alone, and that his conduct is fundamentally incompatible with his remaining on the register, then an interim suspension order should be imposed.

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 on public interest grounds to declare and uphold confidence in the profession and the NMC as a regulator. The panel therefore imposed an interim suspension order for a period of 18 months in order to cover the period that an appeal may be lodged and for any appeal to be heard.

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

That concludes this determination.