

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

**Substantive Meeting
Wednesday 7 September 2022**

Virtual Meeting

Name of registrant: **John Matthew Wadeson**

NMC PIN: 17F0156E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – September 2017

Relevant Location: St Helens

Type of case: Conviction

Panel members: Nicola Dale (Chair, lay member)
Julie Clennell (Registrant member)
Caroline Friendship (Lay member)

Legal Assessor: Suzanne Palmer

Hearings Coordinator: Ruth Bass

Consensual Panel Determination: Accepted

Facts proved: Charges 1a, 1b, 1c, 1d, 1e, and 1f

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 hearing that Mr Wadeson was not in attendance and that the Notice of Meeting letter had been sent to his email address as recorded on the Nursing and Midwifery Council (NMC) Register, on 3 August 2022.

The panel accepted the advice of the legal assessor that notice of today's meeting had been served in accordance with Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules), and that service was effective.

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

Details of charge

That you a registered nurse:

1) On 1 September 2021 at Liverpool, Knowsley & St Helens Magistrates Court, were convicted of offences of:

(a) Make Indecent photograph / pseudo-photograph of a child;

(b) Possess indecent photograph / pseudo-photograph of a child;

(c) Possess a prohibited image of a child;

(d) Possess extreme pornographic Image/ images portraying an act of intercourse/ oral sex with a dead / alive animal;

(e) Make Indecent photograph / pseudo-photograph of a child;

(f) Make Indecent photograph / pseudo-photograph of a child.

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

Consensual Panel Determination

At the outset of this meeting, the panel was made aware that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between the NMC and Mr Wadeson.

The agreement, which was put before the panel, sets out Mr Wadeson's full admissions to the facts alleged in the charges, and that his fitness to practise is currently impaired by reason of that conviction. It is further stated in 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:

'Consensual panel determination: provisional agreement

Mr Wadeson is aware of the CPD meeting.

The Nursing & Midwifery Council and John Wadeson, PIN 17F0156E ("the Parties") agree as follows:

1. Mr Wadeson is content for his case to be dealt with by way of a CPD meeting. Mr Wadeson understands that if the panel determines that a more severe sanction should be imposed, the panel will adjourn the matter for this provisional agreement to be considered at a CPD hearing.

Preliminary issues

2. There are no preliminary issues that need to be addressed.

The charge

3. Mr Wadeson admits the following charges:

That you a registered nurse:

1) On 1 September 2021 at Liverpool, Knowsley & St Helens Magistrates Court, were convicted of offences of:

(a) Make Indecent photograph / pseudo-photograph of a child;

(b) Possess indecent photograph / pseudo-photograph of a child;

(c) Possess a prohibited image of a child;

(d) Possess extreme pornographic Image/ images portraying an act of intercourse/ oral sex with a dead / alive animal;

(e) Make Indecent photograph / pseudo-photograph of a child;

(f) Make Indecent photograph / pseudo-photograph of a child.

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

The agreed facts

4. Mr Wadeson appears on the register of nurses, midwives and nursing associates maintained by the NMC as a RNA – Registered Nurse – Adult and has been a registered nurse since 18 September 2017.

5. Mr Wadeson was referred to the NMC on 18 June 2020 by his employer, Liverpool University Hospitals NHS Foundation (the “Trust”).

6. At the material time, Mr Wadeson was working as a Band 5 staff nurse on the Acute Medical Unit at Aintree University Hospital.

7. The Trust were notified by Merseyside Police that they had arrested Mr Wadeson on suspicion of uploading a category B indecent image of a child to the internet.

The decision was taken by the Trust to suspend Mr Wadeson from duty with effect from 18 June 2020.

8. On 10 June 2020 Mr Wadeson was arrested and items seized and subsequently destroyed as part of the Police investigation and subsequent conviction.

9. Mr Wadeson was charged with offences relating to making, possessing and distributing indecent images of children and appeared at the Liverpool, Knowsley and St Helen's Magistrates Court on 1 September 2021 where he pleaded guilty.

10. A sentence hearing took place on 29 September 2021 at Liverpool Crown Court and Mr Wadeson was sentenced to 8 months imprisonment suspended for 12 months.

11. In addition, Mr Wadeson was ordered to complete a maximum of 60 days of rehabilitation activity and subject to a Sexual Harm Prevention Order for 5 years and to register with the police for 10 years.

12. Mr Wadeson made admissions to the NMC to the charges and impairment through his RCN representative by email dated 13 April 2022.

Impairment

13. Mr Wadeson's fitness to practise is currently impaired by reason of his conviction.

14. According to the principles laid down in *CHRE v. (1) NMC and (2) Grant [2011] EWHC 927 (Admin)* it is accepted that this is a case where a finding of impairment is required to uphold proper professional standards and maintain public confidence in the profession in declaring and upholding proper standards of conduct and behaviour.

15. The parties have had regard to the questions formulated by Dame Janet Smith in her Fifth Shipman Report as noted in Grant, the following of which are relevant:

- Has in the past acted and is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and
- Has in the past brought and is liable in the future to bring the professions into disrepute; and
- Has in the past breached and is liable in the future to breach one of the fundamental tenets of the professions; and
- Has in the past acted dishonestly and is liable to act dishonestly in the future.

16. Two of the four tenets of the above limbs are engaged in this case.

17. Mr Wadeson's actions in making, possessing and distributing indecent images of children demonstrates a fundamental breach of trust and clearly damages the reputation of, and undermines trust and confidence in, the nursing profession. Integrity should be considered to be the bedrock of any nurse's career and the criminal conviction undermines the good reputation of the profession.

18. Mr Wadeson has breached fundamental tenets of the profession by failing to '*uphold the reputation of the profession at all times*', failing to '*keep to the laws of the country*', as per the NMC's Code of Conduct, 10 October 2018.

19. In considering the question of whether Mr Wadeson's fitness to practise is currently impaired, the Parties have considered *Cohen v GMC* [2007] 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.

20. The concerns in this case are not easily remediable and have not been remedied. Mr Wadeson committed serious sexual offences involving accessing, viewing, or any other offence relating to images or videos involving children. Sexual offences involving children are attitudinal and concerns associated with it are difficult, but not impossible, to put right.

21. Mr Wadeson has not made any attempt to remediate and there remains a high risk of repetition.

Remediation, reflection, training, insight, remorse

22. On 13 April 2022 the RCN submitted an email letter to the NMC on behalf of Mr Wadeson. A copy of the email is appended as **Appendix 1** and states the following: *Having discussed this matter with our member, our member would like to avail of a consensual panel determination.*

Our member accepts the Regulatory Concerns and accepts that he is currently impaired.

Please confirm whether the NMC can facilitate this request.

Public protection impairment

23. A finding of impairment is necessary on public protection grounds.

Public interest impairment

24. A finding of impairment is necessary on public interest grounds.

25. 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.”

26. Mr Wadeson's conduct suggests an underlying issue with his attitude and undermines the public's trust in nurses.

27. As a registered nurse, Mr Wadeson is required to keep to the laws of the Country, which he has failed to do. His offending was deemed serious enough to merit a custodial sentence, albeit a suspended one.

28. Mr Wadeson's fitness to practice is impaired on public protection and public interest grounds.

Sanction

29. The appropriate sanction in this case is a striking off order.

30. The parties agree that there are no mitigating features.

31. The NMC's guidance on sanction for serious cases makes reference to cases involving criminal convictions. As per the guidance, *“...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.

What about criminal sentences that haven't yet been fully served?

The law says that, when making its decision on sanction, the Fitness to Practise Committee should consider:

- the fact that a nurse, midwife or nursing associate convicted of a serious offence is still serving their sentence (even if on probation)..."*

32. Mr Wadeson was sentenced to 8 months imprisonment suspended for 12 months on 29 September 2021. His sentence has not yet been fully served.

33. Mr Wadeson was convicted of making or possessing 56 category A images, 35 category B, 51 category C and 35 of extreme pornography. The categories are A-C, with A being the most serious and are described as follows:

- Category A – This relates to images involving penetrative sexual activity, sexual activity with an animal or sadism.*
- Category B – Images involving non-penetrative sexual activity.*
- Category C – Indecent images not falling within categories A or B*
Cases involving sexual misconduct "Sexual offences include accessing, viewing, or any other offence relating to images or videos involving child sexual abuse or exploitation. These types of offences gravely undermine patients' and the public's trust in nurses, midwives and nursing associates".

“in fitness to practise, any conviction relating to images or videos involving child sexual abuse is likely to involve a fundamental breach of the public’s trust in nurses, midwives and nursing associates”.

“Cases about criminal offending by nurses, midwives or nursing associates illustrate the principle that the reputation of the professions is more important than the fortunes 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.

34. The full range of sanctions available as per the NMC’s guidance on sanction have been considered in this case. The issues are serious, raise public protection concerns and engage the public interest. As such, taking no further action would be neither appropriate nor proportionate.

35. Furthermore, it cannot be said that the regulatory concerns in this case are at the lower end of the spectrum in terms of seriousness, as such a caution order would not adequately meet the wider public interest in upholding proper standards of conduct and behaviour.

36. A conditions of practice order would not be appropriate in this case as there are no conditions that can be formulated to address a breach of trust related criminal conviction.

37. A suspension order has been considered but is not appropriate here as the concerns do not relate to a single instance of misconduct and there is evidence of some attitudinal problems.

38. The parties agree that a striking off order is the appropriate sanction.

39. Mr Wadeson’s actions are fundamentally incompatible with being a registered

professional. There remains a serious risk of repetition.

40. Mr Wadeson's behaviour and resulting conviction undermine public confidence in the profession.

41. A striking off order is the only sanction that will be sufficient to protect patients, members of the public and maintain professional standards.

Referrer's comments

42. The Referrer was invited to but has not provided any comment to the proposed sanction.

Interim order

43. An interim order is required in this case. The interim order is necessary for the protection of the public and is otherwise in the public interest for the reasons given above. The interim order should be for a period of 18 months in the event Mr Wadeson seeks to appeal against the panel's decision. The interim order should take the form of an interim suspension order.

The parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings 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 is determining the allegation, provided that it would be relevant and fair to do so.'

Here ends the provisional CPD agreement between the NMC and Mr Wadeson. The provisional CPD agreement was signed by Mr Wadeson and the NMC on 28 July 2022.

Decision and reasons on the CPD

The panel decided to accept the CPD.

The panel heard and accepted the legal assessor's advice. She referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. The legal assessor reminded the panel that it could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Mr Wadeson. 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 it did not have a copy of the certificate of conviction before it. It therefore had regard to the fact that Mr Wadeson had admitted all the facts of the charges. Accordingly, the panel was satisfied that the charges are found proved by way of Mr Wadeson'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 Wadeson's fitness to practise is currently impaired by reason of conviction. Whilst acknowledging the provisional agreement between the NMC and Mr Wadeson, the panel has exercised its own independent judgement in reaching its decision on impairment.

The panel determined that Mr Wadeson's fitness to practise is currently impaired on both public protection and public interest grounds. It was in full agreement with the reasons as set out in the CPD agreement and endorsed paragraphs 13 to 28 of the provisional CPD agreement in this respect.

Decision and reasons on sanction

Having found Mr Wadeson'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 considered the reasoning as set out in the provisional CPD agreement relating to sanction. It was in full agreement with the reasoning set out therein and adopted paragraphs 29 to 41 as its reasons. It also had regard to the fact that, as well as Mr Wadeson's sentence of 8 months imprisonment suspended for 12 months, he was also made subject to a Sexual Harm Prevention Order for 5 years and required to register with the police for 10 years. The panel was of the view that this demonstrated further the serious departure from the standards expected of a nurse and concluded that nothing short of a striking-off order would be sufficient in this case.

The panel considered this order the only appropriate sanction to mark the seriousness of the departure from standards in this case, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse, in order to maintain public confidence in the profession.

Decision and reasons on interim order

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 Wadeson's own interest. 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 reasons as set out in the provisional CPD agreement, and was in full agreement with the same. It therefore endorsed paragraph 43 in this regard and determined that an 18 month interim suspension order is required in this case.

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

That concludes this determination.