Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Wednesday, 23 April 2025 – Thursday, 24 April 2025

Nursing and Midwifery Council
2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of Registrant:	**Dean Dowlutta**
NMC PIN:	13A2103E
Part(s) of the register:	Nurses Part of the Register – Sub Part 1 RNMH: Mental Health Nurse, Level 1 (21 March 2013)
Relevant Location:	Surrey
Type of case:	Conviction and Misconduct
Panel members:	Andrew Harvey (Chair, Lay member) Melanie Lumbers (Registrant member) Claire Corrigan (Lay member)
Legal Assessor:	Alice Robertson Rickard
Hearings Coordinator:	Samantha Aguilar
Nursing and Midwifery Council:	Represented by Denise Amaning, Case Presenter
Mr Dowlutta:	Not present and not represented at the hearing
Facts proved:	Charges 1a, 1b, 2 and 3
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 Hearing

The panel was informed at the start of this hearing that Mr Dowlutta was not in attendance and that the Notice of Hearing letter had been sent to Mr Dowlutta's current address by recorded delivery and by first class post on 21 March 2025.

The panel had regard to the Royal Mail *'Track and trace'* printout which showed the Notice of Hearing was delivered to Mr Dowlutta's current address and was signed for.

Further, the panel noted that the Notice of Hearing was also sent to Mr Dowlutta's representative at the Royal College of Nursing ("RCN") on 21 March 2025 by email.

Ms Amaning, 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").

Ms Amaning referred the panel to the witness statement provided by the NMC signed 1 April 2025 which stated:

> *' 4. On 21 March 2025 I sent a notice of substantive hearing (dated 21 March 2025) to the representative's email address informing them of the hearing taking place on Wednesday 23 April 2025 to Thursday 24 April 2025 and a copy of the notice of hearing being sent to Mr Dowlutta via recorded delivery to prison address. I attach a copy of the email I sent as exhibit 2.'*

Ms Amaning submitted that the documents included an invitation to Mr Dowlutta to attend this hearing virtually, and other relevant documents which included the sanction bid from the NMC.

Ms Amaning referred the panel to the latest Case Management Form ("CMF") dated 4 April 2025 in which Mr Dowlutta stated, *'I will not attend the hearing* […]'.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and venue of the hearing and, amongst other things, information about Mr Dowlutta's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In light of all of the information available, the panel was satisfied that Mr Dowlutta 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 Dowlutta

The panel next considered whether it should proceed in the absence of Mr Dowlutta. It had regard to Rule 21 and heard the submissions of Ms Amaning who invited the panel to continue in the absence of Mr Dowlutta.

Ms Amaning submitted that it is the NMC's position that Mr Dowlutta has voluntarily absented himself. Ms Amaning referred the panel to the email dated 8 April 2025 from the RCN to the NMC which stated:

> *'I have received instructions from Mr Dowlutta that he will not be in attendance at his hearing on 23 & 24 April. He understands that the hearing will continue in his absence.*
>
> *Please can the panel be made aware of the position. There is no request for an adjournment.'*

Ms Amaning submitted that the above position is further confirmed by Mr Dowlutta's most recent CMF signed 4 April 2025 in which Mr Dowlutta has ticked *'yes'* for the question which asks, '*Do you want the hearing to go ahead without you'.*

Ms Amaning submitted that this hearing was scheduled to take place in July 2024, but this was adjourned. Ms Amaning submitted that the charges in this case relate to serious charges and therefore, there is a strong public interest in the expeditious disposal of this case. She further submitted that it is in the interests of justice for this hearing to proceed at this time.

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

- No application for an adjournment has been made by Mr Dowlutta;
- Mr Dowlutta's CMF dated 4 April 2025 confirmed that he would not be attending;
- The RCN confirmed in their email dated 8 April 2025 that Mr Dowlutta would not be attending the hearing via video link from prison and that he understood that the hearing will continue in his absence;
- The panel noted that there was initially an application from Mr Dowlutta to appeal his conviction and a request to postpone the hearing until the

outcome of his appeal. However, his RCN representatives confirmed that this was no longer taking place [PRIVATE];

- The offence took place in 2021;
- 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.

There is some disadvantage to Mr Dowlutta in proceeding in his absence. Although the evidence upon which the NMC relies will have been sent to him at his current address, he will not be able to challenge the evidence relied upon by the NMC and will not be able to give evidence. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Mr Dowlutta's decisions to absent himself from the hearing, waive his rights to attend, and/or be represented, and to not provide evidence or make submissions on his own behalf.

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

Details of charges:

That you, a registered nurse:

1) On 3 November 2023 at Reading Crown Court, were convicted of:
   a) assault by penetration contrary to section 2 of the Sexual Offences Act 2003;
   b) sexual assault contrary to section 3 of the Sexual Offences Act 2003

2) In relation to charge 1, failed to notify the NMC that you had been charged with a criminal offence as soon as you became aware

3) Your actions as specified in charge 2 were dishonest because you knew you had a duty to disclose your charge to the NMC as soon as you became aware

   AND in light of the above, your fitness to practise is impaired by reason of your conviction at charge 1a) and 1b) and your misconduct at charges 2 and 3.

Decision and reasons on application for hearing to be held in private

At the outset of the hearing, Ms Amaning made a request that this case be held partially in private on the basis that [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined to go into private session when matters related [PRIVATE] are raised in order to [PRIVATE].

Background

Mr Dowlutta was referred to the NMC on 24 January 2024 by West London Mental Health NHS Trust ("the Trust"), where he previously worked as a Registered Mental Health Nurse since September 2007, until his subsequent resignation.

[PRIVATE]

Mr Dowlutta attended Reading Crown Court on 12 January 2024 and he received the following sentence:

1) 42 months imprisonment
2) 1 month imprisonment concurrent.

Mr Dowlutta also received a restraining order for a period of 10 years [PRIVATE].

[PRIVATE].

Mr Dowlutta stated in his CMF signed 19 March 2024:

> *'I am not guilty of either of the offences.* [PRIVATE]. *The police did not investigate fully. Edited evidence was used and I am wrongly convicted'*

The RCN sent the NMC an email dated 8 April 2025 in which they confirmed that Mr Dowlutta was no longer proceeding with his application to appeal his conviction due to [PRIVATE].

It is also the NMC's position that Mr Dowlutta failed to notify the NMC about the criminal charges against him when he had a duty to do so and that he had been dishonest in not informing the NMC when he was made aware of that he had been charged with a criminal offence.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Ms Amaning on behalf of the NMC and Mr Dowlutta's CMF dated 19 March 2024 and 4 April 2025.

The panel heard live evidence from the following Witness:

- Witness 1: Senior Case Manager at the NMC

The panel has drawn no adverse inference from the non-attendance of Mr Dowlutta.

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.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by the NMC.

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

Charge 1

1. On 3 November 2023 at Reading Crown Court, were convicted of:
   a) assault by penetration contrary to section 2 of the Sexual Offences Act 2003;
   b) sexual assault contrary to section 3 of the Sexual Offences Act 2003

This charge is found proved.

The panel noted that Charges 1a) and 1b) concern Mr Dowlutta's conviction and, having been provided with a copy of the certificate of conviction, the panel determined that Charges 1a) and 1b) are found proved in accordance with Rule 31 (2) and (3).

The panel also bore in mind Mr Dowlutta's comments within his CMF dated 4 April 2025 in respect of the charges in these proceedings:

> *'I maintain my innocence to all of the above but accept I have been convicted in a court of law'*

The panel therefore found Charge 1 proved.

Charge 2

> 2) In relation to charge 1, failed to notify the NMC that you had been charged with a criminal offence as soon as you became aware

This charge is found proved.

The panel first considered whether Mr Dowlutta had a duty as a registered nurse to notify the NMC of the fact of him being charged. The panel had regard to 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' ("the Code") section 23 and 23.2:

> *'23 Cooperate with all investigations and audits This includes investigations or audits either against you or relating to others, whether individuals or organisations.*
> *To achieve this, you must:*
> *23.2 Tell both us and any employers as soon as you can about any caution or charge against you, or if you have received a conditional discharge in*

relation to, or have been found guilty of, a criminal offence (other than a protected caution or conviction)'

The panel heard evidence from Witness 1 about the process of informing the NMC about such matters. Witness 1 said:

"If the FtP was contacted by the Nurse, it would have been opened as a referral and dealt with that way. I am quite confident that FtP has not been contacted. Every referral made would have been opened and shown on the register. If it was the Registrant, this would have been on dynamics- the register."

Witness 1 further provided the panel with a screenshot of the register taken on 23 April 2025 which showed no evidence of Mr Dowlutta having disclosed the criminal charges against him to the NMC at the time or to date.

The panel also had regard to Mr Dowlutta's CMF dated 19 March 2024 in which he stated:

'I have not practised as a nurse as soon as I was arrested. I have always abided by the Code of Conduct and I am an excellent nurse [….] *I did not contact the NMC because I was not practising as a nurse, and I was assured the allegations would not be upheld* […]*'*

The panel determined that Mr Dowlutta had a duty to notify the NMC of the fact of him being charged; this duty arises from the Code. It noted that the NMC has checked the register and found no information relating to the criminal charges. The panel considered that Mr Dowlutta's duty to disclose the criminal charges began on 14 October 2022 when he was criminally charged with the sexual offences as outlined in Charge 1. The panel has seen a screenshot from the NMC's register in which no declarations from Mr Dowlutta were recorded and heard evidence that any such declarations would be shown there. The panel took the view that Mr Dowlutta was aware of his duty, given his response that he

has *'always abided by the Code of Conduct'*, as such, the panel found that he was aware that he had a duty to declare this.

The panel therefore found Charge 2 proved.

Charge 3

3) Your actions as specified in charge 2 were dishonest because you knew you had a duty to disclose your charge to the NMC as soon as you became aware

This charge is found proved.

Having considered in Charge 2 that Mr Dowlutta had a duty to declare that he was charged with a criminal offence, the panel went onto consider whether Mr Dowlutta had been dishonest in failing to do so.

The panel bore in mind the case of *Ivey v Genting Casinos (UK) Ltd (t/a Crockfords Club)* [2017] UKSC 67. The panel noted that it must take a two-stage approach:

1) What was the Registrant's actual state of knowledge or belief as to the facts, and
2) Whether the conduct was dishonest by the standards of a reasonable person.

The panel took into account Mr Dowlutta's CMF dated 19 March 2024 in which he stated:

> *'I have not practised as a nurse as soon as I was arrested. I have always abided by the Code of Conduct and I am an excellent nurse* [….] *I did not contact the NMC because I was not practising as a nurse, and I was assured the allegations would not be upheld* […]*'*

The panel took account of Mr Dowlutta's contention that he had not informed the NMC of the criminal charges because he believed he did not need to do that as he was not then practising as a nurse and had been told that *'the allegations would not be upheld'*. The panel did not find this explanation credible. Mr Dowlutta has been a registered nurse since 2013 and asserts that he has *'always abided by the Code of Conduct'*. The panel concluded that this demonstrated that Mr Dowlutta was aware of his duties under the Code as a registered nurse which included disclosing matters such as these to his regulator. It was therefore satisfied that Mr Dowlutta knew, that having been charged with a criminal offence, he should have then declared this to the NMC. The panel concluded that Mr Dowlutta made a conscious decision not to declare these matters. The panel was satisfied that according to the objective standards of ordinary decent people, Mr Dowlutta's conduct would be considered dishonest.

The panel therefore found Charge 3 proved.

Fitness to practise

The panel noted that there is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

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 was mindful that there were two potential grounds for impairment in this case, misconduct and conviction.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the

facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Mr Dowlutta's fitness to practise is currently impaired as a result of that misconduct.

The panel first considered whether Charges 2 and 3 amount to misconduct and, if so, whether Mr Dowlutta's fitness to practise is currently impaired by reason of his misconduct.

Furthermore, on the basis of Mr Dowlutta's conviction (as in Charge 1a and 1b), the panel considered whether Mr Dowlutta's fitness to practise is currently impaired by reason of Mr Dowlutta's conviction.

Submissions on misconduct

Ms Amaning 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 in making its decision.

Ms Amaning identified the specific, relevant standards of the Code where she submitted that Mr Dowlutta's actions amounted to misconduct. This included 20, 20.1, 20.2, 20.3, 20.4, 20.5, 20.8, 23, and 23.2.

Ms Amaning submitted that Mr Dowlutta did not disclose his charge as soon as he was aware of this and therefore, he breached his duty of candour. She submitted that there had been a deliberate and conscious decision by Mr Dowlutta not to disclose these matters to his regulator.

Ms Amaning submitted that Mr Dowlutta was an experienced nurse who claims to *"abide by the Code of Conduct",* however, his actions suggest otherwise. Mr Dowlutta was charged on 14 October 2022 and dishonestly failed to contact the NMC to declare this which was contrary to the Code of Conduct. Ms Amaning submitted that withholding such information is extremely serious and constitute a grave misconduct.

Ms Amaning invited the panel to find Mr Dowlutta's actions amounted to grave misconduct in that he breached the fundamental tenets of the nursing profession, particularly, the duty of candour and professionalism.

Submissions on impairment

Ms Amaning moved on to the issue of impairment and addressed the panel on the need to have regard to protecting 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. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin), *Meadow v General Medical Council* [2007] 1 All ER 1*, Remedy UK Ltd v General Medical Council* [2010] EWHC 1245 (Admin) and *Nandi v General Medical Council* [2004] EWHC 2317 (Admin).

Ms Amaning submitted that as a result of Mr Dowlutta's conviction and misconduct, Mr Dowlutta's fitness to practise is impaired. Ms Amaning invited the panel to have regard to the questions outlined by Dame Janet Smith's *"test"* in *Grant* and submitted that all four limbs of *Grant* are engaged in this case.

In dealing with the public protection consideration as outlined in limb a) of *Grant*, Ms Amaning submitted that Mr Dowlutta behaved in a way which put patients at unwarranted risk of emotional harm, not only in the attitudinal issues as highlighted in Charges 1a and 1b, but also by failing to disclose the criminal charges and the associated dishonesty in Charges 2 and 3.

Ms Amaning informed the panel that Mr Dowlutta has been working as a mental health nurse for a number of years, at Broadmoor Hospital. She submitted that Mr Dowlutta would have therefore been aware of the physical and emotional harm for victims of sexual assault. She made references to Mr Dowlutta's responses within his signed CMF and

submitted that Mr Dowlutta refused to take responsibility for his actions- blaming others. As such, there is a risk of harm to members of the public or patients if a nurse, convicted of these offences, were allowed to practise unrestricted. Ms Amaning submitted that unless Mr Dowlutta can demonstrate his full understanding and insight into his action, there is a real risk of him repeating this behaviour.

In addressing limb b), Ms Amaning submitted that nurses occupy a position of trust in society and are expected at all times to be professional. Members of the public must be able to trust their nurses. She submitted that Mr Dowlutta's conduct which resulted in conviction and the charges found proved by the panel fell far short of the standards expected of nurses and undermines the public's trust and confidence in the profession.

Ms Amaning submitted that in respect of limb c), Mr Dowlutta has breached at least one of the fundamental tenets of his profession. His actions were incredibly serious and breaches of trust, as well as a failure to uphold the law.

In addressing limb d), Ms Amaning submitted that Mr Dowlutta's actions leading up to the conviction and after were dishonest and that his dishonest behaviour was both deep seated and liable to be repeated.

Ms Amaning submitted that not finding Mr Dowlutta impaired would undermine the profession and the standards expected of nurses. There are deep seated attitudinal issues in this case, which the NMC submits are difficult to put right and therefore could be repeated in the future. Ms Amaning submitted that Mr Dowlutta was in a position of trust and expected to abide by the law.

Ms Amaning invited the panel to consider the case of *R (on application of Cohen) v General Medical Council [2008] EWHC 581 (Admin)* and the principles which derive from the case. She also referred the panel to the relevant NMC Guidance and submitted that Mr Dowlutta has shown no insight nor has he expressed remorse. He has engaged to a

limited extent via his signed CMF however, there is no written submission or any other evidence of remorse, remediation and reflection.

Ms Amaning submitted that in cases like this where there are underlying problems regarding a nurse's attitude, it is less likely that they can address the conduct by taking courses or supervised practice. Mr Dowlutta's actions led to two serious convictions with a custodial sentence of a substantial length of 42 months.

In light of the above, Ms Amaning submitted that Mr Dowlutta's fitness to practise is impaired by virtue of his conviction and misconduct.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Sawati v General Medical Council* [2022] EWHC 283 (Admin) and *Sayer v General Osteopathic Council* [2021] EWHC 370.

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 was of the view that Mr Dowlutta's actions did fall significantly short of the standards expected of a registered nurse, and that Mr Dowlutta's actions amounted to a breach of the Code. Specifically:

> ***'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,* […]
>
> […]

23.2 Tell both us and any employers as soon as you can about any caution or charge against you, or if you have received a conditional discharge in relation to, or have been found guilty of, a criminal offence (other than a protected caution or conviction)'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that the charges found proved amounted to serious misconduct. In considering Charges 2 and 3, Mr Dowlutta had a duty to disclose to his regulator that he was charged with a criminal offence from 14 October 2022. The panel noted that Mr Dowlutta had ample opportunities to disclose this to the NMC but instead, he made the conscious decision not to do so. By omitting to inform the NMC about his criminal charges, as he knew that he had a duty to, Mr Dowlutta clearly breached the Code and the fundamental tenets of nursing in that he had been dishonest in not disclosing the criminal charges.

The panel found that Mr Dowlutta'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 and by reason of his conviction, Mr Dowlutta's fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

'The question that will help decide whether a professional's fitness to practise is impaired is:
"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"

If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not 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 be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in 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/ fitness to practise is impaired in the sense that S/He:

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 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) *has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

In considering limb a), the panel found that patients were not placed at risk of harm in the past by Mr Dowlutta's conduct as the charges found proved were not in relation to Mr Dowlutta's clinical practice. In considering limbs b), c) and d), Mr Dowlutta's misconduct 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 find charges relating to dishonesty extremely serious.

The panel next considered whether Mr Dowlutta is liable to place patients at risk of harm, bring the profession into disrepute, breach the fundamental tenets of the nursing profession and act dishonestly in the future. It concluded that each of these risks was evidenced.

The panel had regard to the principles derived from *Cohen,* namely:

- Whether the concern is easily remediable;
- Whether it has in fact been remedied; and
- Whether it is highly unlikely to be repeated.

Regarding whether the concern is easily remediable. The panel noted that the concerns in this case relate to a very serious sexual offence in respect of which the Judge made remarks that Mr Dowlutta was *'aggressive'*, *'malicious'* and *'left* [the victim] *so frightened*

that she called the police'. It bore in mind the seriousness of the offence and Mr Dowlutta's dishonesty and considered that there were deep seated attitudinal issues and therefore difficult to put right. The panel therefore determined that the concern in this case is not easily remediable.

The panel next considered whether the concerns have been remediated. The panel considered the documentary evidence as presented by the NMC and the responses sent by Mr Dowlutta through his CMFs dated 19 March 2024 and 4 April 2025. The panel has not seen or heard evidence from Mr Dowlutta (or his representatives) which demonstrate any form of remediation or strengthening of practice. The panel noted that Mr Dowlutta, despite having been convicted of an extremely serious sexual offence, continued to place blame [PRIVATE], his counsel at the criminal trial and the police. Mr Dowlutta has not shown any remorse, an understanding of why what he did was wrong, taken accountability and how this impacted negatively on the reputation of the nursing profession.

The panel considered whether Mr Dowlutta's actions are likely to be repeated. The panel noted that whilst the charges found proved took place outside of Mr Dowlutta's professional setting, the panel cannot be assured that similar behaviour would not be repeated in a clinical setting. The panel has found deep seated attitudinal concerns relating to criminal sexual behaviour and dishonesty and as such, it was not satisfied that such behaviour is highly unlikely to be repeated.

The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that 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. The panel had regard to the relevant NMC Guidance in that, not only did Mr Dowlutta's case involve criminal behaviour, it related to serious sexual criminal behaviour in respect of which Mr Dowlutta has not demonstrated any insight, remediation, reflection or remorse. The panel had careful regard to the fact that the purpose of a criminal sentence is to punish and that different considerations apply to regulatory proceedings however, the sentence itself was indicative of a serious conviction. Members of the public would be concerned is a nurse, who was convicted of such serious matters and had been dishonest to their regulator, were allowed to practise without restriction. Public confidence in the profession would be further undermined given that Mr Dowlutta is now required to comply with the notification requirements of the Sex Offender's Register for an indefinite period as part of his criminal sanction. The panel noted that Mr Dowlutta was now also subject to a ten-year Restraining Order. Therefore, the panel also finds Mr Dowlutta's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mr Dowlutta's fitness to practise is currently impaired on the ground of public protection and the wider public interest.

Sanction

The panel has decided to make a striking-off order. It directs the registrar to strike Mr Dowlutta off the register. The effect of this order is that the NMC register will show that Mr Dowlutta 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 regard to the Sanctions Guidance ("SG") published by the NMC.

Submissions on sanction

Ms Amaning informed the panel that in the Notice of Hearing, dated 21 March 2025, the NMC had advised Mr Dowlutta that it would seek the imposition of a striking-off order if it found Mr Dowlutta's fitness to practise currently impaired. Ms Amaning reminded the panel of the NMC's overarching objectives. She submitted that in light of the panel's findings, the appropriate sanction in this case is that of a striking-off order. She referred the panel to the relevant NMC Guidance and outlined what the panel should consider when making its decision.

Ms Amaning highlighted what she submitted were the aggravating features:

- Mr Dowlutta's lack of insight, lack of remorse and lack of remediation.
- Repeated conduct in that there were two separate criminal convictions relating to specified sexual offences.
- Actual harm was caused to the victim by way of emotional and psychological harm. Mr Dowlutta's victim had to [PRIVATE] and suffered humiliation.
- The length of time for which he omitted to disclose his criminal charge to the NMC.

Ms Amaning highlighted what she submitted were the mitigating features:

- No previous regulatory proceedings against Mr Dowlutta.
- Mr Dowlutta provided character references to the Crown Court as highlighted by the Judge. However, Ms Amaning invited the panel to exercise caution in that Mr Dowlutta has not provided any references to this panel.

Turning to the available sanction, Ms Amaning submitted that taking no further action is not appropriate in this case. Further, a caution order would not be sufficient to mark the public interest and the seriousness of this case. She submitted that the imposition of a caution order would not maintain the high standards of the profession or the trust the public placed in the profession.

In respect of imposing a conditions of practice order, Ms Amaning referred the panel to the NMC Guidance. She submitted that this would not be suitable as it would not protect the public from the risk of harm given the underlying deep seated attitudinal concerns

demonstrated by Mr Dowlutta's conduct. Therefore, there are no conditions that would adequately address these concerns. She submitted that the gravity of convictions, the sentence and the charges found proved would mean that this would be inappropriate. Furthermore, conditions would have to be workable and given that Mr Dowlutta is currently imprisoned, he would be unable to show compliance with any conditions that the panel was minded to impose.

In respect of the imposition of a suspension order, Ms Amaning submitted that Mr Dowling has deep seated attitudinal issues. Imposing a suspension order would send out the wrong message to the public. Further, this would not satisfy the public interests given that he was convicted of two serious sexual offences and acted dishonestly. Ms Amaning submitted that by virtue of his conviction and conduct, his fitness to practise is impaired and is someone whose conduct is incompatible with remaining on the register.

Ms Amaning submitted that a striking-off order is the only appropriate and proportionate sanction. She referred the panel to the relevant guidance and invited the panel to consider the questions contained within the guidance. Ms Amaning submitted that in answer to the questions highlighted within the guidance:

> *"Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?"*

The NMC's position is that Mr Dowlutta's actions raise fundamental questions about his professionalism.

> *"Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?"*

Ms Amaning submitted that public confidence could not be maintained if Mr Dowlutta 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?"

Ms Amaning submitted that in answer to the above question, Mr Dowlutta's conduct is fundamentally incompatible with remaining on the register. His conduct breached several areas of the Code including the duty of candour and in addition there are concerns about his fundamental professionalism which mean that confidence in the profession cannot be maintained if he continues to remain on the register. She further submitted that Mr Dowlutta's conviction would not render a lesser sanction appropriate.

Ms Amaning invited the panel to impose a striking-off order on the basis that this would protect the public and address the public interest consideration.

Decision and reasons on sanction

The panel accepted the advice of the legal assessor. This included *Opare v Nursing and Midwifery Council* [2019] EWHC 1851 (Admin), *Bolton v the Law Society* [1994] WLR 512 EWCA and *Council for the Regulation of Health Care Professionals v General Dental Council and Fleischmann* [2005] EWHC 87 (QB).

Having found Mr Dowlutta'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 following to be aggravating features:

- Mr Dowlutta's lack of insight, lack of remorse and lack of remediation.
- Repeated conduct in that there were two separate criminal convictions relating to specified sexual offences.

- Actual harm was caused to the victim by way of emotional and psychological harm. Mr Dowlutta's victim had to [PRIVATE] and suffered humiliation.
- The length of time for which he omitted to disclose his criminal charge to the NMC.

The panel considered the following to be mitigating features:

- Longevity of Mr Dowlutta's career.
- No previous regulatory concerns.

The panel heard from the NMC that character references were provided during Mr Dowlutta's criminal trial which was mentioned in the Judge's sentencing remarks. However, given the absence of any references or testimonials in these proceedings, the panel did not consider this as a mitigating feature.

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 Dowlutta'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 Dowlutta'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 Dowlutta'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 charges in this case are not clinical. The misconduct identified in this case was not something that

can be addressed through retraining. Conditions of practice have to be workable, Mr Dowlutta is currently unable to work. Furthermore, the panel concluded that the placing of conditions on Mr Dowlutta'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 considered that the serious breach of the fundamental tenets of the profession evidenced by Mr Dowlutta's actions is fundamentally incompatible with Mr Dowlutta 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?*

The panel determined that Mr Dowlutta'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 was of the view that the findings in this particular case demonstrate that Mr Dowlutta's actions were 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 effect of Mr Dowlutta'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 protect the public, maintain public confidence in the profession, and send a clear message about the standards of behaviour required of a registered nurse.

This will be confirmed to Mr Dowlutta 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 Dowlutta's own interests

until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Submissions on interim order

The panel took account of the submissions made by Ms Amaning. She submitted that based on the substantive order made by the panel today and the risks identified, she invited the panel to impose an interim suspension order for a period of 18 months to cover the period of appeal. She submitted that the application is necessary on the basis of public protection and the wider public interest for the same reasons outlined in her earlier submissions.

Decision and reasons on interim order

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 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 the grounds of public protection and the wider public interest for the same reasons as the substantive sanction imposed. The panel also considered that an interim order would cover the period of appeal in the event that Mr Dowlutta wished to make an appeal.

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

That concludes this determination.