Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Meeting
Tuesday, 29 April 2025

Virtual Meeting

Name of Registrant:	**Paul Stewart**
NMC PIN:	19I3299E
Part(s) of the register:	Nurses part of the register Sub part 1 RNA: Adult nurse, level 1 (18 November 2019)
Relevant Location:	Winchester
Type of case:	Conviction
Panel members:	Penelope Titterington (Chair, Lay member) Purushotham Kamath (Registrant member) Margaret Stoddart (Lay member)
Legal Assessor:	Nigel Mitchell
Hearings Coordinator:	Eleanor Wills
Consensual Panel Determination:	Amended
Facts proved:	Charge 1
Fitness to practise:	Impaired
Sanction:	**Striking-off order**
Interim order:	**Interim suspension order (18 months)**

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that that the Notice of Meeting had been sent to Mr Stewart's registered email address by secure email on 24 March 2025.

Further, the panel noted that the Notice of Meeting was also sent to Mr Stewart's representative at the Royal College of Nursing (RCN) on 25 March 2025.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, dates and the fact that this meeting was heard virtually.

The panel noted that in the provisional Consensual Panel Determination (CPD) agreement, Mr Stewart agreed to his case being dealt with by way of a Substantive Meeting.

In the light of all of the information available, the panel was satisfied that Mr Stewart 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 24 April 2024 at Winchester Crown Court were convicted of making category A/B/C indecent photograph / pseudo photograph of a child x 494. Contrary to section 160 of the Criminal Justic Act 1988.

AND in 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 CPD had been reached with regard to this case between the Nursing and Midwifery Council (NMC) and Mr Stewart.

The agreement, which was put before the panel, sets out Mr Stewart's full admissions to the facts alleged in the charge, and that his fitness to practise is currently impaired by reason of his 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:

> *'The Nursing & Midwifery Council ("the NMC") and Mr Paul Stewart, PIN 19I3299E ("the Parties") agree as follows:*
>
> 1. *Mr Paul Stewart is content for his case to be dealt with by way of a CPD meeting.*
>
> ***The charge***
>
> 2. *Mr Paul Stewart admits the following charges:*
>
> *'That you, a registered nurse:*
>
> *1) On the 24th April 2024, at Winchester Crown Court were convicted of making Category A/B/C indecent photograph of a child x 494 contrary to section 160 of the Criminal Justice Act 1988'*

The facts

3. The NMC received a self referral from Mr Stewart on the 5th August 2022.

4. Mr Stewart appears on the register of nurses, midwives and nursing associates maintained by the NMC as a Adult Nurse (Level 1) and has been on the NMC register since 11th September 2015.

5. At the time of the referral Mr Stewart was employed by Hampshire Hospitals NHS Foundation Trust (The Trust)

6. Registrant was convicted at Winchester Crown Court on 24 April 2024 for offences of making indecent photographs or pseudo photographs of children.

7. The photographs were found on the registrant phone by police when they attended his home address in 2022, after being alerted to his suspicious activity online.

8. The registrant has admitted the charge based on the conviction and that he is currently impaired. There is therefore no material fact in dispute that needs resolution at a hearing.

9. A meeting would expedite the disposal of this case thereby meeting the public interest of expeditious disposal of regulatory concerns.

10. The facts of the conviction are serious. Reference FTP – 2c -1, identifies offences that are defined as specified offences. Sexual offences including crimes such as rape or sexual assault, any sexually motivated crimes against children including child sexual abuse or grooming, ***the taking or sharing of indecent***

images of children, and crimes that exploit others for a sexual purpose, whether in person or online.

11.The Nursing and Midwifery Code of Conduct sets out the professional standards that nurses must uphold. These are the standards that patients and members of the public expect from health professionals. Based on the charge admitted, the following parts of the Code are engaged in this case:

> ***"3 Make sure that people's physical, social and psychological needs are assessed and responded to***
> *To achieve this, you must:*
>
> > ***3.4*** *act as an advocate for the vulnerable, challenging poor practice and discriminatory attitudes and behaviour relating to their care*
>
> ***9 Share your skills, knowledge and experience for the benefit of people receiving care and your colleagues***
> *To achieve this, you must:*
>
> > ***9.4*** *support students' and colleagues' learning to help them develop their professional competence and confidence*
>
> ***Preserve safety***
> *You make sure that patient and public safety is not affected. You work within the limits of your competence, exercising your professional 'duty of candour' and raising concerns immediately whenever you come across situations that put patients or public safety at risk. You take necessary action to deal with any concerns where appropriate.*
>
> ***16 Act without delay if you believe that there is a risk to patient safety or public protection***

To achieve this, you must:

16.3 *tell someone in authority at the first reasonable opportunity if you experience problems that may prevent you working within the Code or other national standards, taking prompt action to tackle the causes of concern if you can*

16.6 *protect anyone you have management responsibility for from any harm, detriment, victimisation or unwarranted treatment after a concern is raised*

17 Raise concerns immediately if you believe a person is vulnerable or at risk and needs extra support and protection

To achieve this, you must:

17.1 *take all reasonable steps to protect people who are vulnerable or at risk from harm, neglect or abuse*

17.2 *share information if you believe someone may be at risk of harm, in line with the laws relating to the disclosure of information*

17.3 *have knowledge of and keep to the relevant laws and policies about protecting and caring for vulnerable people*

19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice

To achieve this, you must:

19.4 *take all reasonable personal precautions necessary to avoid any potential health risks to colleagues, people receiving care and the public*

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 profession from patients, people receiving care, other health and care professionals and the public.

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

20.2 *act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment*

20.3 *be aware at all times of how your behaviour can affect and influence the behaviour of other people*

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

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

20.6 *stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers*

20.7 *make sure you do not express your personal beliefs (including political, religious or moral beliefs) to people in an inappropriate way*

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

20.9 *maintain the level of health you need to carry out your professional role*

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*

25 Provide leadership to make sure people's wellbeing is protected and to improve their experiences of the health and care system

To achieve this, you must:

> ***25.2*** *support any staff you may be responsible for to follow the Code at all times. They must have the knowledge, skills and competence for safe practice; and understand how to raise any concerns linked to any circumstances where the Code has, or could be, broken."*

Impairment

12.Current impairment was accepted by Mr Stewart in a Case Management form submitted by his representative on the 2nd December 2024, on the basis of the conviction.

13.The NMC's guidance explains that impairment is not defined in legislation but is a matter for the Fitness to Practise Committee to decide. This involves a consideration of both the nature of the concern and the public interest.

14.The parties agree that consideration of the nature of the concern involves looking at the factors set out by Dame Janet Smith in her Fifth Report from Shipman, approved in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) by Cox J;

- *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*
- *Has in the past brought and/or is liable in the future to bring the professions into disrepute; and/or*
- *Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the professions; and/or*

- *Has in the past acted dishonestly and/or is liable to act dishonestly in the future?*

15.The Parties agree that three limbs of the Grant test are engaged.

16.Reference is made to the case of Cohen v General Medical Council [2008] EWHC 581 (Admin) in which the court set out three matters which it described as being 'highly relevant' to the determination of the question of current impairment;

- *Whether the conduct that led to the charge(s) is easily remediable.*
- *Whether it has been remedied.*
- *Whether it is highly unlikely to be repeated.*

17.The Parties have considered the guidance regarding remediation, however in this case the Conviction is too serious and agree that in this case the mischief is not remediable.

Public protection impairment

18.A finding of impairment is on public protection grounds to address the risk of repetition.

Public interest impairment

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

20.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."

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

22.In upholding proper professional standards and conduct and maintaining public confidence in the profession, the Fitness to Practise Committee will need to consider whether the concern is easy to put right. For example, it might be possible to address clinical errors with suitable training. A concern which hasn't been put right is likely to require a finding of impairment to uphold professional standards and maintain public confidence.

23.However, there are types of concerns that are so serious that, even if the professional addresses the behaviour, a finding of impairment is required either to uphold proper professional standards and conduct or to maintain public confidence in the profession.

24. Based on the above there is a wider Public Interest impairment here because of the serious nature of the conviction.

25.The Parties agree that Mr Stewarts's fitness to practice is impaired on public protection and public interest grounds.

Sanction

26. The appropriate sanction in this case is a 'Striking off order'.

27. The Aggravating features of the case are:

- *Serious criminal conviction*

28. The Mitigating features are:

- *Admissions and acceptance of the wrong*

29. The Parties have considered the sanctions from the least to the most serious.

a. no further action, or a caution would not meet the gravity of the criminal offence.

b. COP are not appropriate here, referring to the sanctions guidance; Conditions may be appropriate when some or all of the following factors are apparent (this list is not exhaustive):

- *no evidence of harmful deep-seated personality or attitudinal problems*
- *identifiable areas of the nurse, midwife or nursing associate's practice in need of assessment and/or retraining*
- *no evidence of general incompetence*
- *potential and willingness to respond positively to retraining*
- *the nurse, midwife or nursing associate has insight into any health problems and is prepared to agree to abide by conditions on medical condition, treatment and supervision*
- *patients will not be put in danger either directly or indirectly as a result of the conditions*
- *the conditions will protect patients during the period they are in force*

• conditions cannot be created that can be monitored and assessed.

c. will a period of suspension be sufficient to protect patients, public confidence in nurses, midwives or nursing associates, or professional standards?

• 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, midwife or nursing associate has insight and does not pose a significant risk of repeating behaviour
• in cases where the only issue relates to the nurse, midwife or nursing associate's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions
• in cases where the only issue relates to the nurse, midwife or nursing associate's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions

30. The agreed sanction in this case is for a Strike off as this is the only saction [sic] that would be sufficient to protect the public and maintain public confidence in the profession and uphold proper professional standards.

Interim order

31.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 to cover the period before the agreed sanction comes in to affect. The interim order should be for a

period of 18 months in the event that Mr Stewart seeks to appeal the panel's decision. The interim order should take the form of an interim suspension order which is consistent with the agreed sanction.

32.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 Stewart. The provisional CPD agreement was signed by Mr Stewart on 11 March 2024 and the NMC on 10 March 2025.

Decision and reasons on the CPD

The panel decided to accept the CPD, subject to some minor amendments outlined in the determination.

The panel heard and accepted the legal assessor's advice. He referred the panel to the relevant NMC Guidance. He reminded the panel that they could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Mr Stewart. Further, the panel should consider whether the provisional CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the professions and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

The panel noted that Mr Stewart is charged with having a conviction of *'making category A/B/C indecent photographs/pseudo photographs of a child x 494'*. The panel had regard to the fact that Mr Stewart has admitted the facts of the charge. Accordingly, the panel

was satisfied that the charge is found proved by reason of Mr Stewart's conviction as set out in the signed provisional CPD agreement.

The panel noted that paragraph 4 of the CPD incorrectly referred to Mr Stewart's date of registration with the NMC. The panel therefore proposed amending the date of registration to the correct date, namely 18 November 2019. The panel informed both parties of the proposed amendment and no objection was raised. Accordingly, the date of registration as referred to in paragraph 4 of the CPD was amended to *'18 November 2019'*.

Decision and reasons on impairment

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

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.'*

The panel determined that Mr Stewart's fitness to practise is currently impaired. In this respect the panel endorsed paragraphs 12 to 25 of the provisional CPD agreement.

The panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. The panel had regard to the "test" outline at paragraph 76.

'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) *...'*

The panel was satisfied that the first three limbs of *'Grant'* are met.

The panel noted that the charges are not directly linked to Mr Stewart's clinical practice. However, the panel had regard to the serious nature of the conviction, involving the making of 494 category A/B/C indecent photograph/pseudo photograph of children. The panel determined that there was a potential risk of harm to patients in that individuals may have been deterred from engaging with healthcare services.

The panel had regard to the sections of the Code which were proposed to be engaged, as referred to in the provisional CPD agreement. The panel was not satisfied that the sections of the Code identified in the provisional CPD agreement, correctly reflected the mischief in this case. The panel proposed amending the sections of the Code as follows:

'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 profession from patients, people receiving care, other health and care professionals and the public.

20 Uphold the reputation of your profession at all times
To achieve this, you must:

***20.1** keep to and uphold the standards and values set out in the Code*
***20.2** act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment*
***20.4** keep to the laws of the country in which you are practising*
***20.5** treat people in a way that does not take advantage of their vulnerability or 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**.'

The panel informed the parties of the proposed amendment, no objections were raised as such, in that it was accepted that the panel reaches its own independent decision when considering impairment. The panel therefore amended the sections of the Code that are engaged, as outlined above.

The panel was satisfied that Mr Stewart breached fundamental tenets of the profession in that he failed to promote professionalism and trust and therefore brought the profession into disrepute.

The panel was of the view that Mr Stewart's actions, in making indecent images of children, are indicative of attitudinal/behavioural issues which are inherently difficult to remediate. The panel had regard to the number of images. The panel determined that in the absence of any remediation and insight there is an ongoing risk of repetition.

Accordingly, the panel determined that a finding of impairment is necessary in order to protect the public given the risk of repetition and consequential risk of harm identified.

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. In reaching this decision the panel determined that the public's trust and confidence in the profession and the NMC would be severely undermined if Mr Stewart's fitness to practice was not found to be impaired, given the serious nature of the conviction involving sexual misconduct. Further the panel concluded that a finding of impairment is required in order to declare and uphold the standards of conduct expected of a Registered Nurse.

Having regard to all of the above, the panel was satisfied that Mr Stewart's fitness to practise is currently impaired.

Decision and reasons on sanction

Having found Mr Stewart's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Conduct which is sexual in nature
- Conduct involving the making of indecent photographs/pseudo photographs of children

The panel also took into account the following mitigating features:

- Admission of guilt in criminal proceedings
- Self-referred to the NMC and admitted to regulatory concern

The panel first considered the nature of the facts found proved. The panel considered NMC guidance titled *'How we determine seriousness'*, reference *'FTP-3'* last updated 27 February 2024 and NMC guidance *titled 'Considering sanctions for serious cases'* reference *'SAN-2'*, last updated 27 February 2024. The panel noted that this case involves sexual misconduct in that Mr Stewart made indecent photographs/pseudo photographs of children. The panel had regard to the fact that that Mr Stewart has been convicted of a criminal offence. The panel was therefore satisfied that Mr Stewart's conduct was at the more serious end of the spectrum of Fitness to Practise cases.

The panel next considered what sanction, if any, to impose.

The panel concluded that to take no action would be inappropriate in view of the seriousness of the case. The panel decided that it would not proportionate, nor would it sufficiently protect the public or address the public interest concerns identified.

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 Stewart'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 Stewart's conduct was at the higher end of the spectrum and therefore 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 Stewart'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 serious nature of the conviction in this case. The conduct identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Mr Stewart's registration would not adequately address the seriousness of this case, would not protect the public, nor address the public interest concerns identified.

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 panel was satisfied that there is evidence of potential attitudinal/behavioural problems given the sexual nature of the conviction. The panel determined that there is an inherent risk of repetition given the nature of the conviction and in the absence of any evidence of remediation and insight. The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a Registered Nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mr Stewart's actions is fundamentally incompatible with Mr Stewart 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 Stewart'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 conviction demonstrates that Mr Stewart's actions were serious and to allow him to continue practising would severely undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel agreed with the CPD that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the matters it identified, in particular the effect of Mr Stewart's actions in bringing the profession into disrepute by adversely affecting the public's view of how a Registered Nurse should conduct himself, the panel has concluded that nothing short of this would be sufficient in this case.

The panel considered that this order was necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a Registered Nurse.

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 Stewart'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 interests. The panel had regard to the seriousness of the conviction and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel agreed with the CPD that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months in order to protect the public and address the public interest concerns identified during the period of any appeal.

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

That concludes this determination.