

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

**Substantive Order Review Hearing
Friday, 19 December 2025**

Virtual Hearing

Name of Registrant: Richard Brian Fenton

NMC PIN: 90Y0496E

Part(s) of the register: Registered Nurse Adult – RN1
(15 May 1993)

Relevant Location: Stockton-on-Tees

Type of case: Misconduct

Panel members: Rachel Cook (Chair, lay member)
Charlotte Jakab-Hall (Registrant member)
Caroline Taylor (Lay member)

Legal Assessor: Graeme Henderson

Hearings Coordinator: Catherine Acevedo

Nursing and Midwifery Council: Represented by Ben Edwards, Case Presenter

Mr Fenton: Not present and unrepresented

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: **Striking-Off order to come into effect at the end of 13 January 2026 in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Fenton was not in attendance and that the Notice of Hearing had been sent to Mr Fenton's registered email address by secure email on 17 November 2025.

Mr Edwards, 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).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed. This included the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mr Fenton's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In the light of all of the information available, the panel was satisfied that Mr Fenton has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mr Fenton

The panel next considered whether it should proceed in the absence of Mr Fenton. The panel had regard to Rule 21 and heard the submissions of Mr Edwards who invited the panel to continue in the absence of Mr Fenton. He submitted that Mr Fenton had voluntarily absented himself.

Mr Edwards referred the panel to the email correspondence from Mr Fenton dated 8 December 2025 which stated,

"I will not be attending the hearing as I have no intention of ever returning to Nursing.

I have found the whole process, degrading, humiliating and biased towards guilty until proven innocent with a substantial impact on both my mental and physical health.

The feckless panel allowed third party evidence and appeared to place great emphasis on this! I have no confidence in the NMC the Panel failed to take into account my Human Rights especially Articles 6, 8, 9 and 10

Sadly, with the health care sector continuing to face staffing crisis, lack of recruitment and inability to retain staff another Nurse has been driven out of the profession.

Regards

Richard”.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mr Fenton. In reaching this decision, the panel has considered the submissions of Mr Edwards, the correspondence from Mr Fenton, and the advice of the legal assessor. It has had particular regard to any relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mr Fenton;
- 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 review of the case.

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

Decision and reasons on review of the substantive order

The panel decided to replace the suspension order with a striking-off order.

This order will come into effect at the end of 13 January 2026 in accordance with Article 30(1) of the ‘Nursing and Midwifery Order 2001’ (the Order).

This is the first review of a suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 13 December 2024.

The charges found proved which resulted in the imposition of the substantive order were as follows:

'That you, a registered nurse:

1. *On or around 24 October 2022 made inappropriate comments to Colleague A including:*
 - a. *That a previous colleague 'had the biggest pair of tits going' or words to that effect;*
 - b. *That you wanted to grab that previous colleague's breasts and smother your face in them, or words to that effect;*
 - c. *That you had once been late due to being 'too busy having a good hard shag over the kitchen table' or words to that effect;*
 - d. *Graphic details of a sexual encounter with a woman;*
 - e. *'Well I know you're easy' or words to that effect;*
2. *On or around 24 October 2022 made inappropriate comments to Resident B's wife, **Person B**, in that you said:*
 - a. *Some or all of the comments set out at charges 1a-d above;*
 - b. *In the presence of Resident B, 'I would just get a dildo' or words to that effect;*
 - c. *That she should watch pornography to manage grief or words to that effect*
3. *On or around 24 October 2022:*
 - a. *showed Colleague A picture of a sex toy;*
 - b. *said, with reference to the picture at charge 3a, that Resident C 'needs one of these shoved up her vagina' or words to that effect;*
4. *Your conduct at one or more of charges 1 to 3 above harassed Colleague A in that:*

- a. *It was unwanted conduct of a sexual nature and;*
- b. *It had the purpose or effect of:*
 - i. *Violating Colleague A's dignity, or*
 - ii. *Creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague A*

5.:

- a.;
- b. ...

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

The original panel determined the following with regard to impairment:

'In all the circumstances, the panel concluded that it was unable to determine that it was "highly unlikely" that the misconduct would be repeated in the future, as your reflection did not provide sufficient insight to mitigate the risk of repetition. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel took into account 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 considered that in the circumstances of this case, a finding of impairment was also required on wider public interest grounds. It determined that the proven charges and misconduct identified in this case are extremely serious. It considered that a reasonable and informed member of the public would be concerned if the panel was to conclude you are not impaired. Therefore, the panel concluded that public confidence in the nursing profession would be undermined if a finding of impairment was not made.

Having regard to all of the above, the panel was satisfied on the grounds of public protection and in the wider public interest that your fitness to practise is currently impaired.'

The original panel determined the following with regard to sanction:

'The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel was mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- No evidence of harmful deep-seated personality or attitudinal problems;*
- Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- No evidence of general incompetence;*
- Potential and willingness to respond positively to retraining;*
- The nurse or midwife 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; and*
- Conditions can be created that can be monitored and assessed.*

The panel noted that the charges do not relate to your clinical practice. It also acknowledged that you are working under an interim conditions of practice currently and have practised without any issues.

However, in this hearing the panel has found the charges proved and determined that you are currently impaired. It had concluded that these matters are extremely serious and, thus, in this case, any mitigation should not downgrade or diminish the

seriousness of the matters found proved. The panel concluded that you had limited insight, which, although developing, combined with the identified attitudinal concerns, makes it difficult at this time to formulate practical or workable conditions that would adequately address the risk of repetition and, thus, the risk the public. The panel concluded that if it was to formulate any conditions, those conditions would be likely to amount to a suspension.

The panel concluded that the charges found proved involved inappropriate and serious misconduct of a kind that, as the panel has identified, demonstrated a deep-seated attitudinal problem that is much more difficult to remediate.

For the reasons outlined, the panel concluded that imposing conditions on your registration would not adequately address the seriousness of this case, nor would it protect the public. The panel also determined that any conditions would undermine public confidence in the professions, their reputations and standards and in the regulatory process.

The panel then went on to consider whether a suspension order would be an appropriate and proportionate 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 found that your misconduct, especially the inappropriate and graphic sexual comments made to Colleague A and Person B while she was next to her husband, Resident B, who was receiving end-of-life care, amounted to serious breaches of the fundamental standards of professional conduct and behaviour expected of a registered nurse. It concluded that you showed limited insight into the severity and impact of your misconduct on Colleague A, Person B and on the wider public interest, including the effect on the professions and junior colleagues for whom you were responsible, whether nursing colleagues or not. The panel also concluded that your misconduct was a serious breach of many of the fundamental tenets of the nursing profession which brought the nursing profession into disrepute.

The panel also took into consideration that that this had been a single instance of misconduct in that it involved a course of action over one shift in a career spanning over 30 years. It took into further account that there has been no evidence of repetition of similar concerns since the incident.

The panel concluded from your oral evidence and the content of the limited references you had provided for this hearing that, on many occasions, you had been thought of as a well-liked and competent practitioner. The panel noted, for example, Colleague A's comment in her oral evidence that, before these matters, she considered that you had been "a lovely man" and that "you could go to him with anything". She stated that you had been supportive in the workplace and that point was echoed by Colleague C in her oral evidence.

In exercising the principle of proportionality and taking account of all the evidence before it, including the steps you have taken to begin to strengthen your nursing practice and your developing insight, the panel concluded that this seriousness of the misconduct was such as to demand a sanction to reflect that seriousness. The panel also considered that this would give you a chance to return to unrestricted nursing practice in the future should you so choose. In the panel's judgement, a suspension order is the only fair, proportionate and appropriate sanction to achieve both these objectives.

In reaching its decision, the panel also took into consideration more recent case law identifying the shortages of nurses in the NHS and the older case law principle of keeping valued nurses within the profession, rather than outside of it.

Although your misconduct raises questions about your attitude and professionalism, it was, in the panel's view, not to the extent that required your removal from the register. The panel was not satisfied that a striking-off order was the only sanction sufficient to protect the public and to address the public interest considerations in this case. Whilst the panel acknowledged that a suspension order may have a punitive effect, it would be unduly punitive and disproportionate in this case to impose a striking-off order. It was of the view that a striking-off order could deprive the public of a registered nurse who has the potential to sufficiently strengthen his nursing practice and return to safe and effective practice in the future. Therefore, a striking-off order would not serve the public interest considerations in this case.

Consequently, the panel was satisfied that, in this case, the misconduct is not fundamentally incompatible with remaining on the register and that public confidence in the nursing profession could be maintained if you were not removed from the register.

Balancing all of these factors, the panel concluded that a suspension order would be the appropriate and proportionate sanction to protect the public and address the public interest in this case.

The panel concluded that a suspension order for a period of twelve months is necessary.

The panel also noted that you have been under an interim conditions of practice order for two years and three weeks. This means that your nursing practice has been restricted for that period of time to date. The panel concluded, for the reasons outlined above, that the matters found proved are so serious that any reduction, including a mathematical one (which method the panel has chosen not to undertake) from the maximum period of the suspension order of twelve months to reflect the interim conditions of practice order would be disproportionate. In the

panel's judgement, any reduction in the maximum period would not offer the full protection that the public expects and deserves and, furthermore, it would undermine the public's confidence in the regulatory process, in the nursing professions, their reputations, and in the standards that the NMC maintains and upholds.

The panel considered that the imposition of the suspension order for the full twelve months, with a review before it expires, will not detract from the potential for you to return to eventual unrestricted practice, should you so choose. Therefore, for the reasons outlined, the panel determined that the most fair, proportionate and appropriate sanction shall be a suspension order of twelve months.

The panel noted the hardship a suspension order might cause you. However, for the reasons set out above, the panel determined that this is outweighed by the need to protect the public and by upholding the public interest in this case.

The panel decided that a review of this order should be held before the end of the period of the suspension order.

Before the end of the period of suspension, another panel will review the order. At the review hearing, the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case may be assisted by:

- Your further attendance at a future review hearing.*
- A reflective statement, using a model such as the Gibbs model of reflection, demonstrating sufficient insight into the severity and impact of your misconduct.*
- Any updated references or testimonials attesting to your professionalism and conduct, in whatever role, professionally in any paid or unpaid work, following this hearing'.*

- *Evidence of up-to-date relevant training courses undertaken in the areas of concern including in diversity, equality and inclusion, in sexual harassment and in effective communication’.*

Decision and reasons on current impairment

The panel has considered carefully whether Mr Fenton’s fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant’s ability to practise kindly, safely and professionally. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle, and the only correspondence from Mr Fenton, namely his email dated 8 December 2025. It has taken account of the submissions made by Mr Edwards on behalf of the NMC.

Mr Edwards outlined the background of the case to the panel. He submitted that the previous panel listed a number of things that would assist a future panel and none of those suggested items have been provided to this panel. Mr Fenton has not attended today, he has not provided a reflective statement or updated references/testimonials, and there is no evidence of up-to-date relevant training undertaken in the areas of concern.

Mr Edwards submitted that the original panel found Mr Fenton had developing insight, but given his attitude and contempt towards the NMC and this review hearing, any developing insight has now diminished. He submitted that Mr Fenton has demonstrated deep-seated attitudinal issues which the panel may consider has become further ingrained in the attitude shown by his email of 8 December 2025. He submitted that Mr Fenton's fitness to practice remains impaired on public protection and public interest grounds.

Mr Edwards submitted that Mr Fenton has demonstrated no progress at all in the near 12 months that this order has been in place. As stated in his email to the NMC, he has no intention of returning to nursing and the panel may take into consideration whether it is in the public interest, and indeed in Mr Fenton’s interest, to extend the current suspension

order. He submitted that any extension of the order would result in the same situation that we find ourselves in today; no progress and further contempt shown towards the NMC.

Mr Edwards submitted that members of the public would expect action to be taken against this registrant. He invited the panel to consider that a striking- off order would be the most appropriate and proportionate order given the lack of progress, Mr Fenton's attitude towards these proceedings and the deep-seated attitudinal concerns that remain. He submitted that it would be a waste of resources, a waste of any future panels time and does not adequately serve the public interest in this case.

The panel heard and accepted the advice of the legal assessor.

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether Mr Fenton's fitness to practise remains impaired.

At this hearing the panel took into account that Mr Fenton has not provided any of the information suggested by the original panel which would assist today's reviewing panel. The panel also had no evidence before it of effective steps Mr Fenton has taken to maintain his skills and knowledge. The panel therefore determined that there is no information before it that Mr Fenton is now safe to practise unrestricted.

The panel noted that the original panel found that Mr Fenton had developing insight. This panel took into account Mr Fenton's email to the NMC dated 8 December 2025. The panel concluded that this email demonstrated a complete rejection of the findings of the previous panel. The panel was of the view that Mr Fenton has not recognised the seriousness of his actions nor the negative impact this would have had on patients, colleagues and the reputation of the wider nursing profession. The panel considered the NMC Code and took into account specifically Mr Fenton's responsibility to:

9.2 gather and reflect on feedback from a variety of sources, using it to improve your practice and performance

The panel determined that Mr Fenton's level of insight into his misconduct has deteriorated since the original hearing and demonstrates that there remains deep-seated attitudinal issues. The panel concluded that Mr Fenton was provided with an opportunity to evidence that his insight into his misconduct has developed. This could have included acting on the suggestions as recommended by the original panel which included attending the review hearing today, preparing a reflective statement, up to date references and training certificates. Mr Fenton has not provided anything from this list. His only engagement with his regulator has been his email on 8 December 2025 within which he highlights the impact of the proceedings on himself and refers to the original panel's decision as 'feckless'. As a result, the panel concluded that Mr Fenton's insight has diminished to the extent that he is currently has no insight into his misconduct.

In light of this, this panel determined that there is a real risk of Mr Fenton repeating the misconduct. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, members of the public would be appalled at the lack of professionalism in the workplace and in front of vulnerable residents and their families by Mr Fenton and as such, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that Mr Fenton's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mr Fenton's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case and public protection concerns. 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 Fenton'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 Fenton's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice on Mr Fenton's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the fact that the misconduct was not related to his clinical practice and involved deep seated attitudinal issues. The panel has determined that Mr Fenton has no insight. Within his email dated 8 December 2025 Mr Fenton expressed his clear, settled intention not to return to nursing. Mr Fenton's attitude to the regulatory process itself undermines the panel's confidence that he would comply with professional standards if allowed to practise. The panel therefore considered that any conditions of practice order would not be workable and would serve no useful purpose.

The panel next considered imposing a suspension order. The panel noted that Mr Fenton does not intend to return to nursing and has not provided evidence of insight or steps taken to strengthen his practice. The panel found that Mr Fenton's email to the NMC of 8 December 2025 was evidence that his misconduct was rooted in harmful deep-seated attitudinal problems. Further, Mr Fenton made it clear that he does not intend to engage with NMC proceedings in the future. In addition and as already stated the panel has concluded that Mr Fenton has not evidenced any insight into his misconduct. In these circumstances the panel determined that a period of suspension would not serve any

useful purpose. The panel determined that it was necessary to take action to prevent Mr Fenton from practising in the future and concluded that the only sanction that would adequately protect the public, preserve the reputation of the profession and serve the public interest was a striking-off order. The panel therefore directs the registrar to strike Mr Fenton's name off the register.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 13 January 2026 in accordance with Article 30(1).

This decision will be confirmed to Mr Fenton in writing.

That concludes this determination.