

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

**Substantive Meeting
Thursday, 09 October 2025**

Virtual Meeting

Name of Registrant:	Matthew James Wharton
NMC PIN:	21J0046W
Part(s) of the register:	Nursing, Sub part 1 RNMH, Registered Nurse - Mental Health 21 November 2021
Relevant Location:	Manchester
Type of case:	Conviction
Panel members:	Patricia Richardson (Chair, lay member) Juliana Thompson (Registrant member) Robin Barber (Lay member)
Legal Assessor:	William Hoskins
Hearings Coordinator:	Ifeoma Okere
Facts proved:	Charge 1 (a) , (b) , (c) , (d) , (e), (f) and (g)
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim order:	Interim suspension order (18 months)

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that the Notice of Meeting had been sent to [PRIVATE] at which Mr Wharton was serving the sentence of imprisonment imposed by Manchester Crown Court. The panel saw a chain of email correspondence which confirmed Mr Wharton's presence at that prison as of 1 July 2025.

The panel had regard to the Royal Mail 'Track and trace' printout which showed the Notice of Hearing was delivered to [PRIVATE] on 4 September 2025. It was signed for against the printed name of 'Matthew James Wharton'.

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.

In the light of all of the information available, the panel was satisfied that Mr Wharton 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 26 June 2024 at Manchester Crown Court were convicted of the following offences contrary to the Sexual Offences Act 2003.
 - a) Between 30 March 2024 and 23 April 2024 being a care worker involved in the care of a woman who had a mental disorder and who you knew or could reasonably be expected to have known had such a disorder, intentionally touched her and that touching was sexual involving the penetration of her vagina with your finger.

- b) Between 30 March 2024 and 24 April 2024 being a care worker involved in the care of a woman who had a mental disorder and who you knew or could reasonably be expected to have known had such a disorder, intentionally caused or incited her to engage in sexual activity.
- c) Between 30 March 2024 and 27 April 2024 being a care worker involved in the care of a woman who had a mental disorder and who you knew or could reasonably be expected to have known had such a disorder, intentionally touched her and that touching was sexual involving the penetration of her mouth with your penis.
- d) On or in 23 April 2023 being a care worker involved in the care of a woman who had a mental disorder and who you knew or could reasonably be expected to have known had such a disorder, intentionally touched her and that touching was sexual involving the penetration of her mouth with your penis.
- e) On or in 23 April 2024 being a care worker involved in the care of a woman who had a mental disorder and who you knew or could reasonably be expected to have known had such a disorder, intentionally caused or incited her to engage in sexual activity.
- f) Between 26 April 2024 and 29 April 2024 being a care worker involved in the care of a woman who had a mental disorder and who you knew or could reasonably be expected to have known had such a disorder, intentionally touched her and that touching was sexual involving the penetration of her vagina with your penis.
- g) Between 26 April 2024 and 29 April 2024 being a care worker involved in the care of a woman who had a mental disorder and who you knew or could reasonably be expected to have known had such a disorder, intentionally touched her and that touching was sexual involving the penetration of her mouth with your penis.

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

Details of charges as amended

The panel noted that Charge 1(d) in the Notice of Meeting originally stated the date as “On or in 23 April 2023.” Having reviewed the certificate of conviction, the panel identified that this was a typographical error and that all the offences occurred in 2024.

Acting on its own volition, and in accordance with its powers under Rule 31 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, the panel amended Charge 1(d) to read “On or in 23 April 2024.”

The panel was satisfied that this amendment accurately reflected the information contained in the certificate of conviction, did not alter the substance of the charge, and caused no prejudice to Mr Wharton.

Accordingly, the amended charge now read as follows:

1. On 26 June 2024 at Manchester Crown Court were convicted of the following offences contrary to the Sexual Offences Act 2003.
 - d) On or in 23 April-2023 **2024** being a care worker involved in the care of a woman who had a mental disorder and who you knew or could reasonably be expected to have known had such a disorder, intentionally touched her and that touching was sexual involving the penetration of her mouth with your penis.

Decision and reasons on facts

The charges concern Mr Wharton’s conviction and having been provided with a copy of the certificate of conviction, the panel finds that the facts are found proved in accordance with Rule 31 (2) and (3). These state:

- ‘31.—** (2) *Where a registrant has been convicted of a criminal offence—*
- (a) *a copy of the certificate of conviction, certified by a competent officer of a Court in the United Kingdom (or, in Scotland, an extract conviction) shall be conclusive proof of the conviction; and*

- (b) the findings of fact upon which the conviction is based shall be admissible as proof of those facts.*
- (3) The only evidence which may be adduced by the registrant in rebuttal of a conviction certified or extracted in accordance with paragraph (2)(a) is evidence for the purpose of proving that they are not the person referred to in the certificate or extract.'*

The panel was satisfied that the certificate of conviction corresponded to the offences set out in the Notice of Meeting and that Mr Wharton is the individual named in that certificate. The panel therefore found all facts proved by way of the conviction.

Background

The charges in this case arose whilst Mr Wharton was employed as a registered Mental Health Nurse by the Greater Manchester Mental Health NHS Foundation Trust, also referred to as the “the Trust”, working as an agency Mental Health Nurse at [PRIVATE].

On 29 April 2024, a safeguarding concern was raised after a vulnerable female inpatient (Patient A), who had a mental disorder, disclosed to nursing staff that she had been in a sexual relationship with Mr Wharton. The Trust convened an urgent safeguarding review meeting on 1 May 2024, during which it was reported that Mr Wharton had engaged in repeated sexual acts with Patient A both on and off the ward between late March and late April 2024. The disclosures included reports that Mr Wharton had taken Patient A off the hospital premises without authorisation, exchanged sexual messages with her via social media, and booked a hotel where further sexual activity took place.

An internal review found that Mr Wharton had developed an inappropriate personal relationship with Patient A, including sexual contact whilst on duty and during her authorised leave. The matter was referred to Greater Manchester Police, who arrested Mr Wharton on 3 May 2024. Following their investigation, he was charged with eight counts of sexual activity with a person with who he knew to have a mental disorder and who was under his care , contrary to Section 38 of the Sexual Offences Act 2003.

On 26 June 2024, Mr Wharton was convicted at Manchester Crown Court of multiple offences of sexual activity with a mentally disordered female under his care, involving both oral and vaginal penetration. He was subsequently sentenced to 54 months' imprisonment.

These matters were referred to the NMC by the Trust on 13 May 2024. The Case Examiners concluded on 6 May 2025 that there was a case to answer and referred the matter to the Fitness to Practise Committee.

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, Mr Wharton's fitness to practise is currently impaired by reason of Mr Wharton's conviction. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

Representations on impairment

The NMC requires the panel to bear in mind its overarching objective to protect 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. The panel has referred to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin)

There were no written or oral representations from Mr Wharton in relation to impairment. He has not engaged with the NMC at any stage of these proceedings.

The panel accepted the advice of the legal assessor, who reminded it that in a conviction case the certificate of conviction proves itself, and that the panel's task is to determine whether, in light of those convictions, Mr Wharton's current fitness to practise is impaired. The panel also accepted the legal assessor's reminder of its duty to give effect to the NMC's overarching objective: to protect the public, maintain confidence in the nursing profession, and uphold proper professional standards and conduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the conviction, Mr Wharton'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.'

The panel considered that Mr Wharton's convictions demonstrated conduct wholly inconsistent with that expectation.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. 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 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 *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin), and in particular paragraphs 74 and 76, where she adopted the test of Dame Janet Smith. The panel therefore asked itself whether Mr Wharton's conduct and convictions showed that 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 nursing 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 nursing profession.

The panel determined that each of these limbs was clearly engaged.

Mr Wharton's conduct involved multiple incidents of sexual activity with a vulnerable in-patient under his care, amounting to a grave abuse of trust and power. The panel found that his behaviour caused both physical and emotional harm to a vulnerable patient and constituted a flagrant breach of the fundamental tenets of the nursing profession. His actions have brought the profession into disrepute and seriously undermined public confidence in nursing.

The panel noted that Mr Wharton has not engaged with the NMC, and there is no evidence of insight, remorse or remediation. The panel had no information before it to suggest that he recognises the seriousness of his behaviour or its impact on the patient, the profession, or the wider public.

Given the nature, number and seriousness of the convictions, the panel concluded that Mr Wharton's conduct reveals deep-seated attitudinal issues and is not capable of remediation. In the absence of any engagement, reflection, or evidence of change, the panel considered that the risk of repetition remains high.

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

The panel further determined that a finding of impairment is also required on the grounds of public interest. The offences were of such a serious and exploitative nature that public confidence in the nursing profession, and in the NMC as its regulator, would be seriously undermined if a finding of impairment were not made.

Having regard to all of the above, the panel was satisfied that Mr Wharton's fitness to practise is currently impaired by reason of his conviction, on both public protection and public interest grounds.

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Mr Wharton off the register. The effect of this order is that the NMC register will show that Mr Wharton 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 careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

Representations on sanction

The panel noted that in the Notice of Meeting dated 4 September 2025, the NMC had advised Mr Wharton that it would seek the imposition of a striking-off order if it found his fitness to practise currently impaired.

Mr Wharton made no representations or submissions in relation to sanction. He has not engaged with the NMC at any stage of these proceedings.

Decision and reasons on sanction

Having found Mr Wharton'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:

- Serious criminal convictions for multiple sexual offences involving a vulnerable patient under Mr Wharton's care.
- Abuse of a position of trust as a registered nurse caring for a mentally disordered inpatient.

- A pattern of predatory and exploitative behaviour over a period of time.
- Complete lack of engagement, insight, remorse, or evidence of remediation.
- The significant physical and emotional harm caused to the victim and the risk posed to vulnerable patients.

The panel did not identify any mitigating features. There were no expressions of remorse, insight, or evidence of any remedial steps, and there was no information about any personal or health circumstances that might explain or mitigate the conduct.

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 Wharton'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 Wharton'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 Wharton'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 nature of the charges in this case. Furthermore, the panel concluded that the placing of conditions on Mr Wharton'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 appropriate in this case. It noted that such an order may be suitable where the misconduct is an isolated incident, where the individual has demonstrated genuine insight, and where there is a realistic prospect of remediation. However, the panel found that none of these factors

applied. Mr Wharton's conduct involved multiple offences, reflected entrenched attitudinal failings, and there was no evidence of insight or any reduction in the risk of repetition. The panel therefore determined that a suspension order would not be an appropriate, sufficient, or proportionate response in this case.

Finally, the panel considered a striking-off order. It took account of the following factors from the Sanctions Guidance:

- The regulatory concerns raise fundamental questions about Mr Wharton's professionalism.
- Public confidence in nurses could not be maintained if Mr Wharton were allowed to remain on the register.
- Striking-off is the only sanction sufficient to protect patients, members of the public, and maintain professional standards.

The panel considered that Mr Wharton's conduct represented a profound departure from the standards expected of a registered nurse. The behaviour amounted to a gross abuse of trust and power over a vulnerable patient. The offences were of such seriousness that they are fundamentally incompatible with continued registration.

The panel was satisfied that the only proportionate and appropriate sanction in this case is a striking-off order. It considered that no lesser sanction would adequately protect the public or maintain public confidence in the profession and in the NMC as its regulator.

Balancing all these factors, and having regard to the effect of Mr Wharton's conduct in bringing the nursing profession into disrepute, the panel concluded that nothing short of permanent removal from the register would be sufficient to mark the gravity of this case and uphold proper professional standards.

The panel therefore directs that the Registrar strike Mr Wharton off the register with immediate effect.

This decision will be confirmed to Mr Wharton 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 Wharton's own interests until the suspension sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Representations on interim order

No representations were made in relation to the imposition of an interim order.

Decision and reasons on interim order

The panel next considered whether to impose an interim order.

The panel noted that although Mr Wharton is currently serving a 54-month custodial sentence, it remained necessary to consider whether an interim order was required for the protection of the public during the appeal period.

The panel determined that, given the serious nature of the convictions and the clear findings on impairment, it was appropriate to impose an interim order for the protection of the public and in the public interest.

The panel therefore made an interim suspension order for a period of 18 months, to cover the 28-day appeal period and any potential appeal proceedings.

If no appeal is made, the striking-off order will take effect after the 28-day period and the interim order will then lapse.