

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

**Substantive Hearing
Monday, 15 September 2025 – Thursday, 25 September 2025**

Virtual Hearing

| | |
|---------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| Name of Registrant: | Nicholas Footer |
| NMC PIN | 97A0008E |
| Part(s) of the register: | Nurse Independent / Supplementary Prescriber (1 October 2013) Registered Nurse – Adult (18 March 2000) |
| Relevant Location: | Suffolk |
| Type of case: | Misconduct |
| Panel members: | Richard Weydert-Jacquard (Chair, Registrant member) Vickie Glass (Registrant member) Karen Naya (Lay member) |
| Legal Assessor: | Justin Gau |
| Hearings Coordinator: | Dilay Bekteshi |
| Nursing and Midwifery Council: | Represented by Honor Fitzgerald, Case Presenter |
| Mr Footer : | Not present and not represented |
| Facts proved: | All charges |
| 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 Footer was not in attendance and that the Notice of Hearing letter had been sent to Mr Footer's address on 4 August 2025. Further attempts have been made by the NMC to contact Mr Footer by email and telephone. There has been no response.

Ms Fitzgerald, 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 allegation, the time, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mr Footer'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 Footer 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 Footer

The panel next considered whether it should proceed in the absence of Mr Footer. It had regard to Rule 21 and heard the submissions of Ms Fitzgerald who invited the panel to continue in the absence of Mr Footer. She submitted that Mr Footer had voluntarily absented himself and that there has been no engagement on his part. There is no reason to believe that an adjournment would secure his attendance at a future date. Additionally, there has been no response to recent emails dated 29 August 2025 and 8 September 2025. The last contact with Mr Footer was on 19 September 2024, during which he simply confirmed he was not working. However, there has been no engagement with the proceedings. She submitted that it is in the interests of justice to proceed, emphasising the

public interest in the expeditious disposal of the case and fairness to the parties, particularly the witnesses who are ready to give evidence. Based on these reasons, she invited the panel to proceed in Mr Footer's absence.

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 has decided to proceed in the absence of Mr Footer. In reaching this decision, the panel considered the submissions of Ms Fitzgerald and the advice of the legal assessor. It has had particular 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 Footer;
- Mr Footer has not engaged with the NMC and has not responded to any of the emails sent to him about this hearing;
- The last meaningful correspondence was in December 2023 when Mr Footer said that he does not wish to participate or cooperate with the investigation.
- There is no reason to suppose that adjourning would secure his attendance at some future date;
- Eight witnesses are due to attend to give live evidence and not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred between 2017 and 2021;
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mr Footer in proceeding in his absence. Although the evidence upon which the NMC relies will have been sent to him at his registered address, he has made no response to the allegations. He will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on his own behalf. 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 Footer's decision 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 Footer. The panel will draw no adverse inference from Mr Footer's absence in its findings of fact.

Details of charge

That you, a registered nurse:

- 1) In or around August 2017, without clinical justification:
 - a) drew one or more pictures of female sexual organs.
 - b) labelled the pictures with the names of Colleague B and Colleague D.
 - c) said Colleague B's "hole will be bigger" or words to that effect.
- 2) During the week of 9 April 2018 said to Colleague A:
 - a) "Just to let you know I have told everyone about your new piercing" or words to that effect.
 - b) "No seriously I have told everyone that you got your clit pierced and you have shown it to me" or words to that effect.
- 3) On 16 April 2018 when enquiring whether Colleague A had lost weight said to

Colleague A “no, I didn’t think so, you look bigger” or words to that effect.

- 4) On an unknown date in April 2018 shouted to Colleague A and Colleague B “alright you pair of prossies” or words to that effect.
- 5) On an unknown date said Colleague B “is a stripper in her spare time” or words to that effect.
- 6) On one or more occasions called colleagues “cunts”.
- 7) Your conduct in charge 1, 2, 4 and/or 5:
 - a) Was unwanted by Colleague A and/or Colleague B and/or Colleague D.
 - b) Was of sexual nature
 - c) Was intended to violate Colleague A’s and/or Colleague B’s and/or Colleague D’s dignity and/or create an intimidating, hostile, degrading, humiliating or offensive environment for Colleague A and/or Colleague B and/or Colleague D
Or
 - d) Had the effect of violating Colleague A’s and/or Colleague B’s and/or Colleague D’s dignity and/or creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague A and/or Colleague B and/or Colleague D.
- 8) On 23 September 2021:
 - a) Called Service User A an idiot.
 - b) Shouted at Service User A:
 - i) “you are a fucking little cunt” or words to that effect.
 - ii) “all you fucking want is drugs” or words to that effect.
 - iii) “get the fuck out of my clinic” or words to that effect

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

Background

In 2018, during Mr Footer's employment at Essex Partnership University NHS Foundation Trust (the 'Trust'), concerns were raised by colleagues about his behaviour. These included the use of inappropriate comments, swearing, and calling staff names. The initial referral was received on 5 July 2018, with a further referral being made to the NMC on 29 September 2022 from the Trust, relating to Mr Footer's conduct towards Service User A.

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 Fitzgerald on behalf of the NMC.

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

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.

The panel heard live evidence from the following witnesses called on behalf of the NMC:

- Colleague A: Mental Health Nurse at the Trust
- Colleague B: Mental Health Nurse at the Trust
- Colleague C: Open Road Centre Manager
- Witness 1: Health Care Assistant at the Trust

- Witness 2: Community Development Practitioner in the Marginalised and Vulnerable Adults Health Outreach Service (the Service) in Ipswich
- Witness 3: Care Navigator at the Service in Ipswich
- Witness 4: Business and Performance Manager for the Service in Ipswich
- Witness 5: Appointed Investigating Officer for the Service in Ipswich

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

The panel noted that it was the NMC's burden to prove the facts alleged, rather than Mr Footer's. It found all witnesses to be cogent and consistent in their evidence, both in their witness statements and their affirmations. The answers to the questions posed were consistent with these statements. The panel also considered the written evidence of Mr Footer's internal investigation; however, it noted that he had not appeared before the panel to give sworn live evidence or to affirm the contents of his statements. Several assertions in his evidence concerning his health lacked supporting medical evidence and, as such, the panel had to give less weight to his unsworn evidence compared to the sworn evidence provided by other witnesses.

The panel noted that Mr Footer was unrepresented. It also noted that, in some cases, it had been up to seven years since the alleged events took place. Nonetheless, the panel benefited from contemporaneous notes within much of the witness evidence. Witnesses were clear when they could not recall certain events due to the passage of time and did not attempt to give evidence on details they could not remember.

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

Charge 1

1) *"In or around August 2017, without clinical justification:*

- a) drew one or more pictures of female sexual organs.*
- b) labelled the pictures with the names of Colleague B and Colleague D.*
- c) said Colleague B's "hole will be bigger" or words to that effect."*

This charge is found proved in its entirety.

The panel considered the evidence of Colleague B, including her exhibit which comprises an email dated 18 May 2018. The email states:

'A few months ago, [Colleague D] and I were in the office taking and Nic came in and came over to where we were sitting. Nic over heard the conversation we were having... Nic started talking about when he worked on a gynac ward, and drew a picture of the most 'unusual vagina' he had seen. Following this, he drew a diagram of what he perceived both mine and [Colleague D's] vagina to look like and labelled one '[Colleague B's]' and another diagram labelled it '[Colleague D's]' (one after and one before childbirth). Nic then left the office, and then drawing was shredded.'

The panel also considered the exhibit provided by Witness 1, who produces a copy of the internal investigation report and accompanying appendices, dated 17 September 2018. The report notes that Mr Footer made a partial admission to drawing a cervix but denied drawing pictures of vaginas. It states:

'3.25.24 [Witness 1] asked Nicholas Footer if he recalled an alleged incident that took place between himself and two female members of the Essex Stars team where you drew two pictures of a vagina and labelled them with Stars names. Nicholas Footer confirmed that he did and stated that the picture wasn't a vagina, that it was a cervix. Nicholas Footer explained that he had been talking to and [Colleague B] and drew the drawing during the investigation meeting and explained it's description.'

Nicholas Footer stated that had they had asked him in his capacity as an RGN about long-term effects of having a baby and he responded by advising that as far as he knew he didn't think there were any, apart from the tearing of the episiotomies and needing suturing etc Nicholas Footer stated to them that there is one big difference and that you'll always know if a women has had a baby because her cervix will be dilated. To explain this he drew the pictures showing the differences. He stated that he definitely wasn't drawing pictures of vaginas.'

The panel also considered the transcript of investigation meeting with Colleague B, which states:

'[Colleague B] stated she felt the drawing was inappropriate.

[Colleague B] ... was discussing with [Colleague D] ... and Nick jumped into the conversation and drew the drawing of the vagina also stating "[Colleague B's] hole will be bigger". [Colleague B] stated nick made 3 drawings of the vagina; one was whilst he was on a gynae ward and the other 2 (which he labelled) [Colleague B] and [Colleague D].

[Colleague B] states that it was private conversation but he could still overhear the conversation...'

The panel considered the contemporaneous evidence from Colleague B, which is consistent throughout. The panel was satisfied that there is sufficient evidence concerning the drawing, its labelling, and Colleague B's clear statement that Mr Footer labelled the drawings with her and Colleague D's names.

The panel determined that Colleague B's evidence was clear and consistent between her contemporaneous notes and her oral evidence. Therefore, the panel is satisfied, on the balance of probabilities, that charges 1a), 1b), and 1c) are proved.

Charge 2)

2) *"During the week of 9 April 2018 said to Colleague A:*

- a) *“Just to let you know I have told everyone about your new piercing” or words to that effect.*
- b) *“No seriously I have told everyone that you got your clit pierced and you have shown it to me” or words to that effect.”*

This charge is found proved in its entirety.

The panel considered the internal investigation interview, Colleague A’s evidence and an email from Colleague A dated 3 May 2018.

The panel took into account the Transcript of Investigation Meeting with Mr Footer held on 14 June 2018. It noted that Mr Footer admitted in the internal investigation interview with Witness 1 that:

‘I then went upstairs and I said to [Colleague A] I’ve just told ... that you’ve got your clitoris pierced and she went Oi I haven’t you bugger and she then told everybody what I’d said and laughed. I didn’t go around stating saying that. And its yeah she never said anything at the time that she...(sic)’

The panel took into account the Investigation Report, dated 17 September 2018, which states:

‘3.22.2 [Witness 1] asked [Colleague A] why Nicholas Footer would make such comments and were details of piercings and tattoos discussed between the team. [Colleague A] stated that she had never discussed her piercings or tattoos with anyone else or Nicholas Footer.

3.25.22 [Witness 1] asked Nicholas Footer if there he had numerous conversations when piercings and tattoos were discussed. Nicholas Footer confirmed that these conversations did take place and that many of the team are aware of who has tattoos and piercings. Nicholas Footer said he did not understand why [Colleague A] hadn’t said anything at the time and why, if she’s that upset, she would tell everybody in the team and laugh and call him a ‘bugger’.

Furthermore, the panel considered Colleague A's responses in the Investigation report dated 17 September 2018, which states:

'3.12.1 [Colleague A] stated that around 9th April 2018 she was walking past the kitchen on the top floor of the Open Road building and Nicholas Footer called to her and said "just to let you know that I have told everyone about your new piercing", she asked what was meant by this and he stated that he had "I have told everyone that you got your clit pierced and have shown it to me". [Colleague A] was upset by these comments.'

Based on this evidence, including Colleague A's consistent oral and documentary evidence, and the internal investigation records, the panel was satisfied that charges 2a) and 2b) are proved.

Charge 3)

- 3) *"On 16 April 2018 when enquiring whether Colleague A had lost weight said to Colleague A "no, I didn't think so, you look bigger" or words to that effect."*

This charge is found proved.

The panel considered both the oral and documentary evidence of Colleague A. It noted that her statement was written contemporaneously and was affirmed. Mr Footer did not present any defence in his written submissions.

The panel also took into account the Investigation Report, dated 17 September 2018, which states:

'3.12.3 Within the statement [Colleague A] also makes reference to an incident around 16th April 2018 when she states that Nicholas Footer asked her "have you lost weight", she replied "no" and he responded by saying "No, I didn't think so, you look bigger" then laughed. [Colleague A] stated that this made her feel uncomfortable.'

The panel noted that this incident was not directly put to Mr Footer during the investigation, and the only evidence comes from Colleague B. However, there is no reason to disbelieve her account. The panel therefore found charge 3) proved on the balance of probabilities.

Charge 4)

- 4) *“On an unknown date in April 2018 shouted to Colleague A and Colleague B
“alright you pair of prossies” or words to that effect.”*

This charge is found proved.

The panel considered the documentary and oral evidence of Colleague A and Colleague B. It noted that both witnesses’ accounts corroborated each other and confirmed that the remark was made publicly in front of clients.

The panel also noted the Investigation Report, dated 17 September 2018. In the Investigation report, it states:

‘[email statement from Colleague A to [colleague] dated 3 May 2018]

3.12.1 On another occasion [Colleague A] states that she was sitting outside with a colleague, [Colleague B], and that Nicholas Footer came out and shouted “alright you pair of prossies”. [Colleague A] stated that she felt embarrassed and shocked as this was unexpected, especially in front of clients and teenagers.

...

3.21.5 [Colleague B] stated that Nicholas Footer referred to herself and [Colleague D] as a ‘prossy’ and also stated that she was a stripper in her spare time, he later apologised for this comment.’

The panel noted that Mr Footer denied making such comments during his interview, as documented in the report, dated 17 September 2019:

'3.25.26 [Witness 1] asked Nicholas Footer if he recalled an alleged incident which took place in April 2018 when two female members of Essex Stars staff who were sitting outside Open Road before starting work. It was alleged that Nicholas Footer approached the two female members of staff and spoke to them stating "alright you pair of prossies". Nicholas Footer advised that he did not recall saying this and that this not a term he would use having worked with sex workers for the past 8/10 years. He stated he would not disrespect them by using this kind of language. Nicholas Footer advised that although there is banter within the team but that this is not a term her would use.'

The panel considered the evidence by Colleague A and Colleague B, including their oral evidence and supporting documentary evidence. It noted the corroborative accounts of both witnesses clearly describe how Mr Footer's comments were made openly in front of clients, causing them embarrassment and distress. The panel therefore found charge 4) proved.

Charge 5)

- 5) *"On an unknown date said Colleague B "is a stripper in her spare time" or words to that effect."*

This charge is found proved.

The panel considered the Investigation Report, dated 17 September 2019, which states:

'3.16.4 On another occasion [Colleague B] stated that Nicholas Footer made a remark that she is a stripper in her spare time. Nicholas Footer followed her into the kitchen and offered to apologise for this remark.

...

3.21.5 [Colleague B] stated that Nicholas Footer referred to herself and [Colleague D] as a 'prossy' and also stated that she was a stripper in her spare time, he later apologised for this comment.

3.21.6 [Colleague B] stated that she has not had a good working relationship with

Nicholas Footer and he puts people on edge and has a certain way he speaks to female members of staff.'

The panel also considered Colleague B's witness statement produced for the Trust's investigation, which states: *"On one occasion, I walked into the office and Nicholas said '[Colleague B] is a stripper in her spare time', I then left the office and went into the kitchen, Nicholas came into the kitchen to apologise about the comment he had made."*

The panel considered Mr Footer's response in the Investigation Interview. When asked by Witness 1 whether he had recalled calling a female member of staff a stripper, Mr Footer stated that he did not recall the alleged incident and that this is not something which he would say to Colleague B and that he would not be rude or personal.

The panel was satisfied that Colleague B's oral evidence was credible and consistent with her witness statement, which was further corroborated by her oral evidence. Based on this evidence, the panel was satisfied that it is more likely than not that Mr Footer said Colleague B *'is a stripper in her own time'* or words to that effect. The panel therefore found charge 5) proved.

Charge 6)

6) *"On one or more occasions called colleagues "cunts"."*

This charge is found proved.

The panel considered the documentary and oral evidence provided by Colleague C. In his evidence, Colleague C was clear about his recollections, describing how Mr Footer entered the room and referred to those in the team as *"cunts"*. He stated that the language and manner in which Mr Footer spoke was highly disparaging towards his team. He described Mr Footer as challenging to work with and further, how Mr Footer's behaviour made daily tasks more difficult, causing staff to *"walk on eggshells"* due to fear or concern about his reactions. He further said that this behaviour impacted patient care and the standards of treatment they received. Additionally, Colleague C said that Mr Footer would belittle staff, swear at them, and stomp about.

The panel also considered the Transcript of Investigation Meeting held on 14 June 2018, in which Mr Footer states: *'So I did say yeah I did say you are a bunch of useless c-u-n-t-s.'*

Furthermore, the panel considered the Investigation Report, dated 19 September 2018, which states:

'3.25.7 [Witness 1] asked Nicolas Footer if he admitted to calling them 'a bunch of cunts'. Nicholas Footer confirmed that he had done this...

...

3.25.9 Nicholas Footer admitted that he did say "you are a bunch of useless cunts".

...

3.25.10 Nicholas Footer advised that he spoke to [Witness 1] and I told him "I've upset your staff. I've said a lot of stuff that's completely inappropriate and unprofessional". Nicholas Footer stated he asked [Colleague C] and ... to meet with him in order to apologise...'

The panel noted Mr Footer acknowledged on several occasions that he has a history of using offensive language within the workplace.

Based on this evidence, the panel found charge 6) proved.

Charge 7)

7) *"Your conduct in charge 1, 2, 4 and/or 5:*

- a) Was unwanted by Colleague A and/or Colleague B and/or Colleague D.*
- b) Was of sexual nature*
- c) Was intended to violate Colleague A's and/or Colleague B's and/or Colleague D's dignity and/or create an intimidating, hostile, degrading, humiliating or offensive environment for Colleague A and/or Colleague B and/or Colleague D*
- Or*
- d) Had the effect of violating Colleague A's and/or Colleague B's and/or Colleague D's dignity and/or creating an intimidating, hostile, degrading,*

humiliating or offensive environment for Colleague A and/or Colleague B and/or Colleague D.”

This charge is found proved in its entirety.

The panel has considered all the evidence and finds the charges proved.

Charge 7a - Was unwanted by Colleague A and/or Colleague B and/or Colleague D.

The panel was satisfied that the evidence confirms that Mr Footer’s conduct was unwanted by colleagues and was neither invited nor solicited, notably:

Colleague A described her experience as embarrassing and humiliating, indicating the conduct was unwelcome.

Colleague B provided clear evidence that Mr Footer’s comments made her feel embarrassed, vulnerable, and powerless.

The panel noted that despite a culture of some banter within the team, Mr Footer’s remarks to Colleague A, Colleague B and Colleague D made them feel uncomfortable, suggesting that Mr Footer’s remarks were offensive, unprofessional and were unwanted.

The panel therefore found charge 7a) proved.

Charge 7b - Was of sexual nature

The panel considered whether Mr Footer’s conduct was of a sexual nature, applying the test that a reasonable person would consider it was sexual because of the circumstances and Mr Footer’s purpose in making the comments he did.

Charge 1: The context involved a deeply personal conversation to which Mr Footer was not invited, and he made comments and drawings referencing their sexual organs. The panel finds that such conduct, in context, could reasonably be perceived as sexual in nature due to its intimate reference and context.

Charge 2: Sharing references to sexual anatomy and discussing sexual organs with colleagues and service users clearly constitutes sexual behaviour based on its content and nature.

Charges 4 & 5: Comments such as '*prossies*' and '*stripper*' explicitly refer to sexual acts and sex work, which the panel considers amount to sexual conduct in a workplace setting.

The panel concludes that Mr Footer's conduct in charges 1, 2, 4, and 5 can reasonably be considered of a sexual nature.

Charges 7c and 7d –

c) *“Was intended to violate Colleague A’s and/or Colleague B’s and/or Colleague D’s dignity and/or create an intimidating, hostile, degrading, humiliating or offensive environment for Colleague A and/or Colleague B and/or Colleague D*

Or

d) *Had the effect of violating Colleague A’s and/or Colleague B’s and/or Colleague D’s dignity and/or creating an intimidating, hostile, degrading, humiliating or offensive environment for Colleague A and/or Colleague B and/or Colleague D.”*

The panel first assessed whether Mr Footer's conduct was intended to violate colleagues' dignity or create a hostile environment:

Intention (Charge 7c):

The evidence from colleagues clearly indicates an intent that Mr Footer sought to undermine colleagues' dignity and create an intimidating environment. Colleague B described feeling embarrassed, powerless, vulnerable, and the panel considered that this

meant her dignity had been compromised. Similarly, Colleague A experienced feelings of embarrassment and breach of dignity.

Effect of Conduct (Charge 7d):

The evidence shows a palpable adverse effect on Colleague A and Colleague B. Although there is no direct evidence from Colleague D, a reasonable person would infer that dignity was affected across all colleagues subjected to these remarks.

The panel heard that Colleague A expressed shock and embarrassment, which led the panel to conclude that her dignity had been breached. Further, these comments were also made in the presence of clients and teenagers.

Colleague B recalled feelings of embarrassment, powerlessness, and vulnerability, especially noting the power imbalance between herself (band 5) and Mr Footer (band 7).

In respect of Colleague D, there is no direct evidence; however, the inference that her dignity was also compromised is supported by the overall pattern of conduct.

Accordingly, charges 7a), 7b), 7c), and 7d) are found proved.

Charge 8)

8) *“On 23 September 2021:*

- a. Called Service User A an idiot.*
- b. Shouted at Service User A:*
 - i. “you are a fucking little cunt” or words to that effect.*
 - ii. “all you fucking want is drugs” or words to that effect.*
 - iii. “get the fuck out of my clinic” or words to that effect.”*

This charge is found proved in its entirety.

The panel considered the Conduct Investigation Meeting notes dated 18 October 2021. It noted Mr Footer's acknowledgment that he did call Service User A an '*idiot*', stating, '*he called me an idiot, I called him an idiot and I left.*' Given this admission, the panel is satisfied, on the balance of probabilities, that charge 8a) is proved.

Concerning charge 8bi), the panel considered the witness statement of Witness 3, who reported hearing Mr Footer raising his voice and shouting '*you are a fucking little cunt*' at Service User A:

'As I was making the coffee, I heard Nick's voice raise in volume until he was shouting at Service User A. I know it was Nick and Service User A interacting because I recognised their voices and they were the only two men in the room. I heard Nick shout, "you are a fucking little cunt".'

The panel noted that Witness 3's account was corroborated by the Datix record, which documented Mr Footer shouting the same phrase.

In respect of charge 8bii), the panel noted Witness 3's statement:

'I went back into the reception to see why there were raised voices. As I did, Nick was shouting at Service User A, saying, "all you fucking want is drugs, get the fuck out of my clinic". Nick then left the reception and went back upstairs to our office.'

The panel noted that the Datix corroborates this incident, describing Mr Footer's verbal outburst in the reception area: '*As I started to make the coffee all I heard was the nurse shouting you are a fucking little cunt all you fucking want is drugs so get the fuck out of my clinic now. I came back in to the reception and the nurse had his arm in the air saying get the fuck out of my clinic.*'

Additional witnesses, including Witness 4, supported these accounts. Witness 4 heard shouting from the reception and noted Mr Footer demanding Service User A leave his '*fucking clinic*'. Her account corroborates with her written statement from 28 September

2019, which describes escalation and shouting, including the remark about Mr Footer telling Service User A to leave.

Witness 2's statement further supports the occurrence of shouting, noting that Mr Footer returned to the waiting room, loudly shouting, '*there is no doctor here, fuck off out of my clinic,*' before walking away. The panel noted that multiple colleagues corroborated hearing his raised voice.

Witness 2's statement added that she heard Service User A raising his voice first, followed by Mr Footer raising his, culminating in words to the effect of '*get the fuck out of my clinic*'.

While Mr Footer denied swearing at clients, the panel took into account his response during the Conduct Investigation Meeting:

'I must say as well [Witness 5] I was very surprised when I phoned to ask if I could go back to work after having a short bout of common cold and to have, this response that I was suspended because of the patient behaviour - it's not who's being accused anything here it's me I can only say again that I matched him in tone but I didn't swear and I gave him everything he wanted, he wanted to speak to [Witness 4] there was another allegation about swearing at staff, that I did not do and yes I was frustrated but I certainly wasn't aggressive.'

The panel notes the consistency and corroboration across all other evidence, including Datix records and witness evidence. The panel therefore found charge 8 proved in its entirety.

Fitness to practise

Having reached its determination on the facts of this case the panel then moved on to consider whether the facts found proved amount to misconduct and, if so, whether Mr Footer's fitness to practise is currently impaired. 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 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 Footer's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct and impairment

Ms Fitzgerald referred the panel to the case of *Roylance v General Medical Council (No. 2)* [2000] 1 AC 311 which defines misconduct as a '*word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.*'

Ms Fitzgerald 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: Professional standards of practice and behaviour for nurses and midwives (2015) (the Code) in making its decision. Ms Fitzgerald identified the specific, relevant standards where Mr Footer's actions amounted to misconduct.

Ms Fitzgerald also referenced the relevant policies provided by the Trust, including the dignity and respect policy and the grievance policy. She submitted that, given that charge 7 is proved, charges 1, 2, and 4 also amount to misconduct, specifically harassment. In relation to charge 3, as Colleague B's account was believed, in which she stated that Mr Footer's actions made her feel uncomfortable, this too amounts to misconduct. Regarding charge 6, Mr Footer accepted that he said things that were completely inappropriate and unprofessional, and he asked Colleague C to meet to apologise. Concerning charge 8, she submitted that it was set in the context of working in the special allocation team, which was responsible for dealing with vulnerable and challenging service users. Although Witness 2 said that it might be necessary to raise one's voice when speaking to Service User A, Mr Footer's volume of shouting went beyond what was necessary. She submitted that Witness

4 described his response as serious, and Witness 5 characterised the incident as serious. As mental health practitioners, they should be aware of how to de-escalate situations.

Ms Fitzgerald submitted that there is clear evidence from witnesses whose evidence has been found to be credible and consistent that his behaviour was inappropriate. She therefore invited the panel to find that charges 1 to 8 amount to misconduct.

Ms Fitzgerald then addressed 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.

Ms Fitzgerald submitted that the appropriate test for panels to adopt when considering impairment is outlined by Dame Janet Smith in her report. She submitted that Mr Footer's attitude is relevant to whether his fitness to practise is currently impaired. She submitted that Mr Footer's fitness to practise is impaired on the grounds of public interest and public protection, particularly in relation to charge 8, which involved Service User A, a vulnerable patient.

Ms Fitzgerald submitted that, in relation to his colleagues, this could be characterised as bringing the profession into disrepute and breaching the fundamental tenets of the profession and the broader public interest and that Mr Footer's actions have brought the profession into disrepute and breached its core principles.

Ms Fitzgerald also submitted that the NMC has provided an impairment bundle which, amongst other things, shows that on 19 December 2023, when the NMC contacted Mr Footer, he stated that he did not wish to participate or cooperate with the ongoing investigation and claimed he had been bullied out of nursing. She submitted that, given Mr Footer's absence and lack of representation, these documents should be considered. She submitted it is also relevant to consider whether he has demonstrated any insight into his actions.

Ms Fitzgerald submitted that Mr Footer has not engaged with the proceedings, and the only comments the panel have regarding his actions are those documented in the internal

investigations. She submitted that there is no evidence of insight, remorse, or remediation as Mr Footer has not attended to provide any insight, nor has he submitted any statements demonstrating an understanding of his behaviour. There is no evidence to suggest that he recognises the gravity of his actions or that he believes they would not be repeated. For these reasons, Ms Fitzgerald invited the panel to find that Mr Footer's fitness to practise is impaired.

Decision and reasons on misconduct

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments.

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code. The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct.

The panel was of the view that Mr Footer's actions did fall significantly short of the standards expected of a registered nurse, and that Mr Footer's actions amounted to breaches of the Code (2015). Specifically:

'1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion

1.2 make sure you deliver the fundamentals of care effectively

1.5 respect and uphold people's human rights

2 Listen to people and respond to their preferences and concerns

To achieve this, you must:

2.6 recognise when people are anxious or in distress and respond compassionately and politely

8 Work co-operatively

To achieve this, you must:

8.2 maintain effective communication with colleagues

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 professions 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...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*

20.5 *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...*

The panel took into account the NMC Guidance on 'Misconduct' (Refence: FTP-2A, last updated 6 May 2025):

'Some concerns are more serious because they may lead to people receiving care or members of the public suffering harm or losing trust and confidence in the professionals we regulate.

...

There may also be other concerns which are related to professional practice or to the nurse, midwife or nursing associate's role as a registered professional. This includes bullying or harassing colleagues (including sexual harassment)...

The panel determined that drawing sexual images, making sexual comments and using inappropriate language about colleagues amounted to misconduct. Using offensive language and shouting at colleagues and patients also creates an intimidating and hostile

environment, undermining the standards of respectful communication and professional behaviour.

The panel determined that the misconduct involved highly degrading communication with colleagues and patients, often in the presence of other patients or members of the public. It concluded highly inappropriate communication with junior colleagues and service users, frequently in the presence of others, clearly had a detrimental impact on people's sense of dignity.

The panel therefore found that Mr Footer's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct in charges 1 to 8.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mr Footer'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 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 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) ...'*

The panel determined that limbs a, b and c of the test are engaged.

The panel determined that Service User A was placed at risk of harm. The panel noted that Mr Footer was working within a service supporting highly vulnerable service users, and his

use of abusive language towards Service User A, shouting at him to '*get the fuck out of my clinic*' posed a risk of harm, including potential psychological harm. The panel also heard that Service User A was visibly '*angry and annoyed*' by Mr Footer's behaviour which served to escalate the situation. Such behaviour could have deterred the service user from seeking help in future and may have undermined their trust in the service. Additionally, the panel considered that Service User A, being a patient who had been prevented from accessing GP care, relied upon this service to access primary healthcare. The panel found that Mr Footer's misconduct breached the fundamental tenets of the nursing profession and consequently brought its reputation into disrepute. Through his actions across the charges found proved, particularly his persistent use of highly inappropriate, degrading language towards colleagues and the service user, Mr Footer breached fundamental tenets and brought the profession into disrepute.

The panel had regard to the case of *Cohen v General Medical Council* and considered the following factors:

- Whether the misconduct is capable of being addressed;
- Whether it has been addressed; and
- Whether the misconduct is highly unlikely to be repeated.

The panel determined that through Mr Footer's persistent use of inappropriate and degrading language over a prolonged period of time, including his verbal abuse of Service User A which took place after Mr Footer had attended therapy with the intent of correcting his communication issues, he had a deep-seated attitudinal issue. The panel noted that whilst such an issue would not be impossible to remediate, it was more difficult to remediate than many other matters of misconduct that could be corrected through simple retraining. The panel considered that this can be remediated, but it recognises that it is a complex process given the deeply rooted nature of the attitude. Remediation would require Mr Footer to show meaningful remorse, provide detailed reflections upon the impact of his actions on colleagues, service users and the wider public confidence in the nursing profession. Furthermore, reflections detailing his insight into his own failings, why they occurred and evidence of what has been put in place to prevent reoccurrence. Additionally,

up-to-date testimonials and commentary on his professionalism in the role would be beneficial.

The panel noted that some remorse was evidenced at the time of the concerns. However, this was qualified remorse, accompanied by attempts to deflect blame. In terms of insight, there was some recognition of this at the time of investigation, but nothing more recently, and no consistent insight into the impact of his actions on colleagues and service users, particularly regarding professional boundaries and appropriate communication. The panel took into account that Mr Footer has attended counselling which indicates some attempt at remediation, but it had not been successful, as charge 8 arose subsequently, raising further concerns about repeated inappropriate communication.

Although Mr Footer accepted that such behaviour is unprofessional in front of patients, the panel noted that he repeated this conduct in charge 8. The panel considered the email from Mr Footer dated 20 April 2018, which outlined his reflection. In it, he stated:

'The use of expletives is unacceptable and unprofessional and doesn't reflect well on the nursing profession, Stars or EPUt and I accept this, but I have never and will never let my frustrations manifest this way in front of a patient and have taken measures to remedy that equally it doesn't happen again towards partner agency staff.'

The panel also considered the Conduct Investigation Meeting minutes from 18 October 2021. It noted Dr 1's response, which states:

'so in summary I've worked with Nick three years or just about I've seen Nick dealing with people working there more difficult than and I have always been extremely impressed with his calmness his level of professionalism and his decision making particularly around the complex cases...'

While the panel took this into account, it also recognised that this account was significantly at odds with the evidence provided by other witnesses during the hearing. The witnesses' statements were sworn evidence, whereas Dr 1's comments were included in Mr Footer's

registrant's bundle without being tested under cross-examination. As a result, the panel decided to attach less weight to this evidence.

Furthermore, the panel considered the telephone log between Mr Footer and the NMC case officer dated 19 December 2023, in which the case officer recorded:

'I called to introduce myself as the case has been reallocated to me. [Mr Footer] did not seem interested and said he does not wish to participate or cooperate with the on going investigation. He seemed upset about this and he mentioned that he has been "bullied out of nursing" and that his "Career is over". I remained calm and tried to offer support line however he was not interested and I mentioned I would drop an email so he has my details that way if he wishes to speak with me in the future he will have details he can contact me on. (sic)'

The panel considered that this was evidence of Mr Footer's position as regards to his present approach to engaging with the NMC's fitness to practise process and attempts to remediate.

In considering *Cohen*, the panel determined that Mr Footer's misconduct is capable of being addressed, although it has not been addressed so far and accordingly, his misconduct is highly likely to be repeated in the future, given his lack of both insight and strengthened practice.

The panel determined that, given the highly inappropriate manner in which he communicated towards junior colleagues, female colleagues, and service users, coupled with limited insight and remediation, Mr Footer is currently unable to practise in a manner that is kind, safe, and professional. In relation to practising safely, the panel took into account the witness statement of Witness 5 regarding charge 8, which states:

'I would sat that this incident was serious. As mental health practitioners, we should be able to have a self-awareness about our manner when we engage with patients and de-escalate situations. We should not let a situation get to the stage where there is an altercation.'

In this circumstance, Nick should have used de-escalation techniques, such as re-direction or removing himself from the situation. He could also have asked for support from another member of staff, or removed Service User A from the situation in a calm manner. This is part of our training as nurses and it is an ongoing skill be develop...'

Consequently, the panel determined that Mr Footer is currently unable to practise safely. The panel found that his communication with both colleagues and a service user caused them upset and distress and was unkind. Additionally, the panel was of the view that in light of Mr Footer's lack of insight and strengthened practice, that he could not presently practise professionally.

The panel bore in mind 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 concluded that there is also a risk of repetition and that a finding of impairment is necessary on the grounds of both public protection and public interest.

The panel determined that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Mr Footer's fitness to practise impaired on the grounds of public interest.

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

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 Footer off the register. The effect of this order is that the NMC register will show that Mr Footer 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.

Submissions on sanction

Ms Fitzgerald submitted that the most appropriate sanction is a strike-off. She referred the panel to the NMC Guidance on '*Sanctions for particularly serious cases*' (reference: SAN-2, last updated 6 May 2025).

Ms Fitzgerald submitted that panels deciding on sanctions in cases of sexual misconduct will, as in all cases, need to start their decision-making with the least severe sanction and work upwards until it identifies the appropriate outcome.

Ms Fitzgerald submitted that the concerns regarding Mr Footer are very serious, due to the inappropriate conduct towards Service User A in charge 8, and the remaining charges relating to sexual misconduct. She submitted that there are several aggravating factors in Mr Footer's case, including: lack of insight and strengthened practice; the finding of a risk of repetition; the pattern of misconduct over a period of time; and the fact that there have been two referrals raising serious attitudinal concerns.

Ms Fitzgerald submitted that attitudinal concerns are more difficult to address than clinical issues. Mr Footer's conduct has put those receiving care at risk of harm, and if a patient is shouted at, it may discourage them from seeking care in the future.

In relation to mitigation, the panel has heard very little from Mr Footer. However, there is mention of counselling in the internal investigation and an acknowledgment that the language used by Mr Footer regarding Service User A was unacceptable. Aside from this, there is not much else in terms of mitigation, given that Mr Footer has not attended or provided any statement.

Ms Fitzgerald submitted that, due to the gravity of the concerns and the fact that the issues do not primarily involve clinical practice, a no further action, caution, or conditions of practice order are not appropriate. She also submitted that a suspension order is not

appropriate, as this is not a single instance of misconduct. The facts found indicate deep-seated personality and attitudinal concerns, with the behaviour being repeated after the first referral, albeit in a different manner. Mr Footer's insight is limited, other than accepting that some of his language was inappropriate. Therefore, she submitted that striking-off order is the only appropriate sanction.

Ms Fitzgerald submitted that the concerns raise fundamental questions about Mr Footer's professionalism and ability to practise safely. The issues go to the fundamental tenets of nursing, and she submitted that public confidence in the profession cannot be maintained unless Mr Footer is struck-off. She concluded that, in light of the findings of impairment on both public protection and public interest grounds, only a striking-off order would protect patients, uphold public trust, and maintain standards within the profession.

Decision and reasons on sanction

Having found Mr Footer'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 NMC guidance '*Sanctions for particularly serious cases*':

'The Fitness to Practise Committee should be mindful of the following aggravating factors:

- *situations where the nurse, midwife or nursing associate has abused a position of trust they hold as a registered professional or a position of power.*

... as these behaviours can have a particularly severe impact on public confidence, a professional's ability to uphold the standards and values set out in the Code, and the safety of people receiving care, any nurse, midwife or nursing associate who is found to

have behaved in this way will be at risk of being removed from the register. If the panel decides to impose a less severe sanction, they will need to make sure they explain the reasons for their decision clearly and carefully. This will allow people who have not heard all of the evidence in the case, which may include those directly affected by the sexual misconduct in question, to properly understand the decision'

The panel noted that the context of the clinical environment in which the misconduct arose makes it particularly serious. Mr Footer worked within a service which supported marginalised and highly vulnerable service users. Consequently, the panel determined that Mr Footer's use of highly inappropriate sexualised language as well as abusive communication with a service user, within this context was an aggravating feature, particularly given its potential to stigmatise vulnerable people.

The panel took into account the following aggravating features:

- Abuse of a position of trust (power imbalance over junior colleague).
- Involved vulnerable service users and presented risk of harm.
- Mr Footer's limited insight.
- A pattern of misconduct over a prolonged period of time.
- Local disciplinary action presented missed opportunities for Mr Footer to reflect and take action to strengthen his practise.

The panel also took into account the following mitigating features:

- Attempted to remediate initially by attending counselling.
- Initial apologies to some of the people involved in Mr Footer's misconduct.

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 the public protection issues identified.

The panel 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 Footer'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 Footer'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 Footer's registration would be a sufficient and appropriate response. The SG states that conditions may be appropriate when some or all of the following factors are apparent:

- *'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*
- ...
- ...
- ...
- *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 can be created that can be monitored and assessed.'*

The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges found proved in this case, the identified deep seated attitudinal issues and the lack of engagement. The panel considered that the serious nature of the matters found proved and attitudinal concerns were difficult to remedy. The panel therefore determined that given the pattern of Mr Footer's misconduct, his limited insight and potential to cause real harm to patients and the public, there were no relevant, proportionate, workable and measurable conditions that could be formulated. Accordingly, a conditions of practice order would not address the risk of repetition, which poses a risk of harm to patient safety and the reputation of the nursing profession. The panel concluded

that the placing of conditions on Mr Footer'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 panel determined that Mr Footer's misconduct did not constitute a single instance of misconduct. As a result of Mr Footer's lack of insight into his failings, lack of evidence of remediation and lack of engagement with the NMC, the panel were not satisfied that he did not pose a significant risk of repeating his past conduct. The panel noted that Mr Footer's misconduct was a significant departure from the standards expected of a registered nurse. The panel determined that the serious breach of the fundamental tenets of the profession evidenced by Mr Footer's actions is fundamentally incompatible with him remaining on the register.

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 Footer's actions were significant departures from the standards expected of a registered nurse, and when considered against his lack of insight and remediation, the panel determined that the concerns have raised fundamental questions about his professionalism. The panel took into account the seriousness of Mr Footer's misconduct, the sexual nature of some of his misconduct, his lack of insight and remediation and his failure to engage, along with the other identified aggravating features. The panel concluded that to allow him to continue practising would place the public at risk of harm and undermine public confidence in the profession and in the NMC as a regulatory body.

In light of the above, the panel considered that Mr Footer's misconduct and continued lack of remediation or insight was fundamentally incompatible with him remaining on the register.

Accordingly, the panel determined that the appropriate and proportionate sanction is that of a striking-off order.

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.

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 Footer'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

Ms Fitzgerald invited the panel to impose an interim suspension order for a period of 18 months to provide for the gap between the making of any substantive order and closure of the statutory appeal window or any actual appeal. She submitted that an interim suspension order is necessary for the protection of the public and otherwise in the public interest.

Decision and reasons on interim order

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 to allow for the possibility of an appeal to be made and determined.

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

This will be confirmed to Mr Footer in writing.

That concludes this determination.