

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

**Substantive Order Review Hearing
Friday, 16 January 2026**

Virtual Hearing

Name of Registrant: Benjamin John Appleton

NMC PIN: 20D1647E

Part(s) of the register: Nursing Associates Registered (NAR)
(3 September 2020)

Relevant Location: Worcestershire

Type of case: Misconduct

Panel members: Paul Grant (Chair, lay member)
Deepa Leelamany (Registrant member)
Dora Waitt (Registrant member)

Legal Assessor: Neil Fielding

Hearings Coordinator: Sharmilla Nanan

Nursing and Midwifery Council: Represented by Anna Rubbi, Case Presenter

Mr Appleton: Not present and not represented at the hearing

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Order to lapse upon expiry in accordance with Article 30 (1), at the end of 28 February 2026**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Appleton was not in attendance and that the Notice of Hearing had been sent to Mr Appleton's registered email address by secure email on 18 December 2025.

Ms Rubbi, 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, the time, date and that the hearing was to be held virtually and, amongst other things, information about Mr Appleton'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 Appleton 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 Appleton

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

Ms Rubbi referred the panel to the email correspondence from Mr Appleton which states *"Please accept this email as formal notification that I will be unable to attend the upcoming hearing scheduled for 16th January 2026. I would like to sincerely assure the Panel that my absence is due to working outside of the UK at this point, and is in no way intended as a mark of disrespect toward the Nursing and Midwifery Council or the fitness to practise process."* She submitted that he has provided a testimonial from his employer and a reflective statement for today's panel to consider. She submitted that Mr Appleton has not

sought an adjournment nor is there any suggestion that he would attend if the hearing was adjourned. She invited the panel to proceed in the absence of Mr Appleton.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mr Appleton. In reaching this decision, the panel has considered the submissions of Ms Rubbi, the email correspondence from Mr Appleton, and the advice of the legal assessor. It has had particular regard to the 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 Appleton;
- Mr Appleton has informed the NMC that he is unable to attend the hearing as he is currently working outside of the UK and has provided a reflective statement and a testimonial from his current employer for the panel to consider in his absence.
- There is no reason to suppose that adjourning would secure his attendance at some future date;
- Mr Appleton has voluntarily absented himself and waived his right to attend today's hearing; 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 Appleton.

Decision and reasons on review of the substantive order

The panel decided to allow the current suspension order to lapse at the end of 28 February 2026 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the second review of the substantive suspension order. The original Fitness to Practise Committee panel initially imposed a conditions of practice order on 9 November 2023. However, this was appealed by the Professional Standards Authority (PSA).

Following the appeal, the High Court ruled to change the order to a suspension order for a period of 12 months. On 15 July 2025, a Fitness to Practise Committee panel reviewed the suspension order which was extended for six months.

The current order is due to expire at the end of 28 February 2026.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

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

‘That you, a registered nursing associate:

- 1) Between 14 August 2020 and 31 December 2021 breached professional boundaries in that you:
 - a) Sent messages to and exchanged messages with Patient A without clinical reason.*
 - b) Sent photographs to and exchanged photographs with Patient A which were inappropriate.**
- 2) Your intentions were sexual in that you expressed your desire to have sexual relations with Patient A.*

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

The first reviewing panel determined the following with regard to impairment:

‘The panel considered whether Mr Appleton’s fitness to practise remains impaired.

The panel had sight of Mr Appleton’s recent reflective statement. While it acknowledges that although there may be some developing insight, it is at an early stage and remains limited. The panel concluded that there was

insufficient reflection on the potential or actual impact of Mr Appleton's actions on the patient involved, the nursing profession as a whole, or the wider public. The panel was concerned that the reflection presented focused more on the consequences for himself, rather than on understanding the gravity of the misconduct or the impact on those who may have been affected.

In its consideration of whether Mr Appleton has taken steps to strengthen his practice, the panel found no effective evidence since the original hearing that Mr Appleton has taken steps to strengthen his practice since the imposition of the original order. The panel had not been provided with any evidence of remediation such as continued professional development (CPD), relevant training, or testimonials from work. While the panel noted that there was no evidence of non-compliance with the previously imposed conditions of practice, this alone does not demonstrate remediation.

Given the lack of meaningful insight and the absence of remediation, the panel concluded that there remains a risk of repetition. The panel was also concerned that the most recent reflection provided, suggests the presence of an emerging attitudinal issue, in that Mr Appleton appears to be developing insight, but in a direction that focuses on the personal effects of the fitness to practise process rather than understanding the impact of his actions on others arising from the charges found proved.

The panel considered that Mr Appleton's actions previously breached fundamental tenets of the profession, that of maintaining professional standards and putting the welfare of the patient first and that he is still liable to repeat matters of the kind found proved. 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, in this case, a finding of continuing impairment on public interest grounds is also required. This is because a member of the public in full possession of the facts and the progression of this case, would be troubled if a registered nursing associate were allowed to practise without restriction at a time when they continued to present a risk of harm to patients.

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

The first reviewing panel determined the following with regard to sanction:

'The panel next considered whether a conditions of practice on Mr Appleton's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. Given Mr Appleton's lack of insight and remediation, the panel concluded that such an order would not adequately protect the public or uphold the public interest. While Mr Appleton has expressed a desire to retain his PIN and return to practice in future, he is currently working in another industry and has shown no indication of willingness to engage with conditions. The panel therefore determined that a conditions of practice order would not be workable or sufficient, at this time.

The panel determined therefore that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. The panel decided to impose a suspension order for the period of 6 months to provide Mr Appleton a further opportunity and sufficient time within which to reflect and to demonstrate insight by fully reflecting on the impact of his behaviour on the patient concerned, the wider public, the profession and the NMC as regulator. It would also allow Mr Appleton time to demonstrate remedial steps that he has taken to prevent a recurrence of his misconduct. The panel considered this to be the most appropriate and proportionate sanction available.

The panel considered whether a striking off order might be appropriate but decided that such a sanction would be disproportionate at this time.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 28 August 2025 in accordance with Article 30(1).

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 would be assisted by:

- Attendance of Mr Appleton at the next review hearing*
- Evidence of meaningful insight (as referred to above) in reflective accounts using a framework such as a Gibbs cycle reflective framework*
- Evidence of any strengthening of practice in light of the misconduct found in this case*
- Testimonials from current employer (within or outside healthcare)'*

Decision and reasons on current impairment

The panel has considered carefully whether Mr Appleton'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 practice 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, email correspondence from Mr Appleton which includes a reflective statement and reference from his current employer.

The panel has taken account of the submissions made by Ms Rubbi on behalf of the NMC. She submitted that the NMC is neutral as to whether the current order is extended, lapsed, revoked or replaced. She provided the panel with submissions regarding the background to the case, the past decisions of previous panels and the decision of the High Court. She referred the panel to the relevant pages in the NMC bundle as well as Mr Appleton's reflective statement and testimonial from his employer.

Ms Rubbi referred the panel to relevant case law and NMC guidance. She submitted that the panel should consider whether Mr Appleton's practise remains impaired and what sanction, if any should be imposed. She provided submissions on the possible actions that the panel could undertake today.

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 Appleton's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Mr Appleton's had some developing insight, it was at an early stage and was limited. At this hearing, the panel had sight of a reflective statement provided by Mr Appleton. The panel noted that Mr Appleton's reflective statement focused on his lack of boundaries and failure to uphold the duty of candour. The panel was not satisfied that the statement demonstrated sufficient insight regarding Mr Appleton's misconduct with the vulnerable patient in his care. Whilst Mr Appleton has acknowledged that his actions put the patient at a risk of harm, he has not demonstrated an understanding of what caused him to act as he did. The panel was not satisfied that Mr Appleton has he addressed how he would act differently in the future in similar circumstances in managing sexual attraction with patients. The panel considered that Mr Appleton's reflective statement lacked sufficient insight and it determined that his insight remains limited.

The panel took into consideration that Mr Appleton was not available to attend today's hearing which could have provided further clarity and elaboration in relation to his reflective statement regarding his misconduct.

In its consideration of whether Mr Appleton has taken steps to strengthen his practice, the panel took into account that it had no documentary evidence at today's hearing to support his reflective statement that he has "*...taken time to reflect, attended professional boundaries training, and complied with all NMC requirements to demonstrate my commitment to remediation.*" The panel had no information or examples from Mr Appleton regarding how he would apply the learning from the professional boundaries course he has undertaken to his nursing associate practice with patients in the future. It had no evidence of any other training undertaken by Mr Appleton.

The panel considered the positive testimonial provided by Mr Appleton's current employer. It took into account that he is not working in a healthcare setting and is therefore unable to demonstrate any strengthened practice in relation to professional boundaries with vulnerable patients.

The last reviewing panel determined that Mr Appleton is liable to repeat matters of the kind found proved. Today's panel has received Mr Appleton's reflective statement and testimonial from his current employer. The panel bore in mind its findings that Mr Appleton's reflective statement lacked sufficient insight and the testimonial from his current employer did not relate to his nursing associate practice. The panel was of the view that the breaches of the NMC Code of Conduct and fundamental tenets of the profession had not been sufficiently addressed. In light of this, this panel determined that Mr Appleton remains liable to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel was of the view that a fully informed member of the public would be concerned to learn that Mr Appleton was allowed to return to practise in light of his lack of insight and lack of strengthened practice. 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, in this case, a finding of continuing impairment on public interest grounds is required.

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

Decision and reasons on sanction

Having found Mr Appleton'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. The panel decided that it would be neither proportionate nor in the public interest to take no further action. Further, it would not address the public protection concerns identified in the case.

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 or action that does not restrict Mr Appleton'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 Appleton'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 placing conditions of practice on Mr Appleton's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was not able to formulate conditions of practice that would adequately

address the concerns relating to Mr Appleton's misconduct which relate to his professionalism, attitude and professional boundaries with patients.

The panel took into consideration that Mr Appleton stated in his reflective statement that *"that my current career path outside the UK prevents me from meeting clinical "Conditions of Practice."*" The panel concluded that a conditions of practice order is only workable if Mr Appleton engaged with them.

In view of Mr Appleton's current circumstances and his lack of developed insight into his misconduct, the panel considered that any conditions of practice order would not be practical or workable nor could any conditions be formulated to address the attitudinal concerns underlying his misconduct.

The panel considered the imposition of a further period of suspension. The panel noted that Mr Appleton's misconduct was repeated and is not an instance where a lesser sanction is suitable. It noted that whilst there are attitudinal concerns related to Mr Appleton's misconduct, the panel did not consider that these were harmful and/or deep-seated. The panel took into account Mr Appleton has not worked in a healthcare setting since his suspension order was imposed and that there is no evidence the misconduct has been repeated since the original incident. The panel concluded that despite Mr Appleton providing today's panel with a further reflective statement he has not sufficiently developed his insight and there remains a risk of repetition. Mr Appleton stated in his reflective statement *"My current plan is to move toward a voluntary removal from the register..."*. Therefore, the panel determined that whilst in theory the imposition of a further suspension order could be appropriate given the specific circumstances of this case the imposition of a further suspension order would not serve any useful purpose and to impose such an order would delay the conclusion of these proceedings.

In respect of whether a striking-off order should instead be imposed, the panel considered the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*

- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

The panel was of the view that, Mr Appleton's misconduct raises fundamental questions about his professionalism given the serious charges he admitted at the substantive hearing held in 2023. The panel bore in mind that Mr Appleton has continually engaged with these proceedings and has previously been subject to a suspension order to mitigate the risks of his misconduct, to protect patients, members of the public and to maintain professional standards. The panel concluded that a striking off order is not the only sanction or action that will sufficiently protect the public, address the public interest and is fair to Mr Appleton's own interests. Taking all the above into account, the panel determined that a striking-off order would be disproportionate in these circumstances.

The panel bore in mind the NMC Guidance, '*Removal from the register when there is a substantive order in place*' (Rev-2h), which stated:

'There is a persuasive burden on the professional at a substantive order review to demonstrate that they have fully acknowledged why past professional performance was deficient and through insight, application, education, supervision or other achievement sufficiently addressed the past impairments.'

'While Suspension Orders and Conditions of Practice Orders can be varied or extended, they are not intended to exist indefinitely. In time the professional must be allowed to practise without restriction or they must leave the register. It is neither in the interests of the public nor the professional's own interests that they are kept in limbo.'

'Professionals who are not subject to fitness to practise proceedings have to revalidate every three years to stay on the register. In many cases it will be more appropriate for a professional to leave the register if they have been on a substantive order for this period of time and remain impaired.'

The guidance further states, on allowing an order to lapse with a finding of impairment:

'Where the professional would no longer be on the register but for the order in place, a reviewing panel can allow the order to expire or, at an early review, revoke the order. Professionals in these circumstances will automatically be removed from the register, or lapse, upon expiry or revocation of the order. The panel will record that the professional remains impaired.'

A panel will allow a professional to lapse with impairment where:

- the professional would no longer be on the register but for the order in place;*
- the panel can no longer conclude that the professional is likely to return to safe unrestricted practice within a reasonable period of time;*
- a striking off order isn't appropriate.*

Whilst the intentions or wishes of the professional do not determine whether they should be allowed to lapse, a professional who would no longer be on the register but for the order in place can themselves request an early review to ask that the order is removed.'

The panel bore in mind its decision in respect of impairment above. The panel then considered the factors within the guidance as applicable to this case.

The panel considered that Mr Appleton has not maintained his nursing registration, and he stopped paying his NMC registration fee in 2024. The panel was of the view that Mr Appleton would no longer be on the nursing register but for the suspension order currently in place. The panel took into consideration that Mr Appleton has indicated his desire to make an application for voluntary removal from the NMC register and that he has been working outside of a healthcare setting for a significant period of time. Therefore it was satisfied that Mr Appleton is unlikely to return to safe, unrestricted practice within a reasonable period of time. The panel had regard to its assessment above as to whether a striking off order was appropriate in the circumstances.

Taking all the above considerations into account, the panel therefore determined that the most appropriate outcome in this case is to allow the current suspension order to lapse. The panel was of the view that members of the public would be protected should Mr Appleton wish to return to nursing in the future, as a finding of impairment has been

confirmed today and this information will be made available to the Registrar for their consideration should Mr Appleton apply to rejoin the register. Further, the panel bore in mind that Mr Appleton would also need to complete a Return to Practice course before he is able to rejoin the register, which sufficiently protects the public. The panel concluded that this sufficiently addresses the public protection concerns, whilst balancing it against Mr Appleton's interests.

In accordance with Article 30(1), the substantive suspension order will lapse upon expiry, namely the end of 28 February 2026. As a consequence of this action, Mr Appleton's name will be removed from the NMC register.

This will be confirmed to Mr Appleton in writing.

That concludes this determination.