

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

**Substantive Hearing  
Monday, 12 - Friday, 16 January 2026**

Virtual Hearing

**Name of Registrant:** Paul Rooney

**NMC PIN:** 0710742E

**Part(s) of the register:** Registered Nurse – Sub Part 1  
Adult Nursing – 27 February 2009

**Relevant Location:** Pembrokeshire

**Type of case:** Misconduct

**Panel members:** Des McMorrow (Chair, registrant member)  
Sharon Peat (Registrant member)  
Kiran Bali (Lay member)

**Legal Assessor:** Ruth Mann

**Hearings Coordinator:** Catherine Acevedo

**Nursing and Midwifery Council:** Represented by Denise Amaning, Case  
Presenter

**Mr Rooney:** Not present and unrepresented

**Facts proved:** Charges 1, 2, 4 in relation to charges 1 and 2

**Facts not proved:** Charges 3

**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 Rooney was not in attendance and that the Notice of Hearing letter had been sent to Mr Rooney's registered email address by secure email on 11 December 2025.

Ms Amaning, 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 Rooney'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 Rooney 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 Rooney**

The panel next considered whether it should proceed in the absence of Mr Rooney. It had regard to Rule 21 and heard the submissions of Ms Amaning who invited the panel to continue in the absence of Mr Rooney. She submitted that Mr Rooney had voluntarily absented himself.

Ms Amaning referred the panel to the email correspondence from Mr Rooney to the NMC dated 8 December 2025 which stated "*I will not be attending either physically or virtually*".

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 Rooney. In reaching this decision, the panel has considered the submissions of Ms Amaning, the email correspondence from Mr Rooney, 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 Rooney;
- Mr Rooney has informed the NMC that he will not be attending the hearing;
- There is no reason to suppose that adjourning would secure Mr Rooney's attendance at some future date;
- Four witnesses are attending the hearing to give live evidence;
- 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 in 2022 and 2023;
- 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 Rooney 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 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 Rooney's decisions 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 Rooney. The panel will draw no adverse inference from Mr Rooney's absence in its findings of fact.

### **Decision and reasons on application to amend the charge**

The panel heard an application made by Ms Amaning, on behalf of the NMC, to amend the wording of charge 4.

The proposed amendment was to add the words '**sexual in nature and/or**'. It was submitted by Ms Amaning that the proposed amendment would provide clarity and more accurately reflect the charge and evidence.

#### Proposed amendment to charge 4

*"Your conduct in charge 1 and/or charge 2 and/or charge 3 were **sexual in nature and/or sexually motivated in that you were seeking sexual gratification**"*

The panel accepted the advice of the legal assessor and had regard to Rule 28 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel was of the view that such an amendment, as applied for, was in the interest of justice. The panel had regard to the fact that Mr Rooney had not been notified or forewarned of any such application to amend the charge. However, Mr Rooney was

always aware that the referral to the NMC and the fitness to practise concerns were of a sexual nature. The panel was satisfied that there would be no prejudice to Mr Rooney and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

### **Decision and reasons on application for hearing to be held in private**

At the outset of the hearing, Ms Amaning made a request that parts of the hearing be held in private [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

Having heard that there will be reference to [PRIVATE], the panel determined to hold those parts of the hearing in private in order to maintain their confidentiality and privacy.

### **Decision and reasons on hearsay applications**

The panel heard applications made by Ms Amaning under Rule 31 of the Rules. She submitted that the first application related to a number of exhibits that are contained within the evidence of Witness 2, who was the local level investigator. The NMC seeks to adduce both the verbal interviews of Ms 1 and Mr 2 that took place on 8 December 2023. In addition, the NMC sought to adduce the hearsay evidence contained in the handwritten accounts of Ms 1 and Ms 3. She submitted that these members of staff do not have NMC statements and will not be giving evidence at the hearing. She submitted that steps were not taken to secure the attendance of these three witnesses on the basis of proportionality. Ms Amaning submitted that the panel would be hearing oral evidence from

the complainants namely Colleague A and Colleague B. Ms Amaning submitted that this evidence is relevant as it all goes towards charge 2 and also charge 3.

Ms Amaning referred the panel to the case of *Thorneycroft v NMC* [2014] EWHC 1565 (Admin) and submitted that the staff interviews are not sole and decisive evidence and the panel will in due course hear from Colleague B and Witness 2 in respect of charge 2. She submitted that there is no material before the panel to suggest that any of these staff member have a reason to fabricate these the allegations contained.

Ms Amaning submitted that the handwritten account of Ms 1 and Ms 3 were signed and dated on the day that this incident occurred. It is further highlighted that given the consistent nature of the comments made together with Mr Rooney's admission to the comments at local investigation level, this evidence is demonstrably reliable.

Ms Amaning submitted that the second hearsay application was in relation to Colleague C's local investigation interview notes with Ms 4 dated 8 December 2023. She submitted that the evidence is relevant as it goes directly towards charge 3. Ms Amaning submitted that there have been a number of attempts by the NMC to obtain a formal witness statement from Colleague C. She referred the panel to a number of email correspondence between Colleague C and the NMC and notes of a telephone call on 26 November 2025. Ms Amaning submitted that Colleague C had expressed reluctance to engage in the investigation and proceedings [PRIVATE]. Ms Amaning therefore submitted that there are good reasons for her non-attendance. She submitted that the hearsay evidence of Colleague C was sole and decisive although during the local investigation, Mr Rooney did not dispute that it was a common question he asked female staff *"I always say to the girls, are you under 35 because I need a love child for my football team. It's my standard joke"*.

In the preparation of this hearing, the NMC had indicated to Mr Rooney that it was the NMC's intention for the evidence of these witnesses to be before the panel. Despite knowledge of the nature of the evidence Mr Rooney made the decision not to attend this

hearing. On this basis Ms Amaning advanced the argument that there was no lack of fairness to Mr Rooney in allowing this evidence.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 provides that, so far as it is 'fair and relevant', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings.

The panel first considered whether the evidence of Ms 1 should be admitted as hearsay. The panel determined that her evidence was relevant as she was a direct witness to the alleged incident as referred to in charge 2. The panel took into account that the NMC has not invited Ms 1 to attend the hearing. The panel noted that the statement was contemporaneous having been signed and dated by the witness on the day of the incident. The panel therefore determined to admit her interview and statement into evidence because it was not sole and decisive. There are other witnesses that speak to this incident and will give live evidence at this hearing. The panel also noted that Mr Rooney was made aware that this evidence would be used and has not challenged the evidence.

The panel then considered whether the evidence of Mr 2 should be admitted as hearsay. The panel determined that his evidence was relevant as he was a direct witness to the alleged incident as referred to in charge 2. The panel took into account that the NMC has not invited Mr 2 to attend the hearing. The panel noted that the interview took place with senior managers on the day of the alleged incident. The panel therefore determined to admit his interview and statement into evidence because it was not sole and decisive. There are other witnesses that speak to this incident and will give live evidence at this hearing. The panel also noted that Mr Rooney was made aware that this evidence would be used and has not challenged the evidence.

The panel considered whether the evidence of Ms 3 should be admitted as hearsay. The panel determined that her evidence was relevant as he was a direct witness to the alleged incident as referred to in charge 2. The panel took into account that the NMC has not

invited Ms 3 to attend the hearing. The panel noted that the statement was brief but was contemporaneous having been signed and dated by the witness on the day of the incident. The panel therefore determined to admit her written account into evidence because it was not sole and decisive. There are other witnesses that speak to this incident and will give live evidence at this hearing. The panel also noted that Mr Rooney was made aware that this evidence would be used and has not challenged the evidence.

In relation to Colleague C's hearsay evidence, the panel determined that her evidence was relevant as she was directly involved in the alleged incident as referred to at charge 3. The panel took into account that the NMC has made substantial efforts to secure her attendance at the hearing. The panel had regard to the fact that Mr Rooney was not questioned about this alleged incident in the local investigation and Colleague C had not provided a formal signed statement. The panel determined that it was unfair to admit her hearsay interview account into evidence because it was the sole and decisive evidence to charge 3 and there are no other witnesses that speak to this charge.

The panel therefore refused the application in respect of Colleague C.

In these circumstances, the panel came to the view that it would be fair and relevant to admit the evidence of Ms 1, Mr 2 and Ms 3 and would give it appropriate weight once the panel had heard and evaluated all the evidence before it.

### **Details of charge**

*That you a registered nurse:*

- 1. On or around 13 December 2022, behaved in an inappropriate manner towards Colleague A when stating to them words to the effect of, 'that's just where I like my women on their knees'.*

*2. On or around 8 December 2023, behaved in an inappropriate manner towards Colleague B when stating to them words to the effect of, 'come into the meds room I need a new love child for my football team'.*

*3. On or around 1 December 2023, behaved in an inappropriate manner towards Colleague C when stating to them words to the effect of, 'I want a love child for my football team'.*

*4. Your conduct in charge 1 and/or charge 2 and/or charge 3 were sexual in nature and/or sexually motivated in that you were seeking sexual gratification.*

*And in light of the above your fitness to practise is impaired by reason of your misconduct.*

## **Background**

Mr Rooney entered the Nursing and Midwifery Register on 27 February 2009.

These matters arose whilst Mr Rooney was working at [PRIVATE] (the Home). The Home is a residential nursing home for adult service users with mental illness and learning difficulties. Mr Rooney commenced his employment at the home on 8 May 2009 and was employed as a team leader.

On 29 December 2023 the NMC received a referral alleging that Mr Rooney made inappropriate sexual comments to three separate junior female members of staff (Colleagues A, B and C).

Mr Rooney has not provided any formal responses to the NMC in respect of these charges. There have been no written accounts, representations or submissions provided. Mr Rooney also did not return the Case Management Form (CMF).

## **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 Amaning.

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

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 the 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: Student Nurse attending the Home;
- Colleague B: Care Support Worker at the Home;
- Witness 1: Community Nurse, Supervisor of Colleague A;
- Witness 2: People Partner (HR) covering the Home.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor.

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

### **Charge 1**

On or around 13 December 2022, behaved in an inappropriate manner towards Colleague A when stating to them words to the effect of, *'that's just where I like my women on their knees'*.

**This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Colleague A, Witness 1. The panel had regard to Mr Rooney's account of this incident in the local investigation.

Colleague A said in her witness statement:

*"Whilst attending to the wound on her leg you cannot help but be on your hands and knees Mr Rooney, was stood in the doorway whilst I was attending to the patient in this way, and he made the comment "that's just where I like my women on their knees".*

Colleague A's written evidence was consistent with her oral evidence

Witness 1's evidence in her witness statement was as follows:

*"As I was not there, I did not hear the context and tone the comment was made in. I was made aware of this comment as [Colleague A] came into my office on the same day following handover and sat with me and told me the comment Mr Rooney had made to her".*

The panel noted that Colleague A told Witness 1 about this incident within hours of the incident occurring as she had attended the Home unaccompanied.

Colleague A in her witness statement stated *"When he made the comment, I think I just ignored him the comment did make me feel very uncomfortable and vulnerable"*. She also

*stated “I think the comment he made was serious and incorrect to make and is not professional of him at all. I think it was also very sexual in nature.”*

In her oral evidence in response to a question from the panel, Colleague A stated *“I was kneeling on the floor, he was stood two arms-length away from me in the doorway. I was very young at the time. I was a student nurse on my own and I felt there was a power imbalance. I didn’t know the patient very well. I wanted to shield the patient from him. I felt very uncomfortable”.*

In Mr Rooney’s evidence in his second investigation meeting dated 13 December 2022 he admits to making the following comment *“I came into the room, [Colleague A] was kneeling down doing the dressing, my thoughts a bit of banter, I said I like my women at my feet”.*

The panel found Colleague A and Witness 1 to be credible and reliable witnesses who provided consistent and cogent evidence. The panel accepted Colleague A’s account of the incident and the contemporaneous account she provided to Witness 1. It also took into account Mr Rooney’s admission in the investigation meeting to making a similar comment.

With regard to whether Mr Rooney had behaved in an inappropriate manner towards Colleague A when stating to them words to the effect of ‘that’s just where I like my women, on their knees’ the panel took into account that Mr Rooney was in a position of authority as team leader and was a man established in the Home. Colleague A was a young female student nurse not in her fixed place of work. The panel took into account that the incident occurred whilst Colleague A was on her knees, undertaking a clinical task for a patient and therefore in a vulnerable physical position.

The panel also considered Witness 1’s evidence that Colleague A needed assistance with the patient and that Mr Rooney should have supported her to complete the task but instead made this inappropriate comment to Colleague A in front of the patient. The panel therefore concluded that the words were not suitable or proper in the circumstances. The

panel determined that Mr Rooney behaved in an inappropriate manner towards Colleague A.

The panel therefore found charge 1 proved.

## **Charge 2**

On or around 8 December 2023, behaved in an inappropriate manner towards Colleague B when stating to them words to the effect of, *'come into the meds room I need a new love child for my football team'*.

### **This charge is found proved.**

In reaching this decision, the panel took into account the evidence of Colleague B and Witness 2 and the hearsay accounts of Ms 1, Mr 2 and Ms 3. The panel had regard to Mr Rooney's account of this incident in the local investigation.

Colleague B said in her witness statement:

*"My first day at the home was 8th December 2023. The comment was made early in the morning, it was just before handover took place. There were several other members of staff around chatting to one another"*

*"[Mr Rooney] made a comment to me asking me how old I was and then asked if I wanted to make a love child with him for his football team."*

*"Later that day the managers... asked to speak to me about what [Mr Rooney] had said. I told them what he had said..."*

Colleague B's oral evidence was consistent with her written evidence.

The panel found Colleague B to be a credible and reliable witness. The panel accepted Colleague B's clear account of the incident and the contemporaneous account she provided to her manager.

The panel also had regard to the hearsay evidence of Ms 1, Mr 2 and Ms 3 who were all present at the time when the alleged comment was made.

The panel had regard to Mr Rooney's account in the local investigation interview dated 8 December 2023 in which he said *"I always say to the girls are you under 35 because I need a love child for my football team. It's my standard joke"*.

With regard to whether Mr Rooney had behaved in an inappropriate manner towards Colleague B, the panel took into account that Mr Rooney was in a position of authority as team leader and is a man. Colleague B was a young female care support worker. The panel took into account that the incident took place on Colleague B's first day of work at the Home. She had never met Mr Rooney before the alleged incident. This alleged incident occurred just before the handover and in the presence of other members of staff.

The panel determined there was no justification for the words that were used and it was clearly insinuating sexual behaviour. In making this comment, in these circumstances, the panel determined it was inappropriate.

The panel therefore determined that on the balance of probabilities Mr Rooney had stated to Colleague B, on or around 8 December 2023, words to the effect of, *'come into the meds room I need a new love child for my football team'*. The panel found that he had behaved in an inappropriate manner towards Colleague B by using these words. The panel therefore found charge 2 proved.

### **Charge 3**

On or around 1 December 2023, behaved in an inappropriate manner towards Colleague C when stating to them words to the effect of, *'I want a love child for my football team'*.

**This charge is found not proved.**

In reaching this decision, the panel was of the view that the NMC had provided insufficient evidence to find this charge proved.

The panel had previously determined that Colleague C's hearsay evidence was inadmissible. The panel had regard to the fact that Mr Rooney in his local investigation interview accepted that he made a joke to girls under 35 about making a love child for his football team. However, the panel determined that this did not prove the charge in that it could not be said to the requisite standard of proof that on or around 1 December 2023, Mr Rooney said the words alleged to Colleague C.

The panel considered the proportionality in directing the NMC to seek further evidence in relation to this charge, However, it determined that given the passage of time, witnesses ability to accurately recall events would be adversely affected and there is a strong public interest in the expeditious disposal of the case and not delaying proceedings.

The panel therefore found charge 3 not proved.

**Charge 4**

Your conduct in charge 1 and/or charge 2 and/or charge 3 were sexual in nature and/or sexually motivated in that you were seeking sexual gratification.

**This charge is found proved.**

In reaching this decision, the panel took into account its findings at charges 1 and 2.

In relation to charge 1, the panel considered whether Mr Rooney's conduct was sexual in nature. The panel determined that the words he used were sexual in nature and were suggestive of Colleague A performing a sexual act on him and/or suggestive of subservience. The panel took into consideration Colleague A's evidence that she was on her knees two arms-length away from Mr Rooney who was stood in the doorway when he said these words to her. The panel was of the view that there could be no other interpretation for his words in the circumstances.

Having found that Mr Rooney's conduct in charge 1 was sexual in nature, the panel went on to consider whether it was sexually motivated. This involved the panel determining Mr Rooney's state of mind. In doing this, the panel considered the words used and the physical position of Colleague A in that she was on her knees in front of him. The panel determined that Mr Rooney took advantage of the power disparity between him and Colleague A and also her being a young female and a student nurse when he was in a position of authority in a senior role at the Home. The panel was of the view that it was more likely than not that Mr Rooney was insinuating a sexual situation with Colleague A and this could only be sexually motivated in that he was seeking sexual gratification.

In relation to charge 2, the panel considered whether Mr Rooney's conduct was of a sexual nature. The panel determined that the words he used were sexual in nature and were suggestive of Colleague B having sexual intercourse with him to produce a 'love child'. The panel was of the view that there could be no other interpretation of these words.

Having found that Mr Rooney's conduct in charge 2 was sexual in nature, the panel went on to consider whether the conduct was sexually motivated. The panel was of the view that Mr Rooney took advantage of Colleague B being a young female support worker on

her first day at the Home when he was in a position of authority in a senior role and as a man established in the Home. It determined that this comment was belittling and humiliating made in front of colleagues on her first day in the job. Colleague B had told the panel that she had never met Mr Rooney prior to the initial encounter. The panel was of the view that Mr Rooney was insinuating a sexual encounter with Colleague B and sought to make her feel vulnerable and uncomfortable, this could only have been sexually motivated in that he was seeking sexual gratification.

The panel therefore found charge 4 proved in relation to charges 1 and 2.

### **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 Rooney'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 Rooney's fitness to practise is currently impaired as a result of that misconduct.

### **Submissions on misconduct and impairment**

In coming to its decision, the panel had regard 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 Amaning invited the panel to take the view that the facts found proved amount to misconduct. She referred to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code) in making its decision and identified the specific, relevant standards where the NMC say Mr Rooney's actions amounted to misconduct.

Ms Amaning submitted that Mr. Rooney's conduct occurred whilst he was in a position of authority, and he made inappropriate sexual comments to a young junior female. He then repeated his behaviour despite a final written warning being in place. Ms Amaning in respect of Colleague B this was her first day working at the Home. She submitted that this was an environment where there was psychological harm.

Ms Amaning submitted that Mr Rooney has breached fundamental tenets of the profession by not treating people with respect, dignity and maintaining professional boundaries. She submitted that Mr Rooney's conduct amounts to a significant departure from the fundamental principles within the Code, and these are fundamental principles which lie at the very heart of nursing and are pivotal to maintaining the reputation of the profession. She invited the panel to find that Mr Rooney's behaviour fell far below the standards expected of a nurse and amounts to misconduct.

Ms Amaning then moved on to 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. This included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Ms Amaning submitted that, as a result of Mr Rooney's sexual misconduct, his fitness to practice is currently impaired on both public protection and wider public interest grounds. She submitted that this is a case which involved repeated misconduct which was both sexual in nature and sexually motivated. She submitted that the misconduct was repeated over a substantial period of time and demonstrates that there is an ongoing risk of repetition.

Ms Amaning submitted that Mr Rooney has very limited insight into the impact of his behaviour, and that lack of awareness, coupled with his apparent refusal to change, does amount to an attitudinal concern. She submitted that Mr Rooney's conduct demonstrates serious failings with regards to the needs to uphold proper professional standards, maintain public confidence, and it calls into question his suitability to remain on the register and to practice without any restriction.

The panel accepted the advice of the legal assessor.

### **Decision and reasons on misconduct**

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that Mr Rooney's actions did fall significantly short of the standards expected of a registered nurse, and that his actions amounted to a breach of the Code. Specifically:

*"1 Treat people as individuals and uphold their dignity*

*To achieve this, you must:*

*1.1 treat people with kindness, respect and compassion*

*8 Work co-operatively*

*To achieve this, you must:*

*8.2 maintain effective communication with colleagues*

*9 Share your skills, knowledge and experience for the benefit of people receiving care and your colleagues*

*To achieve this, you must*

*9.4 support students' and colleagues' learning to help them develop their professional competence and confidence*

*20 Uphold the reputation of your profession at all times*

*To achieve this, you must:*

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

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

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

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

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that Mr Rooney conduct was serious and involved his comments to young female colleagues in the workplace which were of a sexual nature and were sexually motivated. The panel considered that such conduct could put colleagues or others present at risk of psychological harm. The panel considered that in respect of the charges proved, the conduct was not suitable or proper in the circumstances. The facts proven indicate that Mr Rooney repeated the behaviour. In both charges there was a clear imbalance of power and Mr Rooney was in a position of responsibility as a team leader.

The panel noted that Mr Rooney was a team leader at the Home and he should have been a role model to his colleagues, creating a pleasant, safe and effective working environment for all staff. Instead, he singled out junior female colleagues to make such comments to. The panel determined that Mr Rooney demonstrated a pattern of behaviour and despite being told that his conduct was inappropriate, he repeated similar comments to another member of staff.

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

### **Decision and reasons on impairment**

The panel next went on to decide if as a result of the misconduct, Mr Rooney's fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the NMC Guidance on '*Impairment*' (Reference: DMA-1 Last Updated: 03/03/2025) in which the following is stated:

*'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. 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 found that limbs a, b and c are engaged in the *Grant* test.

The panel found that a patient was put at risk of psychological and emotional harm as a result of being a witness to Mr Rooney's misconduct. In addition, colleagues and patients may have found it difficult to approach Mr Rooney for support, advice and care when they needed his professional assistance to provide good care.

The panel found that Mr Rooney's behaviour brought the reputation of the profession into disrepute by behaving in a manner that was sexually motivated, unkind and promoted an environment that was uncomfortable for his colleagues. The panel recognised that patient trust is essential for delivering high-quality care and that behaviour such as that found proved is liable to damage the position of trust in which the nursing profession is held. This in turn, may prevent those in need of healthcare from seeking the appropriate help for fear of being exposed to situations similar to those found proved.

The panel found that Mr Rooney's misconduct had breached the fundamental tenets of the nursing profession. The panel considered that any comments of a sexual nature should not be made in the workplace and are exacerbated by the fact that Mr Rooney was in a position of authority as team leader. The panel found that Mr Rooney had not demonstrated kindness, respect and compassion which it considered to be fundamental to nursing.

The panel had sight of the employee matters Dignity at work policy in place at the Home, noting the following

***“Examples of bullying or harassment***

- *unwelcome jokes or comments of a sexual or racial nature or about an individual's age, disability, sexual orientation or religion*
- *questions about a person's sex life”*

In reaching its decision with regard to impairment, the panel had regard to the Fitness to Practise library guidance and noted at [FTP-15a](#) that sexual misconduct whether it occurs inside or outside professional practise is an example of conduct which may not be possible to address and where steps such as training courses and supervision at work are unlikely to address the concerns.

The panel was of the view that Mr Rooney has shown no reflection into his behaviour and the comments he made towards Colleague A and Colleague B. It had regard to the local investigation notes in relation to the incident with Colleague A, where Mr Rooney accepted that he said the words *"I like my women at my feet"* but that this was said in a joking manner and he thought it was a bit of 'banter'.

In the local investigation interviews relating to the incident with Colleague B, Mr Rooney accepted that it was not appropriate to say this to a new member of staff but that the new member of staff needed to have a sense of humour.

In relation to whether the conduct has been remediated, the panel considered that Mr Rooney has shown no remorse or insight in the conduct or the negative impact his misconduct would have on his colleagues, patients and the reputation of the nursing profession. He also had not provided any evidence of how he would act differently in the future or any willingness to change his behaviour. The panel determined that Mr Rooney's behaviour was demonstrative of a deep-seated attitudinal issue.

The panel took into account that Mr Rooney had been up to date with his professional boundaries training at the Home when these matters arose. He was asked to repeat the training by his manager as a result of the first local investigation. Mr Rooney has not provided any information to the panel for this hearing and there is no evidence of any training, references or testimonials.

The panel considered that despite going through a previous local disciplinary proceeding, and being asked to undertake relevant training for these comments made to a young female colleague, Mr Rooney repeated his behaviour to another young female colleague. The panel determined that there is a risk of repetition based on the lack of evidence of insight, remorse and absence of any steps taken to address the concerns. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The conduct involves repeated instances of sexually motivated behaviour involving junior members of staff and a finding of impairment on public interest grounds is required. The public need to be confident that any contact they have with the nursing profession will put their needs as a priority.

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

Having regard to all of the above, the panel was satisfied that Mr Rooney'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 Rooney off the register. The effect of this order is that the NMC register will show that Mr Rooney 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 Amaning submitted that the appropriate sanction in this case is a striking-off order due to the nature and seriousness of Mr Rooney's actions, which involved two young junior females who were exposed to inappropriate sexual misconduct. She submitted that Mr Rooney's conduct was incompatible with being a registered professional.

Ms Amaning submitted that the panel should take into account the principle of proportionality and seek to balance not only the risks to the public, but to also satisfy public interest considerations and to also consider Mr Rooney's own interests. She outlined to the panel what the NMC consider to be the aggravating and mitigating features of the case.

Ms Amaning submitted that to take no action or impose a caution order would be wholly inappropriate.

Ms Amaning submitted that a conditions of practice order is not suitable. The concerns identified in this case are attitudinal in nature and involved sexual misconduct and she submitted that there are no workable conditions which could be formulated to adequately address the underlying attitudinal concerns.

With regard to a suspension order, Ms Amaning submitted that because there is evidence of deep-seated attitudinal problems and an absence of insight and remorse, Mr Rooney is

likely to repeat the behaviour. She submitted that a suspension order would not be appropriate.

Ms Amaning submitted that Mr Rooney's misconduct constitutes a significant departure from the standards expected of a registered nurse, and the conduct he has displayed is fundamentally incompatible with continued registration. The NMC therefore submit that a striking-off order is the most appropriate and proportionate sanction in this case.

### **Decision and reasons on sanction**

Having found Mr Rooney'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:

- Mr Rooney's conduct caused psychological harm and distress to young junior female colleagues.
- Mr Rooney's conduct put patients who witnessed Mr Rooney's misconduct at risk of psychological harm.
- Abuse of the position of trust he held as team leader. Mr Rooney's conduct targeted and exploited young, junior females and was predatory conduct which occurred in the workplace.
- Mr Rooney repeated his conduct over a period of time despite receiving a final written warning from his employer.
- Mr Rooney has demonstrated a lack of sufficient insight or remorse.

The panel also took into account the following mitigating features:

- Personal mitigation. [PRIVATE].

The panel had regard to the NMC Guidance SAN-2 Sanctions for particularly serious cases.

*“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”.*

The panel found that Mr Rooney’s sexual misconduct occurred within a power disparity setting; him as a team leader and them as a student nurse and a care support worker on her first day working at the Home.

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 not protect the public nor be 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 Rooney’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 Rooney’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 Rooney’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. The panel determined that the misconduct and deep-seated attitudinal problems identified cannot be addressed through retraining or supervision.

Furthermore, the panel concluded that the placing of conditions on Mr Rooney's registration would not adequately address the seriousness of this case and would not adequately protect the public. Mr Rooney has shown no willingness to engage with these proceedings which the panel concluded questioned the workability of any conditions.

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 found that Mr Rooney's conduct was not a single instance but was repeated. The panel found evidence of deep-seated attitudinal problems. There was no evidence of repetition since the second incident but the panel determined that Mr Rooney poses a significant risk of repeating the behaviour due to his lack of formal reflection and the absence of evidence of any steps taken to address the concerns.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

Mr Rooney's actions were significant departures from the standards expected of a registered nurse. He demonstrated a lack of empathy and respect for others and the panel considered this to be fundamentally incompatible with him remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mr Rooney's actions were serious and to allow him to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

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

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

This decision will be confirmed to Mr Rooney 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 Rooney'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**

The panel took account of the submissions made by Ms Amaning. She submitted that in accordance with the panel's earlier findings, an interim suspension order for 18 months is necessary for the protection of the public and is in the wider public interest in order to cover the appeal period.

### **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 cover the appeal period.

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

That concludes this determination.