

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

**Substantive Meeting
Wednesday, 18 March 2026**

Virtual Meeting

Name of Registrant:	Sunil Mushtaq
NMC PIN:	21F0086O
Part(s) of the register:	Nursing, Sub part 1 RNA, Registered Nurse - Adult 3 June 2021
Relevant Location:	Exeter
Type of case:	Conviction
Panel members:	Angela Kell (Chair, lay member) Katrina Maclaine (Registrant member) Caroline Taylor (Lay member)
Legal Assessor:	Charlotte Mitchell-Dunn
Hearings Coordinator:	Franchesca Nyame
Consensual Panel Determination:	Accepted
Fact proved:	Charge 1
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim order:	Interim suspension order (18 months)

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that that the Notice of Meeting had been sent to Mr Mushtaq's registered email address by secure email on 3 February 2026.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, date and the fact that this meeting was to be held virtually.

In the light of all of the information available, the panel was satisfied that Mr Mushtaq has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004' ('the Rules').

Details of charge

That you, a Registered Nurse:

1. Were convicted at Exeter Crown Court on 21 March 2025 of Sexual Assault upon a Female

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

Consensual Panel Determination

At the outset of this meeting, the panel was made aware that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between the Nursing and Midwifery Council (NMC) and Mr Mushtaq.

The agreement, which was put before the panel, sets out Mr Mushtaq's full admissions to the conviction in the charge and that his fitness to practise is currently impaired by reason of that conviction. It is further stated in the agreement that an appropriate sanction in this case would be a striking-off order.

The panel considered the provisional CPD agreement reached by the parties.

The panel noted that the provisional CPD agreement reads as follows:

'The Nursing & Midwifery Council ("the NMC") and Mr Sunil Mushtaq, PIN 21F00860 ("the Parties") agree as follows:

- 1. Mr Mushtaq is content for his case to be dealt with by way of a CPD meeting.*

- 2. Mr Mushtaq understands that if the panel wishes to make amendments to the provisional agreement that are not agreed by Mr Mushtaq, the panel may refer the matter to a substantive hearing.*

The charge

3. Mr Mushtaq admits the following charge:

4. That you, a Registered Nurse:

- 1. Were convicted at Exeter Crown Court on 21 March 2025 of Sexual Assault upon a Female*

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

The facts

It is AGREED between the Parties that;

5. Mr Mushtaq appears on the register of nurses, midwives and nursing associates maintained by the NMC as a Registered Adult Nurse and has been on the NMC register since 3 June 2021.

6. Mr Mushtaq was employed as a Band 5 registered nurse at Somerset NHS Foundation (“the Trust”). He was also registered with an Agency. At the time of the offence, Mr Mushtaq was working in the Emergency Department at Royal Devon United Hospital (“the Hospital”) as an Agency Nurse.

7. Mr Mushtaq made a self-referral to the NMC on 24 October 2022. He informed the NMC that he was subject to a police investigation by Devon and Cornwall police due to an allegation of sexual assault made by a patient who he had triaged within the Emergency Department (“ED”) at the Hospital.

8. On 10 October 2022, the patient attended the ED with her then partner after becoming unwell. Mr Mushtaq was the nurse entrusted with her care and treatment.

9. Between 18:30 and 19:00, Mr Mushtaq repeatedly entered the patient’s cubicle and at various times (whilst her partner was not present), rubbed his penis under his clothing along the patient’s arm whilst purporting to tend to her cannula.

10. During one of those incidents, Mr Mushtaq also rubbed the patient’s hand over his penis and ejaculated resulting in the patient being left with

semen on her hand which she then wiped on her dressing gown. When the patient's partner returned to the cubicle, he found her visibly distressed. The patient was discharged from the Hospital that same evening.

11. In the following days, the patient disclosed the incident to her then partner and thereafter called the police. When the police attended her home on 12 October 2022, the patient was so distressed that an ambulance had to be called for her.

12. Mr Mushtaq was interviewed by the police on 2 occasions, in both interviews, Mr Mushtaq maintained that he had not assaulted the patient. At the second interview, Mr Mushtaq was presented with the DNA evidence that had been obtained as part of the police investigation, which showed that Mr Mushtaq's semen was found on the patient's dressing gown.

13. Mr Mushtaq was subsequently charged with Sexual Assault of a female.

14. On 21 March 2025, by virtue of his guilty plea before the Exeter Crown Court, Mr Mushtaq was convicted of the offence of Sexual Assault.

15. On 12 May 2025, Mr Mushtaq was sentenced to 18 months imprisonment suspended for a period of 18 months. The suspended sentence order contained the requirements that Mr Mushtaq complete 180 hours of unpaid work and 30 rehabilitation activity days.

16. In addition, and as a result of the sentence imposed, Mr Mushtaq is subject to the notification requirements for the Sex Offender's Register for a period 10 years along with being subject to barring by the Disclosure and Barring Service.

17. Mr Mushtaq submitted an application for Agreed Removal on 6 August 2025, in which he stated:

'1. As I got my conviction certificate there is no point of me being on the register.

2. I have no plans to join register at any point.

3. I would like to solve this case via consensual panel determination.'

18. Mr Mushtaq returned his completed Case Management Form on 12 October 2025. He admits the regulatory charge and agrees that his fitness to practise is currently impaired.

Impairment

19. The Parties agree that Mr Mushtaq's fitness to practise is currently impaired by reason of his conviction.

20. The NMC's guidance¹ explains that impairment is not defined in legislation but is a matter for the Fitness to Practise Committee to decide.

21. 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?'

22. Answering this question involves a consideration of both the nature of the concern and the public interest. In addition to the following submissions, the panel is invited to consider carefully the NMC's guidance on impairment.

23. *When determining whether the Registrant's fitness to practise is impaired, the questions outlined by Dame Janet Smith in her Fifth Report from Shipman, approved in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) are instructive and are incorporated into the NMC Guidance.*

The nature of the concern:

24. *In terms of the nature, as detailed in the NMC's guidance on impairment, DMA-1, the following factors must be considered in this case:*

- (a) whether [Mr Mushtaq] in the past acted and/or is liable in the future to act as so to put a person receiving care at unwarranted risk of harm;*
- (b) whether [Mr Mushtaq] in the past breached and/or is liable in the future to breach a fundamental tenet of the profession*
- (c) whether [Mr Mushtaq] has in the past acted and/or is liable in the future to act dishonestly the context of the conduct involved in the concern whether it's highly unlikely that the conduct will be repeated.*
- (d) the context of the conduct involved in the concern*
- (e) whether it's highly unlikely that the conduct will be repeated.*

25. *The NMC submitted that factors (a), (b), (d) and (e) are relevant factors to be considered in this case. The NMC submitted that factors (a), and (b) can be answered in the affirmative. Factor (e) is answered in the negative as it is submitted that it cannot be said that it is highly unlikely that the conduct will be repeated.*

26. *In addressing factor (a), Mr Mushtaq's conviction was for sexually assaulting a patient in his direct care. The patient was vulnerable by virtue of their admission to the Hospital. The patient is noted to have suffered*

emotional and psychological distress which led to a diagnosis of post-traumatic stress disorder. Mr Mushtaq's repeated actions during the material time caused harm to the patient.

27. In addressing factor (b), nurses are held in high regard, and in a position of trust. Mr Mushtaq took advantage of the trust placed in him. His actions have brought the reputation of the profession into disrepute.

28. All nurses are bound to abide by 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' ("the Code"). Mr Mushtaq's actions and conviction breached fundamental tenets of the nursing profession.

29. The Parties agree that the following provisions of the Code have been breached in this case:

1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion

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

20.4 keep to the laws of the country in which you are practising

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

30. As per the guidance on impairment DMA-1, while not all breaches of the Code

require a finding of impairment, where a breach of the Code involves breaching a fundamental tenet of the profession, the Fitness to Practise Committee would be entitled to conclude that a finding of impairment is required.

31. The guidance at DMA-1 sets out the following three areas which will be important for the panel to consider in respect of context: personal factors relating to the professional, the professional's working environment and culture and the learning, insight and steps the professional has taken to strengthen their practice.

32. In terms of context (as outlined in factor (d) above), Mr Mushtaq has not put forward any information or material suggesting there were any personal factors for consideration at the time of the offence.

33. In respect of the working environment or culture, Mr Mushtaq has not provided any information to suggest this warranted any consideration at the time of the offence. The NMC considers that there are no elements of a working environment or culture that would explain, justify or mitigate the sexual assault of a patient in Mr Mushtaq's care.

34. In relation to learning or insight, given that the offence relates to the sexual assault of a patient in his care, the issue of strengthening of practice is not applicable. Mr Mushtaq has not provided any reflection or material which would demonstrate any insight.

35. The Parties note that impairment is a forward-looking exercise.

36. The Parties considered the case of Cohen v General Medical Council [2008] EWHC 581 (Admin) in which the court set out three matters which it

described as being 'highly relevant' to the determination of the question of current impairment;

(a) Whether the conduct that led to the charge(s) is easily remediable.

(b) Whether it has been remedied.

(c) Whether it is highly unlikely to be repeated.

37. In considering the first question of 'whether the conduct that led to the charge(s) is easily remediable', the panel is referred to the NMC Guidance 'Can the concern be addressed?':

'Decision makers should always consider the full circumstances of the case in the round when assessing whether or not the concerns in the case can be addressed. This is true even where the incident itself is the sort of conduct which would normally be considered to be particularly serious.

The first question is whether the concerns can be addressed. That is, are there steps that the nurse, midwife or nursing associate can take to address the identified problem in their practice?

[...]

Decision makers need to be aware of our role in maintaining confidence in the professions by declaring and upholding proper standards of professional conduct. Sometimes, the conduct of a particular nurse, midwife or nursing associate can fall so far short of the standards the public expect of professionals caring for them that public confidence in the nursing and midwifery professions could be undermined. In cases like this, and in cases where the behaviour suggests underlying problems with the nurse, midwife or nursing

associate's attitude, it is less likely the nurse, midwife or nursing associate will be able to address their conduct by taking steps, such as completing training courses or supervised practice.

Examples of conduct which may not be possible to address, and where steps such as training courses or supervision at work are unlikely to address the concerns include:

- *criminal convictions for specified offences or convictions that led to custodial sentence [...]*

38. The NMC Guidance at FTP-2c-13 sets out the list of specified offences. Sexual offences are included within that list. The guidance details that

“Specified offences are offences which are, by definition, particularly serious. The nature of these convictions would raise fundamental questions about a nurse, midwife or nursing associate's ability to uphold the standards and values set out in the Code.”

39. The Parties agree that the conviction in this case is for a specified offence, and therefore inherently serious. As such, it is not possible to remediate or address this conduct by way of training courses or supervision. Mr Mushtaq was convicted of a sexual offence in respect of a patient who was directly in his care. In the absence of any insight and without remediation, it cannot be said that Mr Mushtaq is highly unlikely to repeat such behaviour.

40. A finding of impairment is necessary on public protection grounds.

41. In light of the nature of Mr Mushtaq's conviction, the Parties agree that a finding of current impairment should be made to protect the public.

The Public Interest

42. *In Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) at paragraph 74 Cox J commented that:*

“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.”

43. *Consideration of the public interest therefore requires the Fitness to Practise Committee to decide whether a finding of impairment is needed to uphold proper professional standards and conduct and/ or to maintain public confidence in the profession.*

44. *In upholding proper professional standards and conduct and maintaining public confidence in the profession, the Fitness to Practise Committee will need to consider whether the concern is easy to put right. For example, it might be possible to address clinical errors with suitable training. A concern which hasn't been put right is likely to require a finding of impairment to uphold professional standards and maintain public confidence.*

45. *However, there are types of concerns that are so serious that, even if the*

professional addresses the behaviour, a finding of impairment is required either to uphold proper professional standards and conduct or to maintain public confidence in the profession.

46. The NMC Guidance at FTP-2c-1 details that “Specified offences are offences which are, by definition, particularly serious. The nature of these convictions would raise fundamental questions about a nurse, midwife or nursing associate’s ability to uphold the standards and values set out in the Code.”

47. Mr Mushtaq’s conviction is for a serious sexual offence. The duty on healthcare professionals to comply with the law is of central importance to a registered professional’s practice. Not only did Mr Mushtaq commit an offence of sexual assault but he did so upon a patient for whom he was providing care and treatment. A reasonable member of the public would be deeply shocked that a nurse had acted in such a manner and thus Mr Mushtaq’s offence and conviction has had a negative impact on the reputation of the profession and accordingly brought the profession into disrepute.

48. A finding of impairment on public interest grounds is required to mark the unacceptability of the behaviour, emphasise the importance of the fundamental tenets breached and to reaffirm proper standards of behaviour and maintain public confidence in the profession.

49. The Parties agree that Mr Mushtaq’s fitness to practice is impaired on public protection and public interest grounds.

Sanction

50. *With reference to the sanctions guidance, it is agreed that the appropriate and proportionate sanction in this case is that of a striking-off order.*

51. *The aggravating features of the case are as follows:*

(a) Abuse of a position of trust in that Mr Mushtaq was providing care to a patient at the time.

(b) Psychological and emotional harm caused to the patient.

(c) Continuing nature of the assault in that Mr Mushtaq repeatedly entered the patient's cubicle to sexually assault her.

(d) Premeditated behaviour in that Mr Mushtaq committed the offence when the patient's partner was not present.

(e) Mr Mushtaq has to comply with the requirements of the sex offenders' register for a period of ten years.

52. *No mitigating features have been identified.*

53. *The NMC Guidance on 'Considering sanctions for particularly serious cases' at SAN-2 (updated on 6 May 2025) confirms that some concerns are particularly serious and likely to attract the most serious sanctions. These include convictions for a serious crime or engagement in sexual misconduct. Such cases could have a particularly negative impact on public safety, public confidence or professional standards.*

54. *The guidance goes on to detail that the following are aggravating factors:*

- situations where the nurse, midwife or nursing associate has to register as a sex offender.*

- *Convictions for sexual offences including rape, sexual assault, sexual harassment and accessing, viewing, or any other offence relating to images or videos involving child sexual abuse or exploitation. These types of offences gravely undermine the public's trust in nurses, midwives and nursing associates. Some offences relating to images or videos of child sexual abuse are considered more serious than others in the criminal courts. However, in fitness to practise, any conviction relating to images or videos involving child sexual abuse is likely to raise fundamental questions about the ability of the nurse, midwife or nursing associate to uphold the standards and values set out in the Code.*

55. Both the above applies in this case. Mr Mushtaq was convicted of sexual assault and has to register as a sex offender for a period of ten years.

56. The guidance goes on to state:

- *Panels deciding on sanction in cases about sexual misconduct will, as in all cases, need to start their decision-making with the least severe sanction, and work upwards until they find the appropriate outcome. However, 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.

57. To take no further action would not be appropriate in a case like this where a public protection issue has been identified and in light of the above guidance.

58. To impose a caution order would not be appropriate because a restriction of practise is required in this case to protect the public from the risk of harm. NMC guidance on Caution Orders (SAN-3b), indicates that a caution order is only appropriate if the case is at the lower end of the spectrum of impaired fitness to practise. The Parties agree that this case involves a conviction for a serious offence of sexual assault at the higher end of such conduct.

59. To impose a conditions of practice order would not be appropriate. Albeit public protection concerns have been identified, there are no suitable conditions that can be imposed that would properly address the attitudinal risks present in this case. Furthermore, given the nature and seriousness of Mr Mushtaq's conviction, the Parties agree a Conditions of Practice Order (SAN-3c) would fail to address the issues relating to public protection or public confidence in the NMC and the profession.

60. The imposition of a Suspension Order (SAN-3d) would not be an appropriate sanction in this case. Given the lack of insight demonstrated in this case, attitudinal concerns and risk of repetition of the behaviour, temporary removal from the register would not be sufficient to protect the public.

61. Furthermore, a temporary removal from the register would not adequately reflect the seriousness of the conduct in question or maintain public confidence in the profession or professional standards. Furthermore, the Parties agree that the conduct in this case is fundamentally incompatible with continued registration.

62. The NMC's guidance on striking-off orders⁴ outlines that, before imposing a striking off order, a Fitness to Practise Committee should consider among other matters:

(a) Do the regulatory concerns about the nurse, midwife or nursing associate raise fundamental questions about their professionalism?

(b) Can public confidence in nurses, midwives and nursing associates be maintained if the nurse, midwife or nursing associate is not struck off from the register?

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

63. The Parties are agreed, for the reasons stated above, that Mr Mushtaq's conduct and conviction is so serious that it raises fundamental concerns about his professionalism; public confidence would be affected if Mr Mushtaq were not removed from the register; and a striking-off order is the only appropriate and proportionate sanction in the circumstances.

Interim order

64. An interim order is required in this case. The interim order is necessary for the protection of the public and is otherwise in the public interest for the reasons given above. The interim order should take the form of an interim suspension order.

65. The interim order should be for a period of 18 months in the event that Mr Mushtaq seeks to appeal the panel's decision. This is to cover the 28-day appeal period and the time it would take for an appeal to be heard should one be lodged. The Parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings of impairment and sanction is a matter for the panel.

The Parties understand that, in the event that a panel does not agree with this provisional agreement, the admissions to the charges and the agreed statement of facts set out above, may be placed before a differently constituted panel that is determining the allegation, provided that it would be relevant and fair to do so.'

Here ends the provisional CPD agreement between the NMC and Mr Mushtaq. The provisional CPD agreement was signed by Mr Mushtaq on 6 January 2026 and the NMC on 20 January 2026.

Decision and reasons on the CPD

The panel decided to accept the CPD.

The panel heard and accepted the legal assessor's advice, which included specific reference to *CHRE v GDC and Fleischmann* [2005] EWHC 87 (QB) and *PSA v GDC & Naveed Patel* [2024] EWHC 243 (Admin). It was referred to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. The panel was reminded that it could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Mr Mushtaq. Further, the panel was advised to consider whether the provisional CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the professions and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

The panel noted that Mr Mushtaq admitted the charge. Accordingly, the panel was satisfied that the charge is found proved by way of Mr Mushtaq admissions as set out in the signed provisional CPD agreement.

Decision and reasons on impairment

The panel then considered whether Mr Mushtaq's fitness to practise is currently impaired by reason of his conviction. Whilst acknowledging the agreement between the NMC and Mr Mushtaq, the panel exercised its own independent judgement in reaching its decision on impairment.

The panel was satisfied that Mr Mushtaq's actions breached the following sections of the Code:

'1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion

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

20.4 keep to the laws of the country in which you are practising

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'

Before making its decision on impairment, the panel had regard to the NMC guidance on 'DMA-1: Impairment' in which the following is stated:

'Being fit to practise is not defined in our legislation but for us it means that a professional on our register can practise as a nurse midwife or nursing associate safely and effectively without restriction.'

The NMC guidance goes on to set out the questions formulated by Dame Janet Smith in the fifth Shipman report, namely:

- '1. has the professional in the past acted and/or is liable in the future to act as so to put those receiving care at unwarranted risk of harm; and/or*
- 2. has the professional in the past brought and/or is liable in the future to bring the profession into disrepute; and/or*
- 3. has the professional in the past committed a breach of one of the fundamental tenets of the [nursing/midwifery] profession and/or is liable to do so in the future and/or*
- 4. has the professional in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel determined that the first three limbs of the test are engaged in this case.

The panel had regard to NMC guidance 'FTP-2c: Criminal convictions and cautions' (last updated 6 May 2025) and 'FTP-2c-1: Directly referring specified offences to the Fitness to Practise Committee' (last updated 27 February 2024). This guidance stipulates that a serious crime is classified by the NMC as a specified offence, which includes sexual offences. It states that sexual offences include *'crimes such as rape or sexual assault.'*

The panel found that Mr Mushtaq had sexually assaulted a patient in his care when she was particularly vulnerable as she was unwell, within an emergency department and alone. The panel noted that the circumstances of his conviction relate to an offence which

occurred during the course of his Mr Mushtaq's professional practice. The panel determined that this heightened the seriousness of the conduct.

The panel found that Mr Mushtaq has in the past acted in a manner which caused a patient to suffer actual psychological harm as a result of his actions which ultimately led to his conviction. The panel noted that this harm extended beyond the events as the patient was reported as being so distressed during police interview that an ambulance had to be called for her. The panel also noted from the CPD that the patient's emotional and psychological distress '*led to a diagnosis of post-traumatic stress disorder.*'

The panel noted that Mr Mushtaq had taken the risk to undertake the sexual assault, with escalating seriousness, over a period of time. The sexual assault had taken place in the context of an emergency department where he could have been interrupted at any point. The panel also noted that Mr Mushtaq had approached the patient at times when her partner was out of the cubicle. The panel therefore determined that Mr Mushtaq's actions were premeditated and amounted to a brazen abuse of power over period of time, albeit short. Together with the seriousness of the specified offence, the panel determined that Mr Mushtaq has in the past brought the profession into disrepute.

The panel determined that, with his brazen and escalating assault of a patient, Mr Mushtaq abused his power and position of trust. The panel also determined that breached the fundamental tenets of upholding dignity, preserving safety and promoting professionalism and trust. The panel was of the view that Mr Mushtaq's actions fell significantly short of the standards expected of a registered nurse.

The panel next considered whether the concerns in this case are remediable. The panel had regard to NMC guidance FTP-2c which states that with '*specified offences, we are more likely to identify deep-rooted attitudinal issues.*' The panel also had regard to NMC guidance 'DMA-1: Impairment', which states that:

‘A deep-seated attitudinal issue refers to an ingrained mindset or belief system that is contrary to these values and behaviours. Deep-seated attitudinal issues are resistant to change and pose risks to the safety and wellbeing of people receiving care and to the public’s confidence in the professions generally and to professional standards...

We also recognise that, while deep-seated attitudinal issues can be difficult to address, meaningful change is not impossible.’

The panel concluded that Mr Mushtaq’s abuse of his power and position of trust, and the escalating, repeated nature of his sexual offence suggests there is a deep-seated attitudinal issue which would require significant remediation to address it, if it could be addressed at all.

The panel noted that Mr Mushtaq denied the allegation during two police interviews and was subsequently presented with DNA evidence. Mr Mushtaq pleaded guilty on 21 March 2025 at Exeter Crown Court. The panel had nothing before to suggest Mr Mushtaq has expressed remorse for his behaviour, nor demonstrated any insight into the impact of his conduct on the patient and the wider nursing profession. The panel also had nothing before it to indicate that Mr Mushtaq has taken any steps to address his behaviour. In tandem with his deep-seated attitudinal issues, the panel was not satisfied that it is highly unlikely the conduct which led to Mr Mushtaq’s conviction will be repeated, and he continues to pose a risk to patients.

The panel had regard to NMC guidance SAN-4, in particular:

‘...sexual misconduct towards people receiving care or colleagues. Sexual misconduct towards people receiving care suggests a direct risk to public safety. It always constitutes an abuse of a position of trust or power, given the inherent imbalance in power between professionals and those they care for.’

For all of the above reasons, the panel was satisfied that the finding of impairment is necessary on the ground of public protection.

The panel considered that such sexual misconduct, particularly a specified offence taking within a clinical setting, indicate a risk to the public and raise fundamental questions about a professional's ability to uphold the values and standards in the Code. The panel bore in mind the Mr Mushtaq's actions were on the highest end of the spectrum in terms of seriousness. The panel considered that the public would find it abhorrent that a nurse acted in such a manner, which would negatively impact on their trust in the profession. The panel determined that a finding of impairment on public interest grounds is required to mark the gravity of the offending behaviour and the extent to which the fundamental tenets of the nursing profession have been breached. The panel determined that a finding of impairment on public interest grounds is also required to promote and maintain public confidence in the nursing profession and in the NMC as a regulator, and to uphold proper professional standards for members of the profession.

In this respect, the panel endorsed paragraphs 19 to 49 of the provisional CPD agreement and found impairment on the grounds of public protection and public interest.

Decision and reasons on sanction

Having found Mr Mushtaq's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel heard and accepted the advice of the legal assessor. The panel bore 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:

- Abuse of a position of trust in that Mr Mushtaq was providing care to a patient at the time of the offence.
- Psychological and emotional harm caused to the patient, which may impact on her seeking help from a healthcare professional in the future.
- Premeditated, repeated, escalating and brazen nature of the assault in the workplace whilst Mr Mushtaq had a duty of care to the patient he sexually assaulted.
- Mr Mushtaq is subject to the notification requirements for the Sex Offenders' Register for a period of 10 years and has been placed on a barred list by the Disclosure and Barring Service.

The panel concluded that there were no mitigating features in this case.

The panel had regard to NMC guidance 'SAN-2: Considering sanctions for particularly serious cases' (last updated 6 May 2025), which states:

'Panels deciding on sanction in cases about sexual misconduct will, as in all cases, need to start their decision-making with the least severe sanction, and work upwards until they find the appropriate outcome. However, 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.'

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.

The panel next considered a caution order and had regard to the NMC guidance on 'SAN-2b: Caution order', in which the following is stated:

‘A caution is only appropriate if the Committee has decided there’s no risk to the public or to people using services that requires the professional’s practice to be restricted. This means the case is at the lower end of the spectrum of impaired fitness to practise, but the Committee wants to mark that what happened was unacceptable and must not happen again.’

The panel considered Mr Mushtaq’s conviction to be at the highest end of the spectrum of seriousness, and it had found that there is a risk to patient and public safety. The panel therefore determined that a sanction that does not restrict Mr Mushtaq practise would not protect the public. The panel also determined that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether to place a conditions of practice order on Mr Mushtaq’s registration. In considering whether conditions of practice are appropriate, the panel had regard to the factors set out in the NMC Guidance on ‘SAN-2c: Conditions of practice order’. The panel found that there is evidence of deep-seated attitudinal issues with behaviour which was repeated and escalating over a short period of time. Moreover, Mr Mushtaq has not demonstrated any insight or remorse, nor has he taken steps to address the concerns arising from his conviction. Given the nature and seriousness of Mr Mushtaq’s conviction, the panel determined that there are no appropriate, proportionate, workable or measurable conditions that could be formulated to protect patients and to uphold professional standards. The panel concluded that a conditions of practice order would not be appropriate in the circumstances.

The panel went on to consider whether a suspension order is appropriate in this case. The panel had regard to the NMC Guidance on ‘SAN-2d: Suspension order’, in which the following factors on when a suspension order may be appropriate are set out:

- *‘the impairment is very serious but not fundamentally incompatible with continuing to be a registered professional*
- *an outcome less severe than strike-off would still satisfy the over-arching objective.’*

The panel also had regard to the key considerations as set out in the NMC guidance to weigh up before imposing a suspension. It noted the following list of circumstances that may make a suspension order an appropriate sanction:

- *‘the charges found proved are at the most serious end of the spectrum and call into question the professional’s suitability to continue practising, either currently or at all*
- *while it is possible that the professional could be fit to practise in future, only a period out of practice would be sufficient to allow them to fully strengthen their practice through reflection, the development of their professional skills and / or development of insight and remediation*
- *there is a risk to the safety of people using services if the professional were allowed to continue to practise even with conditions*
- *what went wrong is so serious that public confidence in the profession and professional standards could not be maintained if the professional were able to continue practising without stopping for a period of time*
- *despite the seriousness of what happened, the professional has engaged in the proceedings and has shown at least some meaningful insight which evidences a realistic possibility that they will continue to develop this insight, address their concerns and return to practice.’*

The panel considered the principles of *Fleischmann* and the case of *PSA v GDC & Naveed Patel* [2024] EWHC 243 (Admin). This case indicated that *Fleischmann* should not be applied rigidly and that sanctions must be proportionate and just, rather than automatically resulting in erasure just because a sentence is still active.

The panel was of the view that Mr Mushtaq’s actions and subsequent conviction are such that they are fundamentally incompatible with him remaining on the Register. The panel considered that a period of suspension would not be sufficient to mark the gravity of the offending behaviour and therefore would not uphold public confidence in the profession

and maintain professional standards due to the seriousness and nature of the charge found proved.

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

In considering a striking-off order, the panel had regard to the NMC guidance 'SAN-4: Sanctions for the highest risk cases':

'Convictions for sexual offences...These offences gravely undermine the public's trust in the professions. Any such conviction makes it highly unlikely the professional can uphold the standards and values set out in the Code.'

Any professional who is found to have behaved in this way will be at risk of being removed from the Register. This is because of the severe impact the conduct has on:

- *public confidence*
- *a professional's ability to uphold the standards and values set out in the Code*
- *the safety of people receiving care.'*

As this case involves a criminal conviction which pertains to the premeditated, repeated, escalating sexual assault of a patient in the course of professional practice, the panel determined that this case falls within the definition of being a '*highest risk case*'.

The panel had regard to the following considerations as set out in the NMC Guidance entitled 'SAN-2e: Striking-off order':

- *Do the charges found proved raise fundamental questions about their professionalism?*

- *Can public confidence in the profession be maintained if the professional is not removed from the Register?*
- *Is there any amount of insight and reflection which could keep people receiving care and members of the public safe, maintain public confidence in the profession, and uphold professional standards?*
- *Is there a realistic prospect that, after suspension, the professional will have gained insight and strengthened their practice such that the risk they pose will have reduced?*

The panel found that the charge in this case does raise fundamental questions about Mr Mushtaq's professionalism. Mr Mushtaq has not provided the panel with any evidence of insight or steps taken to address his behaviour. The panel also determined that there is no realistic prospect that, after suspension, Mr Mushtaq will have gained insight and strengthened his practice such that the risk he poses will have reduced.

The panel concluded that, because of the gravity of the offending behaviour, public confidence in the profession and in the NMC as a regulatory body could not be maintained if Mr Mushtaq is not removed from the Register.

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 matters it identified, in particular the effect of Mr Mushtaq'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 concluded that nothing short of a striking-off order would be sufficient in this case.

The panel considered that a striking-off 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.

Decision and reasons on interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel 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 Mushtaq's own interest.

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

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interests. In reaching the decision to impose an interim order, the panel had regard to the seriousness of the conviction and the reasons set out in its decision for the substantive order. It considered that to not impose an interim suspension order would be inconsistent with its earlier decisions.

The panel agreed with the CPD 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.

Therefore, the panel imposed an interim suspension order for a period of 18 months to cover the appeal period and any appeal if made.

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

That concludes this determination.