

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

**Substantive Meeting
Thursday, 5 March 2026**

Virtual Meeting

Name of Registrant: **Simon Robertson**

NMC PIN: 98C2409E

Part(s) of the register: Registered Nurse – Sub Part 1
Mental Health Nursing (Level 1) – 19 March
2001

Relevant Location: Lincoln

Type of case: Conviction

Panel members: Stacey Patel (Chair, Lay Member)
Rosanna Duncan (Lay Member)
Debbie Auger (Registrant Member)

Legal Assessor: Paul Housego

Hearings Coordinator: Fabbaha Ahmed

**Consensual Panel
Determination:** Accepted

Facts proved: Charge 1

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 Robertson's registered email address by secure email on 26 January 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 heard virtually.

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

Details of charge

That you a registered nurse:

- 1) *'On 12 June 2024, at Lincoln Crown Court were convicted of the following offence: Sexual activity with a person with a mental disorder by a care worker, contrary to section 38 (1) of the Sexual Offences Act 2003*

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 Robertson.

The agreement, which was put before the panel, sets out Mr Robertson's full admission to the fact alleged 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 the appropriate sanction in this case would be a striking off order.

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

That provisional CPD agreement reads as follows:

'The Nursing & Midwifery Council ("the NMC") and Mr Simon Robertson, PIN 98C2409E ("the Parties") agree as follows [sic]:

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

The charge

2. *Mr Robertson admits the following charges:*

3. *That you a registered nurse:*

- 1) *On 12 June 2024, at Lincoln Crown Court were convicted of the following offence: Sexual activity with a person with a mental disorder by a care worker, contrary to section 38 (1) of the Sexual Offences Act 2003.*

AND in light of Charge 1, your fitness to practise is impaired by reason of your conviction

The facts

4. *Mr Robertson appears on the register of nurses, midwives and nursing associates maintained by the NMC as a Registered Mental Health Nurse, (RNMH), sub part 1 and has been on the NMC register since 19 March 2001.*

5. On 10 February 2023, the NMC received 2 referrals concerning Mr Robertson. The first referral was received from Lincolnshire Partnership NHS Foundation Trust ('the Trust') and the second referral was received from Lincolnshire Police ('the Police'). At the material time of the concerns Robertson was working for the Trust as a Band 6 Community Psychiatric Nurse in the Early Intervention in Psychosis Team in the Trust.

6. It is reported that on 21 November 2021, Mr Robertson conducted an assessment with Patient A. Mr Robertson was in possession of Patient A's medical records which provided him with information about her presentation and vulnerabilities. This included risk information related to Patient A "sleeping with people with were nice to her" if there were any concerns of this nature it would be normal to see Patient A with a second member of staff". It is further reported that Mr Robertson undertook several face-to-face appointments with Patient A throughout 2021/2022.

7. On 2 March 2022, it is alleged that Mr Robertson attended Patient A's home address where he discussed his sexual fantasies. It is further alleged that on 16 March 2022, Mr Robertson attended Patient A's home address and gave Patient A a back massage and digitally penetrated her. In April 2022, Patient A started to disengage with the services.

8. On 3 February 2023, Mr Robertson was arrested by the Police and subsequently charged with 2 x Sexual Activity with a person with mental disorder by a care worker, (penetration) contrary to section 38 (1) of Sexual Offences Act 2003. The case was committed to the Crown Court. On 12 June 2024, Mr Robertson plead guilty on a basis at a Plea Trial and Preparation Hearing to Count 1 as follows: Mr Simon Robertson between the 28th day of February 2022 and the 1st day of April 2022 intentionally touched Patient A, a person with a mental disorder by penetrating her vagina with his finger, in circumstances where the touching was sexual, where Mr Simon Robertson knew or could reasonably be expected to know that Patient A had a mental disorder , and where Simon Robertson was a person involved in Patient A's care in a way falling within section 42 of the Sexual Offences Act 2003.

9. *The basis of plea was not accepted by the Crown Prosecution Service ('CPS') and as such the case was listed for a Newton Hearing (to determine the facts'). Prior to the Newton Hearing Patient A withdrew their cooperation for the prosecution. The Judge sentenced Mr Robertson on his basis of plea.*

10. *On 7 November 2024, Mr Robertson was sentenced as follows:*

1. *18 months imprisonment,*
2. *Restraining Order as sought for 10 years and*
3. *Sex Offenders Register for 10 years.*

Impairment

11. *Mr Robertson's fitness to practise is currently impaired by reason of his conviction on public protection and public interest grounds. In agreeing this the parties have had regard to the questions posed by Mrs Justice Cox adopting the approach of Dame Janet Smith in the 5th Shipman Report in Council for Healthcare Regulatory Excellence v (1) NMC (2) Grant [2011] EWHC 927 (Admin): which are whether Mr Robertson: -*

- a) *Has in the past, 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, and/or is he liable in the future to bring the professions into disrepute;*
- c) *Has in the past, and/or is he liable in the future to breach one of the fundamental tenets of the professions;*
- d) *Has in the past, and/or is he liable in the future to act dishonestly."*

12. *Limbs a, b and c are engaged in this case.*

13. *In regard to limb a) Mr Robertson's conviction was as a result of him engaging in sexual activity with Patient A who was in his direct care. Mr*

Robertson was well aware of Patient A's vulnerabilities and knew how she was prone to act. Flirtatious behaviour between Mr Robertson and Patient A developed. Mr Robertson had the responsibility to stop the behaviour, report it and ensure that it did not happen again or progress any further.

14. Patient A was harmed because there was digital penetration, it is noted that Patient A was confused after the events, and the experiences has impacted her ability to trust those who are supposed to care for her. Mr Robertson's repeated actions during the material time caused harm to Patient A.

15. In regard to limb b), nurses are held in high regard, and in a position of trust. Mr Robertson took advantage of the trust placed in him. His conduct in engaging in sexual activity with Patient A would be considered to be deplorable by his fellow practitioners and members of the public. NMC guidance on 'Cases involving sexual misconduct states': Sexual misconduct will be particularly serious if the nurse, midwife or nursing associate has abused a special position of trust they hold as a registered caring professional. It will also be particularly serious if they have to register as a sex offender. The level of risk to patients will be an important factor, but the panel should also consider that generally, sexual misconduct will be likely to seriously undermine public trust in nurses, midwives and nursing associates'

16. It is clear that Mr Robertson's conduct brings the profession into disrepute in that the public's trust in the nursing profession has been seriously undermined. In addition, Mr Robertson has been convicted of a serious criminal offence which has caused significant damage to the reputation of the nursing profession, and the nature of the offending is a gross breach of the trust that members of the public place in registered and regulated professionals, in this case a nurse.

17. In regard to limb c) Mr Robert's criminal conviction is for a serious sexual offence and has breached the fundamental tenets of the nursing profession in that he has failed to keep to the laws of his country.

18. Mr Robertson has breached the following standards of the Code (2018):-

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

19. For reasons in paragraphs 6-17 above, Mr Robertson accepts that at the time of committing the offence, his fitness to practise as a nurse was Impaired.

Remediation, reflection, training, insight, remorse

20. In considering the question of whether Mr Robertson's fitness to practise is currently impaired, the parties have considered the case of Cohen v General Medical Council 7 [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;

- Whether the conduct that led to the charge(s) is easily remediable.*
- Whether it has been remedied.*
- Whether it is highly unlikely to be repeated.*

21. 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 [...]*

22. The NMC Guidance at FTP-2c-12 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.”

23. 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 Robertson was convicted of a sexual offence in respect of a patient who was directly in his

care, which could be said to be extremely difficult to remediate, both in terms of public protection and the wider public interest.

24. Mr Robertson in his completed Case Management Form ('CMF') and emailed dated 17 November 2025 and 1 December 2025, accepts the charge, and does express an acceptance of current impairment. However, at this stage, it is accepted that the possibility of future offending cannot be ruled out.

25. Whilst Mr Robertson remains the subject of criminal orders imposed, in part at least, to address his risk of reoffending, it would be premature to conclude he no longer poses a risk to the public. As such, and as accepted by Mr Robertson's, his fitness to practice is currently impaired on public protection grounds.

Public protection impairment

26. A finding of impairment is necessary on public interest grounds.

27. 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."

28. The conduct of Mr Robertson has fallen far short of the standards the public would expect of professionals caring for them, public confidence in the professions has been seriously undermined. A finding of impairment is therefore required to maintain public confidence in the profession and professional standards by marking Mr Robertson's conduct as wholly unacceptable offending behaviour for a registered nurse.

29. *Mr Robertson accepts that his fitness to practice is currently impaired on public interest grounds.*

Sanction

30. *Mr Robertson accepts the appropriate sanction in this case is a Striking Off Order.*

31. *The parties have considered the NMC's Sanction Guidance, bearing in mind that it provides guidance, not firm rules. The purpose of sanction is not to be punitive; however, in order to address the public interest including protecting the public, maintaining confidence in the profession, and upholding proper standards of conduct and behaviour, sanctions may have a punitive effect.*

32. *The aggravating factors in this case are as follows:*

- a) Mr Robertson has a conviction for a serious criminal sexual offence*
- b) Abuse of a position of trust in that Mr Robertson was providing care to Patient A at the time*
- c) Psychological and emotional harm caused to Patient A*

33. *Mr Robertson is subject to a restraining order for 10 years and has to sign the sex offenders register for 10 years. Further 18 months custodial sentence will not fall away until 7 May 2026.*

34. *The mitigating factors Mr Robertson has admitted the charge and that his fitness to practice is impaired by reason of his conviction.*

35. *NMC guidance on considering sanctions for serious cases gives specific guidance on sanctions for sexual offences and criminal convictions. Sexual offending, particularly against children, is identified as likely to seriously undermine confidence in the profession and involves a serious and fundamental breach of public trust in nurses, midwives and nursing associates. As a general*

rule a registered professional should not be permitted to start practising again, if at all, until they have completed a sentence for a serious offence (Council for the Regulation of Health Care Professionals v [1] General Dental Council and [2] Fleischmann [2005] EWHC 87 [QB]).

36. In accordance with offence (Council for the Regulation of Health Care Professionals v [1] General Dental Council and [2] Fleischmann [2005] EWHC 87 [QB]). The general rule is that a Registrant should not be permitted to start practicing again until they have completed a sentence for a serious criminal offence. Mr Robertson will not have completed his sentence until March 2026 at the earliest and will be subject to the reporting requirements set out under the Sexual Offence Act 2003 for a period of 10 years, from 7 November 2024 and expected to end in November 2034.

37. Taking no further action or imposing a caution order would be inappropriate as they would not address the public protection concerns identified in this document. These sanctions would not reflect the seriousness of the convictions and therefore public confidence in the professions and professional standards would not be maintained.

38. Imposing a Conditions of Practice Order would not be appropriate as there are no identified clinical concerns that could be addressed with conditions. This sanction would not reflect the seriousness of the convictions therefore public confidence in the professions and professional standards would not be maintained.

39. Imposing a suspension order would temporarily protect the public but would not be appropriate as Mr Robertson would still be subject to a criminal sentence at the conclusion of a maximum period of suspension. This sanction would not reflect the seriousness of the convictions and therefore public confidence in the profession and professional standards would not be maintained.

40. In any event, a Striking Off Order is the appropriate sanction in this case.

41. Mr Robertson's criminal offending has seriously undermined the public's trust and confidence in him. His criminal offending and subsequent sentence is fundamentally incompatible with being a registered professional nurse. Only a Striking Off Order will be sufficient to protect patients, maintain public confidence in the profession and maintain professional standards.' [sic]

Here ends the provisional CPD agreement between the NMC and Mr Robertson. The provisional CPD agreement was signed by Mr Robertson, the panel noted that this was done by digital print of his name and signed on 6 January 2026. This was signed by 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. He referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. He reminded the panel that they could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Mr Robertson. Further, the panel should 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 Robertson admitted the facts of the charge. Accordingly, the panel was satisfied that the charges are found proved by way of Mr Robertson admissions as set out in the signed provisional CPD agreement.

Decision and reasons on impairment

The panel then went on to consider whether Mr Robertson's fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Mr

Robertson, the panel has exercised its own independent judgement in reaching its decision on impairment.

The panel had regard to the terms of *'The Code: Professional standards of practice and behaviour for nurses and midwives 2015'* (the Code) in making its decision.

The panel was of the view that Mr Robertson'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:

'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.'

In respect of the conviction, the panel had before it the certificate of conviction. It determined that this offence is very serious and that the charge is not disputed by Mr Robertson.

The panel then considered whether Mr Robertson's fitness to practise is currently impaired by reason of his conviction. 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) ...'

In applying the test as set out in *Grant*, the panel considered limbs (a) – (c) to be engaged in this case with regard to both the past and the future.

The panel determined that Mr Roberson's fitness to practise is currently impaired by reason of his conviction on both public protection and public interest grounds. In this respect this panel endorsed paragraphs 11 to 29 of the provisional CPD agreement.

Decision and reasons on sanction

Having found Mr Robertson'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 Robertson has a conviction for a serious criminal sexual offence
- Abuse of a position of trust in that Mr Robertson was providing care to Patient A at the time
- Psychological and emotional harm caused to Patient A
- Premeditated behaviour towards Patient A

The panel also took into account the following mitigating features:

- Mr Robertson admitted the criminal charge and that his fitness to practice is impaired by reason of his conviction.

Given the seriousness of the matters found proved the panel moved swiftly through the lower sanctions possible but concluded that this would be inappropriate in view of the seriousness of the case to take no action.

Next, in considering whether a caution order would be appropriate in the circumstances, the panel took into account the SG, which 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 Robertson'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 to place a conditions of practice order on Mr Robertson's registration. In considering whether conditions of practice are appropriate, the panel had regard to the factors set out in the NMC Guidance on *'Conditions of practice order'* (Reference: SAN-2c Last Updated: 28/01/2026). It considered that there are no relevant, proportionate, workable or measurable conditions that could be formulated to protect patients and to uphold professional standards or conditions that can address a conviction of sexual offence.

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 conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel decided that the serious breach of the fundamental tenets of the profession evidenced by Mr Robertson's actions is fundamentally incompatible with him remaining on the register.

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 on '*Striking off (Reference SAN-2e)*' and the Guidance '*Sanctions for the 'Highest risk case'*' (Reference SAN-4 Last Updated: 28/01/2026) relating to sexual misconduct cases. Having regard to all of the above, the panel determined that this case falls within the definition of being a 'highest risk case'.

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?*

The panel noted that Mr Robertson's conduct was categorised on the NMC list of '*Highest risk cases*', as set out in the SG, and were particularly mindful that this includes cases involving sexual misconduct and a criminal conviction.

The panel was of the view that the findings in this particular case demonstrate that Mr Robertson'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 agreed with the CPD 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 Robertson'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.

In respect of this, the panel endorsed paragraph 30 to 41 of the CPD agreement.

Decision and reasons on interim order

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 Robertson'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 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 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. The panel therefore imposed an interim suspension order for a period of 18 months in order to protect the public and otherwise in the public interest, during any potential appeal period.

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

That concludes this determination.