

**Nursing and Midwifery Council  
Fitness to Practise Committee  
Substantive Meeting  
Tuesday, 5 November 2019**

Nursing and Midwifery Council, 2 Stratford Place, Montfichet Road, London, E20 1EJ

|                                    |                                                                                              |
|------------------------------------|----------------------------------------------------------------------------------------------|
| <b>Name of registrant:</b>         | Givemore Tonderai Gezi                                                                       |
| <b>PIN:</b>                        | 98C0119S                                                                                     |
| <b>Part of the register:</b>       | Registered Nurse – Sub-part 1<br>Mental Health Nursing – 28 October 2001                     |
| <b>Area of registered address:</b> | England                                                                                      |
| <b>Type of Case:</b>               | Conviction                                                                                   |
| <b>Panel Members:</b>              | Anne Booth (Chair, Lay member)<br>Jan Fowler (Registrant member)<br>Gill Mullen (Lay member) |
| <b>Legal Assessor:</b>             | Peter Jennings                                                                               |
| <b>Panel Secretary:</b>            | Philip Austin                                                                                |
| <b>Facts proved:</b>               | All charges                                                                                  |
| <b>Facts not proved:</b>           | None                                                                                         |
| <b>Fitness to practise:</b>        | Currently impaired                                                                           |
| <b>Sanction:</b>                   | Striking-off order                                                                           |
| <b>Interim Order:</b>              | Interim suspension order – 18 months                                                         |

**Details of charge:**

That you, a registered mental health nurse, were convicted of:

1. Sexual activity with a girl under 16 and penetrative sexual activity with a female with a mental disorder/learning disability at Exeter Crown Court on 4 December 2018.
2. Driving a motor vehicle with excess alcohol at Newton Abbot Magistrates' Court on 4 April 2018.

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

### **Decision on Service of Notice of meeting:**

The panel received information from the legal assessor concerning service of the notice of this meeting. The notice was sent to Mr Gezi's registered address by recorded delivery on 1 October 2019, stating that a meeting would be held on or after 5 November 2019. The Royal Mail Signed For service indicated that the notice of meeting had been delivered to Mr Gezi's registered address on 2 October 2019 and signed for, though not in the same surname. Further, the notice of meeting was also sent to Mr Gezi's representative on 1 October 2019.

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

The panel concluded that the appropriate notice had been sent by recorded delivery more than 28 days before this meeting and therefore that service had been effected in accordance with Rule 34 and 11A of the Fitness to Practise Rules 2004 (as amended) ("the Rules").

## Background

Mr Gezi is a mental health nurse and had been working in that field for over 20 years. He was employed from April 2017 by the Torbay and South Devon NHS Trust (“the Trust”) in their Child and Adolescent Mental Health Services (“CAMHS”) Department as a Team Leader in Crisis Intervention and Home Treatment. Within the sentencing remarks (page 4 of 10) for his conviction, His Honour Judge Rose at Exeter Crown Court, stated that the Registrant was in a “*position of exceptional personal professional responsibility in dealing with, and caring for, children and young people who were highly traumatised and profoundly vulnerable with complex and enduring mental health problems*”.

Service User A was one of Mr Gezi’s patients. In December 2017, when Service User A was 15, Mr Gezi started an intimate relationship with her which started with kissing and intimate touching, and then progressed to two occasions of oral sex. Full sexual intercourse then commenced on or within a day of her sixteenth birthday.

The sexual intercourse was mainly unprotected and Service User A became pregnant. Mr Gezi then encouraged her to undergo a termination and took her to the clinic. He did not stay with her to provide support through the various stages of the procedure.

The relationship came to light when Service User A attended College on 16 March 2018 in a distressed state and disclosed that she was in a sexual relationship with her crisis worker, Mr Gezi. On the previous day, she had received calls from an unknown number and then in the early hours of the morning received a call from Mr Gezi’s wife. Service User A had been unaware that Mr Gezi was married. Police were contacted and attended to take a first account from Service User A.

Police attempted to locate Mr Gezi and on finding him arrested him for offences in relation to Service User A and he was further arrested for drink driving. Service User A attempted suicide that night.

Despite the Police recovering a large number of text messages between Mr Gezi and Service User A, he denied having been or being in a sexual relationship with her. Mr Gezi maintained his innocence until he changed his plea to guilty on the first day of the trial when he became aware that Service User A had attended to give evidence.

Mr Gezi was convicted on 4 December 2018 at Exeter Crown Court for sexual activity with a girl under 16 and penetrative sexual activity with a female with a mental disorder/learning disability. On 5 December 2018, he was sentenced to imprisonment for seven years and eight months, made subject to a Sexual Harm Prevention Order indefinitely and made subject to a restraining order until further notice. He is subject to the notification requirements for sex offenders.

In relation to driving a motor vehicle with excess alcohol, he was convicted at South and West Devon Magistrates' Court on 4 April 2018. He was disqualified from driving for 17 months, fined £120, and ordered to pay a victim surcharge of £30 and costs of £85.

## **Decision on the findings on facts and reasons**

The panel noted that the charges concern Mr Gezi's two convictions.

The panel had regard to Rule 31 (2) of the Rules, which states:

- (2) Where a registrant has been convicted of a criminal offence—
  - (a) a copy of the certificate of conviction, certified by a competent officer of a Court in the United Kingdom (or, in Scotland, an extract conviction) shall be conclusive proof of the conviction; and
  - (b) the findings of fact upon which the conviction is based shall be admissible as proof of those facts.
- (3) ...

In regards to charge 1, the panel had sight of an undated and unsigned certificate of conviction in relation to the allegation of 'Sexual activity with a girl under 16 & Penetrative sexual activity with a female with a mental disorder/learning disability'.

Whilst parts of this certificate of conviction had been left incomplete, it did confirm that 'GEZI Givemore Tonderai' was convicted on 5 December 2018, and sentenced to seven years and eight months imprisonment, and that he was made subject to a Sexual Harm Prevention Order indefinitely, and to a restraining order until further notice. He is subject to the notification requirements applying to sex offenders. Further, the panel had sight of the sentencing remarks at Exeter Crown Court which confirmed the above. Therefore, the panel found charge 1 proved.

In relation to charge 2, having been provided with a signed and dated copy of the memorandum of conviction, the panel was satisfied that Mr Gezi had been convicted for Driving a Motor Vehicle with Excess Alcohol, contrary to Section 5(1)(a) of the Road Traffic Act 1988. It therefore found charge 2 proved.

## Decision on impairment

The panel next went on to decide if, as a result of these convictions, Mr Gezi's fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession. In this regard the panel considered the judgement of Mrs Justice Cox in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)* 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.

Mrs Justice Cox went on in Paragraph 76 to adopt the categories of impairment formulated by Dame Janet Smith in her Fifth Report from *Shipman*. The panel should ask:

Do our findings of fact in respect of the [doctor's]...conviction... 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 finds that limbs a, b and c are engaged in this case.

Whilst the panel considered Mr Gezi's conviction for Driving a Motor Vehicle with Excess Alcohol, contrary to Section 5(1)(a) of the Road Traffic Act 1988 to be serious, it was in no doubt that the more serious conviction was for 'Sexual activity with a girl under 16 & Penetrative sexual activity with a female with a mental disorder/learning disability'.

The panel noted that the facts underlying Mr Gezi's conviction related to his conduct both during and after his clinical relationship with Service User A. Mr Gezi held a team leader role.

His Honour Judge Rose in Exeter Crown Court stated in his sentencing remarks "...yours was a position of exceptional personal professional responsibility in dealing with, and caring for, children and young people who were highly traumatised and profoundly vulnerable with complex and enduring mental health problems. Such was the position of [Service User A], your victim in this case... your professional duties and obligations must have been the requirement that you protected and safeguarded those in your care from exposure to further harm, abuse or trauma and you did everything in



your power to ensure that they were not subjected to any further damaging experiences. Furthermore, you were in a position of considerable power and influence over those in your care... You embarked upon a process of grooming, of inveigling your way into sexual activity with her, which was calculated, grossly manipulative and deceitful". The panel agreed with these observations.

The panel determined that Mr Gezi had caused significant harm to Service User A as a result of his actions in relation to the inappropriate sexual relationship. Service User A became pregnant and terminated her pregnancy following Mr Gezi's encouragement. She attempted to take her own life as a result of the relationship. The panel considered there to be a risk of harm to patients in the future should Mr Gezi be permitted to practise as a registered nurse.

The panel was of the view that Mr Gezi had breached fundamental tenets of the nursing profession by grooming Service User A, and encouraging her to enter into an inappropriate sexual relationship with him. The panel considered that he brought the nursing profession into disrepute. The panel noted that Mr Gezi initially denied the allegations made by Service User A, and maintained this position until the commencement of his criminal trial. The panel was also aware that Mr Gezi tried to persuade Service User A to change her account to the Police.

The panel had specific regard to His Honour Judge Rose's sentencing remarks in Exeter Crown Court: "I reject entirely any suggestion that you harboured any genuine personal feelings of love as you were to claim in many of your communications to your victim. You knew precisely what you were doing at the time that you were doing it, you knew precisely how wrong it was, how criminal it was and how damaging and abusive it was". The panel noted that Mr Gezi's conviction led to a lengthy sentence of imprisonment.

The panel considered the following standards of *The Code: Professional standards of practice and behaviour for nurses and midwives* (2015) (“the Code”) to be engaged in this case:

**“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

20.6 stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers”

The panel had sight of an email from Mr Gezi’s representative dated 16 August 2019, which set out some representations on behalf of Mr Gezi. In this email, it is stated “This correspondence is intended to notify NMC of Givemore’s final position/decision about the case above. Givemore has asked me to advise NMC through yourself the Case Coordinator that he does not wish to contest, be represented or ask for a hearing. He has further asked me to vividly point out to NMC panel that he does not dispute that his Fitness to Practise is impaired...Finally, he has asked me to apologize on his behalf for bringing the NMC into disrepute.”[sic].

The panel noted that whilst Mr Gezi accepts that his fitness to practise as a registered nurse is currently impaired through his representative, the panel had no evidence before it of any insight, remorse, or remediation demonstrated by Mr Gezi, although the panel recognises that remediation would be extremely difficult given the nature of his convictions. Mr Gezi has provided no explanation for his actions.

Therefore, the panel determined that a finding of impairment on public protection grounds is required.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health, safety and well-being of the public and patients, and to uphold/protect the wider public interest, which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions. It determined that a fully informed member of the public would be appalled by Mr Gezi's convictions, and extremely concerned should a finding of no current impairment be made in light of Mr Gezi's convictions.

Having regard to all of the above, the panel was also satisfied that Mr Gezi's fitness to practise is currently impaired on public interest grounds.

### **Determination on sanction:**

The panel has considered this case carefully and has decided to make a striking-off order. It directs the NMC registrar to strike Mr Gezi's name off the register.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case.

The panel accepted the advice of the legal assessor.

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 Sanctions Guidance ("SG") published by the NMC. It recognised that the decision on sanction is a matter for the panel, exercising its own independent judgement.

The panel considered the following aggravating factors to be present in this case:

- Mr Gezi has two serious criminal convictions, one of which has resulted in a lengthy prison sentence.
- Mr Gezi had breached his position of trust as an experienced mental health nurse, who was in the role of Service User A's designated CAHMS worker.
- Service User A was a particularly vulnerable patient; she suffered from complex mental health problems, was underage at the time the relationship began, and was also vulnerable because of a history of reported abuse.
- Service User A suffered actual harm as a result of Mr Gezi's actions.
- Mr Gezi's actions in engaging in this inappropriate relationship lasted for a significant period of time.

- Mr Gezi contacted Service User A improperly during the Police investigation in an attempt to dissuade her from assisting the Police.
- Mr Gezi has offered no remorse, insight or remediation in relation to his convictions.

Whilst it noted that Mr Gezi pleaded guilty, though only on the day of the criminal trial, and he has acknowledged that his fitness to practise as a registered nurse is currently impaired, the panel did not consider there to be any mitigating factors in this case.

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 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 was of the view that Mr Gezi's behaviour was not at the lower end of the spectrum of fitness to practise 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 a conditions of practice order on Mr Gezi's nursing registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the convictions in this case. The panel noted that there were no identifiable deficiencies specifically in respect of Mr Gezi's clinical nursing practice which needed to be addressed. Furthermore, the panel noted that he is

currently imprisoned, which would affect the workability of any conditions of practice order imposed on his NMC registration.

In any event, the panel determined that the public interest elements of this case would not be met by the imposition of a conditions of practice order, given Mr Gezi's two serious convictions. The panel determined that a conditions of practice order would not sufficiently protect the public, nor address the public interest considerations in this case. The panel had serious concerns regarding Mr Gezi's attitude and conduct.

The panel then went on to consider whether a suspension order would be an appropriate sanction.

The panel considered Mr Gezi's conviction in relation to the inappropriate sexual relationship to be of the utmost seriousness and a significant departure from the standards expected of a registered nurse.

The panel noted that Mr Gezi's convictions were not in relation to a single instance, and that the inappropriate sexual relationship he engaged in with Service User A had serious consequences for her. The panel considered Mr Gezi's behaviour demonstrated a deep-seated problem in his attitude towards his responsibilities as a nursing professional, and his duties to a vulnerable service user under his care.

The panel found that Mr Gezi had offered no insight, remorse or remediation in respect of his conduct, despite having a substantial amount of time to reflect on these incidents. The panel considered there to be a real risk of repetition and a significant risk of unwarranted harm to patients in Mr Gezi's care, should he be permitted to practise as a registered nurse at some point in the future.

The panel had regard to the sections contained within the SG, relating to cases involving sexual misconduct, and criminal convictions or cautions.

Specifically, in respect of sexual misconduct, the panel noted that the guidance states “Sexual misconduct will be particularly serious if the nurse or midwife 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 and midwives”.

The panel noted that the maximum period for the imposition of a suspension order is 12 months, and that this would expire prior to the conclusion of Mr Gezi’s period of imprisonment. The panel bore in mind the principle laid down in CHRE v GDC & Fleischmann [2005] EWHC 87 (Admin), that it is generally inappropriate for a registrant to return to practice before his sentence has been completed.

The panel therefore determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

The panel was of the view that the findings in this particular case demonstrate that Mr Gezi’s actions were serious, and to allow him to remain on the register as a registered nurse would undermine public confidence in the nursing profession and in the NMC as a regulatory body. With this in mind, and taking into account the decision in Fleischmann, the panel concluded that the only course available to it was to impose a striking-off order. It considered that any other sanction in this case would be wholly inappropriate given this panel’s findings.

Taking account of the above, the panel determined that Mr Gezi’s actions were not merely serious departures from the standards expected of a registered nurse and serious breaches of the fundamental professional tenets of trustworthiness, of maintaining proper professional boundaries, and of complying with the law. They were fundamentally incompatible with him remaining on the NMC register. In the panel’s judgment, to allow someone who had behaved in this way to maintain registration with

the NMC would undermine public confidence in the nursing profession and in the NMC as a regulatory body.

In reaching its decision, the panel bore in mind that its decision would have an adverse effect on Mr Gezi both professionally and personally, although it noted that he is not currently practising as a registered nurse due to him serving a sentence of imprisonment. The panel was satisfied that the need to protect the public interest outweighs the impact on Mr Gezi in this regard.

Considering all of these factors, the panel determined that the appropriate and proportionate sanction is a striking-off order. Having regard to the matters it identified, in particular, the effect of Mr Gezi's actions in damaging public confidence in the nursing profession, the panel has concluded that nothing short of this would be sufficient in this case.



## **Determination on Interim Order**

The panel accepted the advice of the legal assessor.

The panel considered the imposition of an interim order and determined that an interim order is necessary for the protection of the public and it is otherwise in the public interest.

The panel determined that an interim conditions of practice order was inappropriate given its earlier findings.

The panel was satisfied that an interim suspension order is necessary in the circumstances of this case. 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. To do otherwise would be incompatible with its earlier findings.

The period of this order is for 18 months to allow for the possibility of an appeal to be made and determined.

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

That concludes this determination.