

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

**Substantive Hearing
Monday, 14 November 2022**

Virtual Hearing

Name of Registrant:	Craig Bowen
NMC PIN	12A0948E
Part(s) of the register:	Registered Nurse - Mental Health Nursing RNMH 16 April 2012
Relevant Location:	Sunderland
Type of case:	Misconduct
Panel members:	Rebecca Holyhead (Chair, Lay member) Carol Porteous (Registrant member) Isobel Leaviss (Lay member)
Legal Assessor:	David Swinstead
Hearings Coordinator:	Amira Ahmed
Nursing and Midwifery Council:	Represented by Hazel McGuinness, Case Presenter
Mr Bowen:	Not present and not represented
Consensual Panel Determination:	Accepted with a typographical amendment
Facts proved by way of admission:	All
Fitness to practise:	Impaired
Sanction:	Striking off order

Interim order:

Interim suspension order (18 months)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Bowen was not in attendance and that the Notice of Hearing letter had been sent to Mr Bowen's registered email address by secure email on 13 October 2022.

Ms McGuinness on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, date and link to the hearing and, amongst other things, information about Mr Bowen's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In the light of all of the information available, the panel was satisfied that Mr Bowen has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mr Bowen

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

Ms McGuinness informed the panel that a provisional Consensual Panel Determination (CPD) agreement had been reached and signed electronically by Mr Bowen on 31 October 2022.

Mr Bowen in an email to his NMC case officer dated 17 October 2022 stated:

“I am admitting all of the charges against me. And I am happy for the hearing to go ahead without me.”

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised “with the utmost care and caution”.

The panel has decided to proceed in the absence of Mr Bowen. In reaching this decision, the panel has considered the submissions of Ms McGuinness, the email from Mr Bowen, and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- Mr Bowen has engaged with the NMC and has signed a provisional CPD agreement which is before the panel today;
- Mr Bowen has said he can be available on the telephone if any clarification is required;
- Mr Bowen has stated that he will not be attending and is content for the hearing to proceed without him
- There is no reason to suppose that adjourning would secure his attendance at some future date; and
- There is a strong public interest in the expeditious disposal of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mr Bowen.

Details of charge (as amended)

That you, a Registered Nurse:

- 1) On one or more occasions between May 2015 and June 2016:
 - a) Supplied Patient A with controlled drugs;
 - b) Consumed controlled drugs with Patient A;
 - c) Supplied Patient A with alcohol;
 - d) Consumed alcohol with Patient A;
 - e) Told Patient A she was beautiful or words to that effect;
 - f) Told Patient A her bum looks nice or words to that effect;
 - g) Touched Patient A's bottom;
 - h) Touched Patient A's leg;
 - i) Attended appointments with Patient A whilst intoxicated through;
 - ii) Drugs;
 - ii) Alcohol.
 - j) Asked Patient A to expose herself to you;
 - k) Rubbed patient A's shoulders;
 - l) Sent Patient A an indecent image of yourself;
 - m) Attended Patient A's home outside of working hours and professional visits;

- n) Met Patient A in a public house;
- o) Disclosed to Patient A details about your own relationship breakdown.
- 2) In 2016 you asked Patient A to have sex with you.
- 3) Your behaviour in charges 2) 1) and or 3) 2) were sexually motivated as it was done in pursuit of a sexual relationship.
- 4) Your behaviour in charges 2) 1) and or 3) 2) were done with the knowledge that Patient A was vulnerable.

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

Consensual Panel Determination

At the outset of this hearing, Ms McGuinness informed the panel that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between the NMC and Mr Bowen.

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

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

That provisional CPD agreement reads as follows:

“Fitness to Practise Committee

Consensual panel determination: provisional agreement

The Nursing & Midwifery Council and Mr Craig Bowen, PIN 12A0948E (“the Parties”) agree as follows:

- 1. Mr Bowen is aware of the CDP hearing. Mr Bowen does not intend to attend the hearing and is content for it to proceed in his ~~and his representative’s~~ absence. Mr Bowen will endeavour to be available by telephone should any clarification on any point be required, or should the panel wish to make any amendment to the provisional agreement. Mr Bowen understands that if the panel wishes to make amendments to the provisional agreement that he doesn’t agree with, the panel will reject the CPD and refer the matter to a substantive hearing.*

The Charges

- 2. Mr Bowen admits the following charges:*

That you, a Registered Nurse:

- 1) On one or more occasions between May 2015 and June 2016:*
 - a) Supplied Patient A with controlled drugs;*
 - b) Consumed controlled drugs with Patient A;*
 - c) Supplied Patient A with alcohol;*
 - d) Consumed alcohol with Patient A;*
 - e) Told Patient A she was beautiful or words to that effect;*

- f) *Told Patient A her bum looks nice or words to that effect;*
- g) *Touched Patient A's bottom;*
- h) *Touched Patient A's leg;*
- iii) *Attended appointments with Patient A whilst intoxicated through;*
 - iv) *Drugs;*
 - ii) *Alcohol.*
- j) *Asked Patient A to expose herself to you;*
- k) *Rubbed patient A's shoulders;*
- l) *Sent Patient A an indecent image of yourself;*
- m) *Attended Patient A's home outside of working hours and professional visits;*
 - n) *Met Patient A in a public house;*
- o) *Disclosed to Patient A details about your own relationship breakdown.*
- 2) *In 2016 you asked Patient A to have sex with you.*
- 3) *Your behaviour in charges 2) 1) and or 3) 2) were sexually motivated as it was done in pursuit of a sexual relationship.*

4) *Your behaviour in charges 2) 1) and or 3) 2) where done with the knowledge that Patient A was vulnerable.*

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

The Statement of Agreed Facts

Background

3. *Mr Bowen appears on the register of nurses, midwives and nursing associates maintained by the NMC as a Registered Nurse, specialising in mental health and has been a registered nurse since 16 April 2012.*
 - *On 18 July 2019, the NMC received a referral from Sunderland Counselling Service (“the Referrer”), following a disclosure made by one of their female clients (‘Patient A’), regarding inappropriate behaviour by Mr Bowen while he was her allocated Community Psychiatric Nurse (‘CPN’).*

Charges 1 and 2

- *In or around summer 2015, Mr Bowen attended Patient A’s home address, flirted with her and consumed drugs at her property. Patient A said that Mr Bowen had encouraged her to consume drugs.*
- *Patient A also disclosed that Mr Bowen had asked her to expose herself to him and he had sent her indecent images of himself. Further, Patient A reported that Mr Bowen would attend her home address uninvited, outside of appointment times and bring drugs with him. Mr Bowen got into Patient A’s bed on 1 occasion and asked her for sex, which she refused. Patient A also said that Mr Bowen would take her to different places, such as to the pub and on 1 occasion he drove to her home and arrived drunk.*

- *Patient A reported these concerns to Northumbria Police ('the Police') who investigated the allegations. On 30 January 2020 the Police confirmed to the NMC it was taking no further action citing the following: "insufficient to proceed with a criminal investigation".*

Charges 3 and 4

- *The regulatory concerns identified and investigated by the NMC were as follows:*
 - *Failure to maintain clear professional boundaries; pursued an inappropriate personal relationship with Patient A.*
 - *Failure to maintain clear professional boundaries; engaged in sexually inappropriate conduct with Patient A.*
 - *Failure to carry-out duties with integrity and professionalism; encouraged the use of and/or supplied illegal drugs to Patient A.*
- *On 27 September 2022 the NMC received an email from Mr Bowen confirming that he accepts all of the charges.*

Misconduct

4. *Mr Bowen admits that his conduct as particularised by the charges amounts to misconduct.*
5. *In the case of **Roylance v. GMC (No.2) [2001] AC 311** the following assistance was given with what could amount to misconduct:*

'Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances'

6. *The same case also reinforced that the misconduct must be '**serious professional misconduct**'.*

7. *The Parties have assessed that Mr Bowen's conduct fell below the standards ordinarily required of a registered nurse by having regard to the local expectations of a nurse in a similar role.*
8. *The Parties have also considered the document published by the NMC namely **The Code: Professional standards of practice and behaviour for nurses and midwives (effective 31 March 2015)**, which sets out the standards expected of a member of the profession. This will be referred to as 'the Code' hereafter in this document.*
9. *Consideration of such standards was endorsed in the case of **Roylance** which stated;*

'The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in particular circumstances'.
10. *The Parties have identified the following standards of the Code, which it is agreed that Mr Bowen has breached by way of his conduct as set out above;*
 - *20 Uphold the reputation of your profession at all times*
 - *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*
11. *The Parties agree that the conduct in Charges 1, 2, 3 and 4 individually and cumulatively fall far below the standard expected of a registered nurse.*

Impairment

12. *The Parties agree that Mr Bowen’s fitness to practise is currently impaired on public protection and public interest grounds.*

13. *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.”

14. *A summary is set out in Grant at paragraph 76 in the following terms:*

“Do our findings of fact in respect of the [the practitioner’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*
- d. has in the past acted dishonestly and/or is liable to act dishonestly in the future.’*

15. *The Parties agree that Mr Bowen's fitness to practise is impaired on public protection grounds as he is liable in the future to act so as to put a patient or patients at unwarranted risk of harm.*
16. *In around May or June 2015 Mr Bowen became overfamiliar and overly friendly with Patient A whilst employed as her CPN. He made suggestive comments about Patient A's appearance, made flirtatious jokes and on one occasion touched her leg. Mr Bowen breached professional boundaries with a vulnerable patient under his care. This included behaviour that was intended to pursue a sexual relationship and the supply of Cocaine. Mr Bowen also took Patient A to places, including the pub outside of appointment times. This behaviour placed Patient A at unnecessary risk of harm and has brought the medical profession into disrepute.*
17. *The concerns in this case are serious and are difficult to put right. Mr Bowen admits to crossing professional boundaries in a reflective piece he submitted to the NMC on 23 April 2020.*
- "I do admit that professional boundaries were crossed, that I did not act on this and this is massively regrettable. I have not forgotten the way in which I conducted myself. This has made me more self-aware of my behaviour and in the way that I interact with patient, staff members and families".*
18. *Mr Bowen demonstrates remorse and takes full responsibility for his actions. Serious concerns such as these could result in harm to patients if not put right. As such, his practice needs to be restricted in some way.*
19. *The Parties agree that Mr Bowen's fitness to practise is impaired on public protection and public interest grounds. His alleged misconduct involves behaviour that falls far below the behaviour expected of a registered nurse. A restriction on Mr Bowen's nursing practise is necessary; firstly to address the risk that he would repeat similar behaviour with another patient and; secondly to*

maintain public confidence in the profession by declaring such behaviour as unacceptable for a registered nurse.

Sanction

20. *The Parties agree that the appropriate sanction in this case is a striking-off order.*

Aggravating and Mitigating features

21. *Mr Bowen crossed professional boundaries with a vulnerable patient for a prolonged period of time. There are no mitigating features in this case.*

Rationale

22. *Taking no action and caution order: neither of these options would be appropriate in the circumstances of this case given the seriousness of the misconduct. Mr Bowen failed to maintain clear professional boundaries by pursuing an inappropriate personal relationship and engaged in sexually inappropriate conduct with a vulnerable patient. Mr Bowen also failed to carry-out duties with integrity and professionalism by encouraging the use of supplied drugs to Patient A. This misconduct is too serious for no action to be taken and similarly, as it is not at the lower end of the spectrum, a caution order is not appropriate.*

23. *Conditions of Practice Order ('COPO'): having considered the NMC's guidance of when a COPO is suitable, the Parties consider that in this case, such an order is not appropriate. Conditions are suited in cases where there is an identifiable area of the nurse's practice which is capable of re-training. In this case, the concerns do not surround Mr Bowen's clinical abilities but rather his breach of professional boundaries. Therefore, a COPO is not appropriate.*

24. *The Parties considered whether a suspension order might be appropriate in the circumstances of this case but agree that such a disposal would be disproportionate as the misconduct is fundamentally incompatible with Mr*

Bowen continuing to be a registered professional. The seriousness of the case requires a sanction beyond a temporary removal from the register. Therefore a striking-off order is the only order that would protect the public and meet the wider public interest.

Referrer's comments

25. *The NMC had asked for the Referrer to provide their comments but did not receive a response.*

The Parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings 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 Bowen. The provisional CPD agreement was signed by Mr Bowen and the NMC on 31 October 2022.

Decision and reasons on the CPD

The panel decided to accept the CPD. In accepting the agreement, the panel noted that there was an error in the second line of the agreement in that there was a reference made to Mr Bowen being represented by a representative. The panel clarified with Ms McGuinness that Mr Bowen has not been represented in this case. Consequently, the panel considered that the words in the agreement:

“and his representative’s”

were incorrect and should be removed from the agreement as a typographical error.

The panel also noted the numbering in charges 3 and 4 referred to charges 2 and 3 when it should have read charges 1 and 2. The panel therefore amended these typographical errors in the CPD agreement.

The panel heard and accepted the legal assessor's advice. Ms McGuinness referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. She reminded the panel that they could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Mr Bowen. 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 Bowen had admitted the facts of the charges. Accordingly, the panel was satisfied that the charges are found proved by way of Mr Bowen's admissions, as set out in the signed provisional CPD agreement.

Decision and reasons on impairment

The panel then went on to consider whether Mr Bowen's fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Mr Bowen the panel has exercised its own independent judgement in reaching its decision on impairment.

In respect of misconduct, the panel determined that Mr Bowen has admitted that his conduct as particularised in the admitted charges amounts to misconduct. The panel was of the view that all the concerns in this case individually and cumulatively were extremely serious, took place over a significant period of time and involved a vulnerable patient.

In this respect, the panel endorsed paragraphs 4 to 11 of the provisional CPD agreement in respect of misconduct.

The panel then considered whether Mr Bowen's fitness to practise is currently impaired by reason of misconduct. The panel took into account the case of *Yeong v General Medical Council* [2009] EWHC 1923 (Admin) as referred to by the legal assessor. The panel determined that his fitness to practise is currently impaired. In this respect the panel endorsed paragraphs 12 to 19 of the provisional CPD agreement.

Decision and reasons on sanction

Having found Mr Bowen'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 aggravating features in this case, that Mr Bowen crossed professional boundaries with a vulnerable patient for a prolonged period of time. The panel noted that in the CPD agreement there were no mitigating features put forward 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 further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mr Bowen's practice would not be appropriate in the circumstances. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mr Bowen's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Mr Bowen's registration would not adequately address the seriousness of this case and would not protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The panel noted the SG when considering whether a suspension order may be appropriate in this case.

The conduct, as highlighted by the facts found proved, was a very significant departure from the standards expected of a registered nurse. The panel considered that the misconduct in this case was indicative of deep-seated attitudinal issues. The panel determined that the serious breach of the fundamental tenets of the profession evidenced by Mr Bowen'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.

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

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

Mr Bowen's actions were very significant departures from the standards expected of a registered nurse. The panel was of the view that the findings in this particular case demonstrate that Mr Bowen's actions were extremely 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 material before it, the panel agreed with the CPD and in particular paragraphs 20 to 24 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 Bowen's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct himself the panel has concluded that nothing short of this would be sufficient in this case.

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

This will be confirmed to Mr Bowen in writing.

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 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 Bowen's own interests until the striking-off sanction takes effect.

Ms McGuinness submitted that an interim suspension order should be imposed for a period of 18 months to cover the 28-day appeal period.

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 by way of admission and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel determined 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.

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

That concludes this determination.