

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

**Substantive Hearing
Thursday, 20 July 2023 – Friday, 21 July 2023**

Virtual Hearing

Name of Registrant: Mark W T Cuartero

NMC PIN 03B0203O

Part(s) of the register: Registered Nurse
Adult Nursing – February 2003

Relevant Location: Sheffield

Type of case: Conviction

Panel members: Susan Thomas (Chair, Lay member)
Jim Blair (Registrant member)
Christine Moody (Lay member)

Legal Assessor: Jayne Salt

Hearings Coordinator: Philip Austin

Nursing and Midwifery Council: Represented by Nicola Kay, Case Presenter

Mr Cuartero: Present via video link, but not represented

Facts proved: Charges 1 and 2

Facts not proved: None

Fitness to practise: Currently impaired

Sanction: **Striking-off order**

Interim order: **Interim suspension order – 18 months**

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

Ms Kay made a request that the entirety of the hearing be held in private on the basis that proper exploration of this case will involve reference to vulnerable children. She submitted that whilst the exact ages of the children involved are not known, they were under 16 at the time of the offences. Ms Kay submitted that the nature and facts of the offences may make it possible to identify the children by stealth, as there is reference to them having a particular set of skills.

In addition to this, Ms Kay submitted that there was a ruling in the criminal court for reporting restrictions to protect the childrens' confidentiality. She submitted that any public interest in these parts of the case being aired in public session is outweighed by the need to protect their privacy in this respect. This application was made pursuant to Rule 19 of the NMC (Fitness to Practise) Rules 2004, as amended ("the Rules").

You did not oppose the application.

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

Rule 19 states:

19.—(1) Subject to paragraphs (2) and (3) below, hearings shall be conducted in public.

(2) Subject to paragraph (2A), a hearing before the Fitness to Practise Committee which relates solely to an allegation concerning the registrant's physical or mental health must be conducted in private.

- (2A) All or part of the hearing referred to in paragraph (2) may be held in public where the Fitness to Practise Committee—
- (a) having given the parties, and any third party whom the Committee considers it appropriate to hear, an opportunity to make representations; and
 - (b) having obtained the advice of the legal assessor, is satisfied that the public interest or the interests of any third party outweigh the need to protect the privacy or confidentiality of the registrant.
- (3) Hearings other than those referred to in paragraph (2) above may be held, wholly or partly, in private if the Committee is satisfied—
- (a) having given the parties, and any third party from whom the Committee considers it appropriate to hear, an opportunity to make representations; and
 - (b) having obtained the advice of the legal assessor, that this is justified (and outweighs any prejudice) by the interests of any party or of any third party (including a complainant, witness or patient) or by the public interest.
- (4) In this rule, “in private” means conducted in the presence of every party and any person representing a party, but otherwise excluding the public.

Having heard that there may be reference to vulnerable third parties, the panel determined to hold the entirety of the hearing in private. It had specific regard to the ruling in the criminal trial which protected the identities of the children involved. The panel decided that it would not be possible to distinguish between public and private session in the particular circumstances of this case.

Details of charge

That you, a registered nurse, on 1 July 2022, at Sheffield Crown Court, were convicted of:

- 1. Engaging in controlling/coercive behaviour in an intimate/family relationship contrary to 76(1) and (11) of the Serious Crime Act 2015.*
- 2. Offences referred to in Schedule 1.*

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

Schedule 1

[PRIVATE]