

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

**Substantive Hearing
14 November 2022**

Virtual Hearing

Name of registrant:	Jessica Hunt
NMC PIN:	19B1521E
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nurse – Level 1 9 March 2019
Relevant Location:	Cheshire
Type of case:	Conviction
Panel members: member)	Susan Elizabeth Ball (Chair, Registrant member) Christine Witt (Registrant member) Clare Taggart (Lay member)
Legal Assessor:	Andrew Granville-Stafford
Hearings Coordinator:	Sophie Cubillo-Barsi
Nursing and Midwifery Council:	Represented by Mary Kyriacou, Case Presenter
Jessica Hunt:	Present and unrepresented
Facts proved:	Charges 1 a)
Fitness to practise:	Impaired
Sanction:	Caution order – 3 years
Interim order:	Not applicable

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

At the outset of the hearing, Ms Kyriacou, on behalf of the Nursing and Midwifery Council (NMC) made a request that parts of this hearing be held in private on the basis that proper exploration of your case involves reference to your health. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

You indicated that you supported the application to the extent that any reference to your health should be heard in private.

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.

The panel determined to go into private session in connection with health as and when such issues are raised in order to protect your privacy.

Details of charge

That you, a registered nurse

1. On 29 April 2021, at Cheshire Magistrates Court, were convicted of the following offence;
 - a. Battery, contrary to section 39 of the Criminal Justice Act 1988.

And, in light of the above, your fitness to practise is impaired as a result of your conviction.

Decision and reasons on facts

The charge concerns your conviction and, having been provided with a copy of the memorandum of conviction, and in light of your admission to the charge, the panel finds that the facts are found proved in accordance with Rules 24 (5), 31 (2) and (3).

Background

On 25th July 2020, you and Mr 1 had been out celebrating the birthday of Mr 1's son. On returning to Mr 1's home address, at approximately 22:15, you and Mr 1 had a verbal disagreement before heading inside the address. Once inside the address, it is alleged that you became increasingly aggressive towards Mr 1 and bit him numerous times on the chest.

Mr 1 attempted to remove you from the address to prevent a further assault, however you continued to hit and bite Mr 1 over the course of around fifteen minutes whilst outside the property, whilst also making attempts to take Mr 1's mobile phone. Mr 1 restrained you by holding down your forearms, however you did not cease your attack once released.

Mr 1 tried to escape the assault by jumping over a small fence to the front of his property, however you followed him and subsequently pushed and hit him back in the direction of the house. When Mr 1 managed to get through the low gate to the front of his property, he closed the gate and held it shut to stop you from gaining entry. At this point, whilst struggling to get through the gate, you again bit Mr 1, this time on his right arm.

You stopped assaulting Mr 1 when he managed to gain entry to his property and locked you outside. The police were subsequently called.

On 29 April 2021 you pleaded guilty and were convicted of Battery, contrary to section 39 of the Criminal Justice Act 1988 at Cheshire Magistrates Court. You were sentenced to 12 weeks imprisonment, suspended for 12 months. Further, you were ordered to pay

costs of £300 and compensation to Mr 1 amounting to £200. You were also made subject to a restraining order.

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, your fitness to practise is currently impaired by reason of your conviction. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

Submissions on impairment

Ms Kyriacou addressed the panel on the issue of impairment and reminded the panel to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* [2011] EWHC 927 (Admin). 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) ...

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) ...'

Ms Kyriacou submitted that your conduct which led to your conviction has brought the nursing profession into disrepute and has breached a fundamental tenet of the profession. She stated that a fully informed member of the public would be shocked to learn that a registered nurse has been convicted of violent conduct and received a custodial sentence, albeit it suspended. Ms Kyriacou also referred the panel to the case of *Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin) which addresses the issue of remediation. Ms Kyriacou submitted that your conduct is not easily remediable. She reminded the panel that Mr 1 suffered significant injuries and that the panel do not have any evidence before it to demonstrate that you have remediated your conduct. However, Ms Kyriacou recognised that your conduct does not relate to your clinical practice and that your behaviour which led to your conviction appears to be an isolated incident.

Despite this, Ms Kyriacou invited the panel to find that your fitness to practice is impaired on public interest grounds. She submitted that your actions are 'deplorable' and that the need to maintain the public confidence in the nursing profession and the NMC as a regulator outweighs your own interests.

[PRIVATE]

You explained that on the night of 25 July 2020, you were 'not yourself' [PRIVATE]. You reminded the panel that your behaviour did not occur in your workplace and that you have received 'amazing feedback' from your colleagues and patients regarding your practice. You explained that this incident occurred two years ago [PRIVATE]. You asked the panel to consider your reflective pieces before it.

The panel accepted the advice of the legal assessor.

Decision and reasons on impairment

The panel next went on to decide if as a result of the conviction, your 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. 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 judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant*. The panel accepted the NMC's submissions that your conviction, which involved a prolonged and sustained attack on Mr 1, has brought the nursing profession into disrepute and breached a fundamental tenet of the profession. The panel determined that your conviction has breached the following paragraphs of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' (the Code):

"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

20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to”

Regarding your insight, the panel noted that within your reflective piece and submissions, you sought to place blame on the victim which the panel determined undermined your acceptance of responsibility. The panel did not have evidence before it to demonstrate that you have remediated the behaviour that led to your conviction. Further, you have been unable to provide evidence to the panel as to how you would act differently should a similar situation arise again in the future. In light of your limited insight and in the absence of any remediation, the panel determined that there is a risk of repetition at this time.

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. The panel determined that a fully informed member of the public would be seriously concerned should a finding of impairment not be made at this time and therefore concluded that a finding of current impairment on public interest grounds was required.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.

Sanction

The panel considered this case very carefully and decided to make a caution order for a period of three years. The effect of this order is that your name on the NMC register will show that you are subject to a caution order and anyone who enquires about your registration will be informed of this order.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

Submissions on sanction

Ms Kyriacou informed the panel that in the Notice of Hearing letter, dated 13 October 2022, the NMC had advised you that it would seek the imposition of a caution order for three years if the panel found your fitness to practise currently impaired.

You made reference to the panel's determination in relation to your current impairment and reiterated the fact that you take full responsibility for your actions. You stated that the behaviour which resulted in your conviction would not be repeated.

Decision and reasons on sanction

Having found your 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 feature:

- You have demonstrated only limited insight into your conviction and the impact your behaviour has had upon the nursing profession.

The panel also took into account the following mitigating features:

- You said that at the time of incident, you were experiencing difficult personal circumstances; and

- The panel had before it numerous positive testimonials attesting to your clinical practice.

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.

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 *'if the fitness to practice committee has decided that there is no risk to the public or to patients requiring the nurse, midwife or nursing associate's practice to be restricted, meaning the case is at the lower end of the spectrum of impaired fitness to practise, however the fitness to practice committee wants to mark that the behaviour was unacceptable and must not happen again.'*

The panel noted that the behaviour which resulted in your conviction, has not been repeated and appears to be an isolated incident. You have shown some insight in that you have admitted the charges and that your fitness to practice is impaired on public interest grounds. Further, you have continued to engage with the NMC since the referral was received. Additionally, the panel considered the fact that you have now completed your sentence.

The panel considered whether it would be proportionate to impose a more restrictive sanction and looked at a conditions of practice order. The panel noted that the behaviour in this case is not something which can be addressed through retraining and that no concerns have been raised regarding your clinical practice. The panel therefore concluded that such an order is not necessary to address the public interest and that no useful purpose would be served by a conditions of practice order. The panel further considered that a suspension order would be disproportionate in this case.

The panel has decided that a caution order would adequately address the public interest concerns in your case. For the next three years, your employer - or any prospective employer - will be on notice that your fitness to practise had been found to

be impaired and that your practice is subject to this sanction. Having considered the general principles above and looking at the totality of the findings on the evidence, the panel has determined that to impose a caution order for a period of three years would be the appropriate and proportionate response. It would mark not only the importance of maintaining public confidence in the profession, but also send the public and the profession a clear message about the standards required of a registered nurse.

At the end of this period the note on your entry in the register will be removed. However, the NMC will keep a record of the panel's finding that your fitness to practise had been found impaired. If the NMC receives a further allegation that your fitness to practise is impaired, the record of this panel's finding and decision will be made available to any practice committee that considers the further allegation.

This decision will be confirmed to you in writing.

That concludes this determination.