

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

**Substantive Meeting
Friday 14 July 2023**

Virtual Meeting

Name of Registrant:	Clarito Jr. Loga
NMC PIN	18F00530
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing (Level 1) – 04 June 2018
Relevant Location:	Belfast
Type of case:	Conviction
Panel members:	Adrian Smith (Chair, Lay member) Marcia Smikle (Registrant member) Dale Simon (Lay member)
Legal Assessor:	Graeme Sampson
Hearings Coordinator:	Amie Budgen
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Decision and reasons on application for the determination letter not to be published

At the outset of the hearing, the panel had regard to a letter from Mr Loga's Royal College of Nursing (RCN) representative dated 12 July 2023 which indicated an understanding that the Nursing and Midwifery Council (NMC) website will confirm that Mr Loga has been struck off but requested that the background information is not included in the published determination.

[PRIVATE]

The panel accepted the advice of the legal assessor, the panel was advised that it had power to restrict the publication of the detail of the panel's determination.

[PRIVATE] It was satisfied that Mr Loga's own interests outweighed the public interest in favour of publication, noting that the public will still be able to see the decision from today's Substantive Meeting.

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 Loga's registered email address by secure email on 28 June 2023.

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, dates and the fact that this meeting was heard virtually.

In the light of all of the information available, the panel was satisfied that Mr Loga 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

[PRIVATE]

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 Loga.

The agreement, which was put before the panel, sets out Mr Loga's full admissions to the facts alleged in the charges, that his actions led to a conviction, and that his fitness to practise is currently impaired by reason of that conviction. 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:

'The Nursing & Midwifery Council ("the NMC") and Clarito Jr, Loga PIN 18F00530 ("the Parties") agree as follows:

1. *Clarito Jr, Loga is content for his case to be dealt with by way of a CPD meeting.*

The charge

2. *Clarito Jr, Loga admits the following charges:*

That you, a registered nurse:

[PRIVATE]

The facts

3. *Mr Loga appears on the register of nurses, midwives and nursing associates maintained by the NMC as a Registered Nurse Adult (RNA), sub part 1 and has been a registered nurse since 4 June 2018.*

[PRIVATE]

[PRIVATE]

Impairment

7. *Mr Loga's fitness to practise is currently impaired by reason of 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 Loga:*

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 liable in the future to bring the professions into disrepute;

c) Has in the past, and/or is liable in the future to breach one of the fundamental tenets of the professions;

d) Has in the past, and/or is liable in the future to act dishonestly.”

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

9. [PRIVATE]

10. [PRIVATE]

11. *In addition Mr Loga 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.*

12. [PRIVATE]

13. *Mr Loga has also 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.*

14. *For the reasons set out in paragraphs 7 - 13, above, Mr Loga accepts that at the time of committing the offence, his fitness to practise as a nurse was impaired.*

Remediation, reflection, training, insight, remorse

15. *In considering the question of whether Mr Loga's fitness to practise is currently impaired, the Parties have considered Cohen v General Medical Council [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;*

a) *Whether the conduct that led to the charge(s) is easily remediable.*

b) *Whether it has been remedied.*

c) *Whether it is highly unlikely to be repeated.*

16. [PRIVATE]

17. *Mr Loga through his representative in an email to the NMC dated 4 May 2023, accepts the charges 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.

18. Whilst Mr Loga 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 Loga, his fitness to practice is currently impaired on public protection grounds.

Public interest impairment

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

20. 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."

21. The conduct of Mr Loga 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 Loga's conduct as wholly unacceptable offending behaviour for a registered nurse.

22. Mr Loga accepts that his fitness to practice is currently impaired on public interest grounds.

Sanction

23. *Mr Loga accepts that the appropriate sanction in this case is a Striking Off Order.*

24. *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.*

25. [PRIVATE]

26. [PRIVATE]

27. *The mitigating feature in this case is as follows: a) Mr Loga has admitted the charge and that his fitness to practice is impaired by reason of his conviction.*

28. [PRIVATE] *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]).*

29. [PRIVATE]

30. *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.*

31. 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.

32. Imposing a suspension order would temporarily protect the public but would not be appropriate as Mr Loga 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

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

34. Mr Loga'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. Interim order An interim order is required in this case. The interim order is necessary for the protection of the public and otherwise in the public interest. This is because any sanction imposed by the panel will not come into immediate effect but only after the expiry of 28 days beginning with the date on which the notice of the order is sent to the registrant or after any appeal is resolved. An interim order of 18 months is necessary to cover any possible appeal period. An interim suspension order is appropriate as this would be consistent with the sanction imposed by the panel and would address public protection and public interest concerns already identified in this document. 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 Loga. The provisional CPD agreement was signed by Mr Loga and the NMC on 19 June 2023.

Decision and reasons on the CPD

The panel decided to accept the CPD.

The panel noted that Mr Loga was represented and had consented to the agreement. 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 Loga. 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 Loga admitted the facts of the charges. Accordingly, the panel was satisfied that the charges are found proved by way of the conviction and Mr Loga'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 Loga's fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Mr Loga, the panel has exercised its own independent judgement in reaching its decision on impairment.

In respect of the conviction the panel determined that Mr Loga's fitness to practise is impaired on the ground of public protection and is also otherwise in the wider public interest.

In this respect, the panel endorsed paragraphs 7 to 14 of the provisional CPD agreement.

Decision and reasons on sanction

Having found Mr Loga'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 accepted the aggravating features and mitigating features set out in the CPD in paragraphs 25-27.

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 Loga's practice would not be appropriate in the circumstances. The SG 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 Loga's conviction 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 placing conditions of practice on Mr Loga'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 conviction identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Mr Loga'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 considered the guidance set out by SG detailing which factors make suspension orders appropriate. However, the panel determined that a substantive suspension would not be appropriate in this case as a result of Mr Loga's conviction.

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

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

Finally, in considering 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 Loga's actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with him remaining on the register. The panel was of the view that the findings in this case 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 of the material contained in the written agreement, 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 Loga'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 a striking off order 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.

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 Loga'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 interests. 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 on public protection and wider public interest grounds.

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

That concludes this determination.