

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

**Substantive Order Review Hearing
Monday 16 December 2024,
Tuesday 17 December 2024**

Virtual Hearing

Name of Registrant: Ragiv Kamal Kumar Jugdharree

NMC PIN 90J1843E

Part(s) of the register: Registered Nurse - Sub part 1
Mental Health Nurse, level 1 (27 September 1993)

Relevant Location: Kent

Type of case: Misconduct

Panel members: Mark Gower (Chair, lay member)
Donna Green (Registrant member)
Joanne Stewart (Lay member)

Legal Assessor: Tim Bradbury

Hearings Coordinator: Abigail Addai

Nursing and Midwifery Council: Represented by Rebecca Paterson (16 December 2024)
Shaun McPhee (17 December 2024), Case Presenter

Mr Jugdharree: Not present and not represented at the hearing

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Striking-Off order to come into effect on 2 February 2025 in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Jugdharree was not in attendance and that the Notice of Hearing had been sent to Mr Jugdharree's registered email address by secure email on 15 November 2024 .

Ms Paterson, 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 substantive order being reviewed, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mr Jugdharree's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In light of all of the information available, the panel was satisfied Mr Jugdharree has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mr Jugdharree

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

Ms Paterson submitted that there had been no engagement at all by Mr Jugdharree with the NMC in relation to this hearing apart from an email received on 13 December 2024 prompted by the NMC. Further, Ms Paterson brought to the panel's attention that the order is due to expire on 2 February 2025. Therefore, the order must be reviewed. Ms Paterson acknowledged that the panel could choose to relist the hearing but reminded the panel Mr Jugdharree had not made an application for a postponement or an adjournment. As a

result, there was no reason to believe that an adjournment would secure his attendance on a future occasion.

Ms Paterson had regard to an email sent by the NMC on 13 December 2024, asking Mr Jugdharree to confirm his attendance. [PRIVATE]. [PRIVATE]. Ms Paterson referred the panel to the previous hearing where Mr Jugdharree attended and gave evidence. However, since that hearing, there has not been any further correspondence from Mr Jugdharree. As a result, Ms Paterson invited the panel to proceed in absence despite the potential disadvantage on Mr Jugdharree.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mr Jugdharree. In reaching this decision, the panel has considered the submissions of Ms Paterson, and the advice of the legal assessor. It has had particular regard to any relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mr Jugdharree
- [PRIVATE]
- Mr Jugdharree has voluntarily absented himself
- [PRIVATE]
- [PRIVATE]
- 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 review of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mr Jugdharree and, therefore manage any disadvantage that may exist in proceeding in his absence by carefully considering the information before it.

[PRIVATE].

Decision and reasons on review of the substantive order

The panel decided that on the expiry of the current suspension order, a striking off order should take effect.

This order will come into effect at the end of 2 February 2025 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 5 January 2023. This was reviewed on 20 December 2023 and the suspension order was extended for a period of 6 months. On 24 June 2024, the suspension order was extended for a further 6 months.

The current order is due to expire at the end of 2 February 2025.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved which resulted in the imposition of the substantive order were as follows:

'That you, a nurse and the registered manager at Garlinge Lodge Residential Home ("the Home"):

1. Failed to preserve patient safety in that you failed to ensure:

- a. fire equipment was checked every six months;*
- b. fire doors were functional and/or in place;*
- c. fire and/or smoke alarms were in all rooms;*
- d. the lift was serviced every six months;*
- e. PRN protocols were in place for resident medication;*
- f. An up to date legionella risk assessment was completed by a competent person;*
- g. records of accidents, incidents and risk assessments were maintained;*
- h. staff training and/or supervision was up to date;*
- i. training records were maintained;*

- j. safe staffing levels were maintained;*
- 2. On 6 - 7 May 2019 failed to ensure Resident A received emergency medical attention for an 8 hour period when they presented with stroke symptoms;*
 - 3. Provided inaccurate information to the CQC inspector during the inspection on 11-17 June 2019 in relation to:*
 - a. the frequency of fire safety checks;*
 - b. the frequency of lift service checks;*
 - c. staff rotas which indicated staff were working when they were not;*
 - 4. Your actions in charge 3 above were dishonest, in that you intended to stall and/or disrupt the CQC investigation;*

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

The second reviewing panel determined the following with regard to impairment:

'The panel considered whether your fitness to practise remains impaired.

This panel took the view that since the last review hearing in December 2023, there has been no material change in your circumstances except for the decision of the DBS barring you from working as a nurse. The panel acknowledged that you attended this hearing and had regard to the evidence that you gave under affirmation. It also noted that you provided a reflective statement. However, the panel was of the view that your reflective statement demonstrated limited insight and understanding of your dishonesty and misconduct.

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account your evidence regarding the DBS barring you from working as a nurse. However, in terms of relevant training certificates or evidence of recent training, the panel considered that your answers to those questions were vague and

non-specific. The panel determined that your misconduct is remediable, but you have not yet provided sufficient evidence of remediation. It noted that there was no evidence put before it to suggest strengthened practice through relevant training.

Further, the panel considered that you could not provide any specifics about relevant articles or research pieces that you had read. The panel questioned whether your reading into mental health was relevant to the findings of multifaceted and premeditated dishonesty. The panel was concerned that this demonstrated a further lack of insight into the seriousness of your misconduct.

It was of a particular concern to the panel that you were barred by the DBS and did not disclose this to the NMC prior to this hearing. The panel noted that you did not provide any documentary evidence regarding the DBS decision. It was alarming to the panel that it was made aware of this issue during this hearing even though you had been aware of this since January 2024. Considering the previous finding of dishonesty, this raised some concern for the panel.

The panel was not convinced that matters of the kind found proved would not be repeated in the future should you be placed in similar circumstances. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that your fitness to practise remains impaired.'

The second reviewing panel determined the following with regard to sanction:

'The panel first considered whether to let the current suspension order lapse upon expiry but concluded that this would be inappropriate in view of the seriousness of

the case. The panel decided that it would neither protect the public nor would it be in the public interest to do so.

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 your 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 your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. Since you informed the panel that you have been barred by the DBS, the panel was not able to formulate conditions of practice that would adequately address the concerns relating to your misconduct.

The panel considered the imposition of a further period of suspension. It was of the view that a further extension to the current order would allow you further time to fully reflect on your previous misconduct. It considered that you need to gain a full understanding of how the dishonesty of one nurse can impact upon the nursing profession as a whole and not just the organisation that the individual nurse is working for. The panel concluded that a further extension for a period of six months would be the appropriate and proportionate response and would afford you adequate time to further develop your insight and take steps to strengthen your practice.

The panel determined therefore that a further extension to the suspension order is the appropriate order which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel decided to further extend the suspension order for the period of six months. It considered this to be the most appropriate and proportionate order available.'

Decision and reasons on current impairment

The panel has considered carefully whether Mr Jugdharree's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle. It has taken account of the submissions made by Ms Paterson on behalf of the NMC. Ms Paterson gave a background of the case and submitted the matters found proved were serious and amounted to serious professional misconduct. Ms Paterson submitted that previous concern of dishonesty has not been remediated. The previous panel found that Mr Jugdharree had also been barred from work by the Disclosure and Barring Service (DBS), which Mr Jugdharree did not disclose to the NMC for 5 months. An additional suspension order of 6 months was imposed to enable Mr Jugdharree to demonstrate that he is fit to practice.

Ms Paterson had regard to *Abrahaem v GMC* [2008] EWHC 183 (Admin) at [23] where the persuasive burden is on the registrant to demonstrate to the panel you are no longer impaired. However, Mr Jugdharree's absence has not persuaded the panel that there is insight or a lack of impairment. Ms Paterson reminded the panel of the previous recommendations set out by the previous panel which stated:

'Any future panel reviewing this case would be assisted by:

- *Your attendance at any future hearing.*

- *Refer to a recognised model of reflection such as Gibbs to guide you in writing a reflective statement addressing the regulatory concerns, in particular your dishonesty; the impact of your actions on the safety of residents and the wider nursing profession and how you would manage any stress that arises in your role as a nurse in the future.*
- *Up-to-date work and/or personal testimonials.*
- *Documentary evidence of any relevant and up-to-date training.'*

Ms Paterson submitted that the recommendations proposed by the previous panel had not been remedied because Mr Jugdharree had not provided any documentation or information for the recommendations. Further, Mr Jugdharree testified in the previous hearing that he would appeal his current DBS barring. However, today's panel have no further correspondence from Mr Jugdharree to support this. Therefore, Ms Paterson told the panel that Mr Jugdharree had not demonstrated sufficient insight or remediation and a risk to patient safety still exists. Ms Paterson invited the panel to find impairment on the grounds of public protection and public interest due to the seriousness of the concerns. She informed the panel that a further suspension order would be the minimum sanction to address these concerns.

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

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether Mr Jugdharree's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Mr Jugdharree had insufficient insight. The panel noted he had not provided a reflective piece, as suggested by previous reviewing panels, or any other evidence that might have enabled this panel to determine what, if anything, Mr Jugdharree has done to develop his insight further. Mr Jugdharree did not provide any evidence of training or development he has undertaken, testimonials or current work or indeed intentions to work either.

[PRIVATE]. As a result, a continuing finding of impairment on the ground of public protection is necessary as Mr Jugdharree has not provided the panel confidence of how he can practice safely.

The panel considered whether Mr Jugdharree had taken steps to strengthen his practice and also took account of the fact that Mr Jugdharree had told the previous panel that he had appealed the decision made by the DBS. The panel had not been provided with any update regarding the outcome of any such appeal.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. Given the increased risk of repetition and the breadth of the concerns, the panel determined that a well-informed member of the public would be extremely concerned if the NMC did not make a finding of impairment in these circumstances. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that Mr Jugdharree's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mr Jugdharree's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

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 Jugdharree'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 Jugdharree's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice order on Mr Jugdharree's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was also not able to formulate conditions of practice that would adequately address the concerns relating to Mr Jugdharree's misconduct due to his current barring by the DBS.

The panel next considered imposing a further suspension order. The panel noted that Mr, Mr Jugdharree has failed to demonstrate the required level of insight. It noted Mr Jugdharree has had three opportunities to show insight and remediation. This panel has not had any further information to support how Mr Jugdharree has further reflected or remediated.

Furthermore, the panel noted that the previous panel were informed by Mr Jugdharree of training courses undertaken. However, the current reviewing panel have not been provided with any evidence of these courses. While a further suspension could address public protection, it would not satisfy the public interest in this case or maintain professional standards and public confidence.

The panel then went on to consider the appropriateness of a striking off order. In doing so, it had regard to the NMC Guidance to Panels on Striking off and Removal from the register when there is a substantive order in place (Reference: REV-3h).

- *Are there now fundamental questions about the nurse, midwife or nursing associate's professionalism?*
- *Can public confidence in nurses, midwives and nursing associates now be maintained if the nurse, midwife or nursing associate is not struck off from the register?*
- *Is striking-off now the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

REV-3h states that cases where is likely to be appropriate include when:

- *The professional has shown limited engagement and/or insight,*
- *...*
- *Or the professional has otherwise made no or negligible progress towards addressing issues with their fitness to practise.*

The panel concluded that fundamental questions remained unanswered as to Mr Jugdharree's professionalism by his lack of engagement and the outstanding concerns regarding his insight, training and strengthening of practice. The facts admitted are of a serious nature which include dishonesty. These elements have not been remediated and there is no evidence before the panel to suggest there has been any progress.

The panel considered that Mr Jugdharree had continued to show ongoing concerns by his disengagement, despite this being the third review of the order which include matters of dishonesty. It concluded that confidence cannot be maintained in the nursing profession by allowing Mr Jugdharree to continue to practice and remain on the register when he has failed to show how he can practice safely, kindly and effectively or made any attempt to do so.

It necessarily followed that the panel, having considered all the evidence and the relevant guidance did not consider that it would be appropriate to allow the substantive order to lapse on expiry. In the panel's judgement, this would not be sufficient to maintain confidence in the profession or uphold professional standards. Therefore, a striking off order was the only appropriate and proportionate sanction.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 2 February 2025 in accordance with Article 30(1)

This decision will be confirmed to Mr Jugdharree in writing.

That concludes this determination.