

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

**Substantive Hearing
Wednesday 18 December 2024 – Thursday 19 December 2024**

Virtual Hearing

Name of Registrant: Sehrish Yasmin

NMC PIN: 13C1391E

Part(s) of the register: Registered Nurse
Adult Nursing – 7 September 2013

Relevant Location: Greater Manchester

Type of case: Conviction

Panel members: Debbie Hill (Chair, lay member)
Louise Poley (Registrant member)
James Hurden (Lay member)

Legal Assessor: Nigel Mitchell

Hearings Coordinator: Emma Norbury-Perrott

Nursing and Midwifery Council: Represented by Selena Jones, Case Presenter

Ms Yasmin: Present and represented by Thomas Buxton, on behalf of The Royal College of Nursing (RCN)

Facts proved: All charges found proved by way of admission

Fitness to practise: Impaired on public interest grounds only

Sanction: **Striking-off Order**

Interim order: **Interim suspension order (18 months)**

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

Mr Buxton made a request that this case be held partly in private on the basis that proper exploration of your case involves [PRIVATE], which outweighs the public interest of this matter being heard in public in this case. The application was made pursuant to Rule 19 of the Rules.

Ms Jones indicated that she supported 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.

The panel determined to go into private session in connection with matters relating to [PRIVATE] as and when such issues arise.

Details of charge

That you, a Registered Nurse:

1. On 16 May 2024, at Manchester Crown Court were convicted of the following offences:
 - a) On 28 May 2020, you dishonestly and intending thereby to make a gain for yourself or another, made representations to Santander PLC which were and which you knew were or might be untrue or misleading, namely that you would use the credit only for the economic benefit of the business and that the bounce back loan would be used solely for business purposes and not for personal purposes, in breach of section 2 and contrary to section 1 of the Fraud Act 2006.

- b) On 22 June 2020, you dishonestly and intending thereby to make a gain for yourself or another, made representations to Barclays Bank PLC which were and which you knew were or might be untrue or misleading, namely that you had not previously received a loan under the Bounce Back Scheme and that this was your first application for a loan under the scheme, in breach of section 2 and contrary to section 1 of the Fraud Act 2006.

- c) Between 26 April 2021 and 25 April 2023 being director of Manny Steak House, a company being wound up, failed to deliver to the liquidator all books and papers in your custody or control where required by law to deliver up, contrary to s208(1)(c) Insolvency Act 1986.

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

Background

The NMC received a self-referral from you on 21 March 2024 in which you advised that you had been charged with a criminal offence, in relation to an investigation being conducted by the Insolvency Service into you applying for two Bounce Back Loans during the Covid-19 pandemic, during the summer of 2020, to support a business you had set up and that a court hearing was scheduled for 28 March 2024.

The circumstances surrounding the offences were detailed in paperwork from the Insolvency Service, and your self-referral.

You were the sole Director of Manny Steak House Ltd and had been since its incorporation on 7 January 2019.

On 28 May 2020, you applied for a loan, for Manny Steak House Ltd, from Santander PLC as part of the Bounce Back Loan Scheme, a UK Government backed lending scheme designed to support businesses during the Covid-19 pandemic. The loans under the scheme were offered between £2000 and £50,000 and the amount requested was to be based upon a maximum of 25% of the annual turnover of the business. In the first year of the loans there were no payments required and the Government paid the interest. As part of the loan application process businesses self-certified that they would use the loan only to provide economic benefit to the business and not for personal purposes.

You applied for a £50,000 loan, which was successful, and this amount was drawn down. You made the representation that you would use the credit provided only for the benefit of the business.

On 22 June 2020, you applied for further loan, for Manny Steak House Ltd, this time from Barclays Bank PLC. You estimated the turnover of your business as £320,000 and declared that the loan was the only loan you had applied for under the Bounce Back Scheme. The application was successful and a further £50,000 was paid into the business's account.

On 2 January 2021 £500 was paid into your personal account from the business account. On 8 January 2021 £12,112 was paid by card by you to the Jewellery Quarter in Birmingham. At the time of these transactions the only monies that had been paid into the account was from the loan.

On 7 April 2021, you sought advice regarding liquidating the company and on 10 May 2021 a liquidator was appointed to wind up the business. You did not deliver the books and records for the company to the liquidator to enable them to complete the process.

As a result of these actions, the Insolvency Service began an investigation into the business and you as the sole director. The Insolvency Service requested for you to attend

an interview under caution. In response you gave them a prepared statement, in which you denied knowing that the business was only entitled to one loan or seeing anything on any of the applications to that effect.

The Insolvency Service sent you a letter on 20 February 2024, informing you that a hearing had been scheduled to take place on 28 March 2024 at Stockport Magistrates Court. Included with this letter was a case summary and notification of the charges against you. The Insolvency Service charged you with two breaches of the Fraud Act 2006, in respect of making false representations to obtain the two loans and a breach of s208(1)(c) of the Insolvency Act 1986, in respect of failing to turn over the records of the business to the liquidator.

You appeared at Stockport Magistrates Court on 28 March 2024 and pled guilty to all three offences. The matter was committed to Manchester Crown Court, with the next hearing date being set for 25 April 2024. You were granted unconditional bail.

The hearing at Manchester Crown Court was relisted to 16 May 2024 and at this hearing you were sentenced to 10 months imprisonment suspended for 12 months and ordered to pay costs/fine of £5000 for the fraud offences and 2 months imprisonment suspended for 2 months for the offence under the Insolvency Act 1986. These were ordered to be run concurrently, resulting in the total sentence that you received was 10 months imprisonment suspended for 12 months.

You have also paid back £50,000 for one of the loans prior to receiving the charges being sent to you by the Insolvency Service and the further £50,000 prior to the court hearing and have also paid £5000 costs.

Decision and reasons on facts

The charges, which you admit, concern your conviction and, having been provided with a copy of the certificate of conviction, the panel finds that the facts are found proved in accordance with Rule 31 (2) and (3).

Fitness to practise

The panel 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 ability to practise kindly, safely and professionally.

Submissions on impairment

Ms Jones addressed the panel on the issue of impairment and gave a background of the case, including details surrounding your conviction and your suspended custodial sentence. Ms Jones submitted that in the circumstances of the conviction, you have brought the reputation of the nursing profession into disrepute. She submitted that nurses occupy a position of trust in society and are expected to act with honesty and integrity, and your actions fell significantly short of those expected of a registered nurse.

Ms Jones submitted that the offences are serious as they involve dishonesty and fraud, with the value of the fraud being at least £100,000. Further, she stated that the panel should consider the seriousness of how this has impacted public confidence in the profession. Ms Jones also stated that you are currently subject to a suspended sentence, and that these matters are still ongoing.

Ms Jones directed the panel to the case of *Council for the Regulation of Health Care Professionals v General Dental Council and Alexander Fleischmann* [2005] EWCH 87(Admin),.

Ms Jones submitted that due to the dishonesty involved in this case, it demonstrates attitudinal issues which are more difficult to remediate. Nurses occupy a position of privilege and trust in society and are expected to be professional and act with honesty and integrity at all times.

Ms Jones submitted that your actions fell short of that expected of a registered professional, which undermines public trust and confidence in the nursing profession. She submitted that your dishonesty was a breach of the fundamental tenets of the nursing profession, and that public confidence in the profession would be undermined if a finding of impairment were not made.

Mr Buxton submitted that you acknowledge that this is a conviction case involving dishonesty and that it is serious in nature. Further, he submitted that you concede that you are currently impaired on the grounds of public interest.

Mr Buxton submitted that this was a course of conduct which was outside of clinical practice, and was a single course of conduct under unique circumstances. Further, he submitted that you [PRIVATE] at the time of the offence.

Mr Buxton directed the panel to your evidence bundle and submitted that you have demonstrated insight, remorse, and full remediation. He also stated that all money owing on the loans had been repaid in full.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin), *Atkinson v General Medical Council*. [2009] EWHC 3636 (Admin), and *Council for the Regulation of Health Care Professionals v General Dental Council and Alexander Fleischmann* [2005] EWHC 87(Admin),.

Decision and reasons on impairment

The panel next went on to decide if as a result of your conviction, your fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

'The question that will help decide whether a professional's fitness to practise is impaired is:

"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"

If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.'

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. 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* in reaching its decision. 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) 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; and/or*
- d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel determined that the second, third and fourth limbs of this test are engaged in your case.

The panel found that your conduct breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel determined that the conduct relating to your conviction is serious and falls considerably short of that expected of a registered nurse. There is no evidence of any

wider history of dishonesty or of any issues since you joined the register in 2013, however, your dishonesty and conduct at the time of the offence was serious, and the panel was unable to rule out deep-seated attitudinal concerns.

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 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.

There is nothing before the panel to suggest that you are unable to practise safely as a nurse and no finding of impairment on public protection grounds would be justified. However, the panel determined that, in this case, a finding of impairment on public interest grounds is necessary.

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

Sanction

The panel has considered this case very carefully and has decided to make a strike-off order. The effect of this order is that the NMC register will show that your registration has been removed from the register.

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 Jones submitted that the appropriate sanction in this case is a striking off order. She submitted that on the basis of proportionality, the panel must weigh up the interests of the public against the interests of the registrant. Ms Jones stated that the need to maintain public confidence in the nursing profession and its regulator should be prioritised, and that it would be diminished if the registrant is permitted to remain in practice, given the nature of the charges and the conviction.

Mr Buxton submitted that the role of sanction is not to punish the registrant, but to follow the overarching principles of the regulator to protect the public, and maintain confidence in the profession. Further, the panel should go no further than is necessary to protect the public.

Mr Buxton referred to the case of *Council for the Regulation of Health Care Professionals v General Dental Council and Alexander Fleischmann* [2005] EWCH 87(Admin). He submitted that it is questionable whether you should be allowed to return to practice imminently due to the ongoing suspended sentence and its currency. He stated that the NMC sanction bid for strike-off was not proportionate, and was definitive in terms of ending your career as a nurse.

Mr Buxton directed the panel to your evidence bundle, specifically your reflective piece. He described how you have gained insight, clarity and understanding of your past conduct, and that you are remorseful. He stated that an informed member of the public would want to know the extent of insight and remediation shown by you. Further, he stated that you have fully engaged with the NMC from the beginning of these proceedings, there is no evidence of deep seated attitudinal issues, and that this was a unique circumstance with it being highly unlikely to be repeated. [PRIVATE], they do not excuse your poor conduct.

Mr Buxton submitted that you are fully aware of the gravity of your past conduct, that you are deeply remorseful, and wish for the opportunity to prove yourself as a registered nurse. Further, he submitted that a sanction short of strike off would not only be appropriate, but it would be proportionate and would properly meet the justice of this case.

Decision and reasons on sanction

Having found your fitness to practise currently impaired on public interest grounds alone, 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. Misconduct of this nature demands a sanction.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case.

The panel took into account the following aggravating features:

- Dishonesty
- Fraudulently obtaining £100,000
- Personal use of monies obtained
- Failing to disclose to the liquidator the companies accounts showing the expenditure of the money which was fraudulently obtained.

The panel also took into account the following mitigating features:

- [PRIVATE]
- Some insight
- Loans repaid in full

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the charges. The panel decided that it would not address public confidence in the profession and its regulator to take no further action.

The panel then considered the imposition of a caution order but again determined that, due to the nature of this case, an order that does not restrict your practise would not be appropriate in the circumstances and would not address public confidence in the profession and its regulator. 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 has breached several elements of The Code and that a caution order would be inappropriate in view of the charges found proved. The panel therefore decided that it would not be in the public interest to impose a caution order.

The panel next considered whether placing 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 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 criminal conviction, and dishonesty identified in this case is not something that can be addressed through practice assessment or retraining alone. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case, and would not address the public interest in maintaining confidence in the profession and its regulator.

The panel next went on to consider whether a suspension order would be an appropriate sanction. The panel closely considered the guidance in NMC Guidance SAN-3d. The SG

states that a suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel noted that this case involved three incidents of misconduct including dishonesty, over a period of approximately 11 months. These were: fraudulently obtaining of the first bounce back loan, then 3 weeks later fraudulently obtaining a second bounce back loan, and finally 10 months later, failing to submit the records of the companies accounts which would show the expenditure of these loans to the Liquidator. The panel determined that the first two instances of dishonest conduct were opportunistic in nature and failing to give up documents to the liquidator was, more likely than not, a considered action. An honest person would have reflected on their initial opportunistic dishonest conduct, and not repeated it. You chose to engage in further dishonest conduct. The panel determined that this demonstrates deep seated attitudinal issues, which are difficult to remedy.

The panel noted the online course certificates and reflection which you provided as part of your evidence bundle, all of which were completed within the four weeks prior to this hearing. The panel could not attach significant weight to the certificates pertaining to remediation of dishonesty, as dishonesty is not easily remediable.

The panel noted that a suspension order would temporarily remove you from the register and that this would meet the public interest grounds for the period of suspension, however the panel noted that your conduct which led to the

convictions involved a substantial sum of money, namely £100,000. Dishonestly obtaining such a large sum was a significant departure from the conduct expected of a registered nurse. It breached the fundamental tenets of the nursing profession and brought it into disrepute. The panel was therefore of the view that a suspension order would not adequately meet the public interest or uphold public confidence in the profession.

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?*

Your actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with you remaining on the register. The panel was of the view that the findings in this particular case demonstrate that your actions were serious and to allow you to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

The panel considered the fact that your actions were serious in nature and resulted in a criminal conviction and sentencing at Crown Court. The panel considered therefore, the background of this case, your significant suspended sentence, and your repeated dishonest and poor conduct to be incompatible with remaining on the register.

Having regard to the effect of your actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves, the panel has concluded that nothing short of a striking off order would be sufficient in this case. Balancing all of these factors and after taking into account all the evidence before it, the panel determined that the appropriate and proportionate sanction is that of a striking-off order.

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. A fully informed member of the public would be shocked and troubled if a registered nurse in these circumstances was allowed to remain on the register.

This will be confirmed to you in writing.

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 your own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Decision and reasons on interim order

The panel was satisfied that an interim order is required in the public interest. 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 concluded 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 in order to cover any appeal period.

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

That concludes this determination.