

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

**Substantive Order Review Meeting
Monday 24 June 2024**

Virtual Meeting

Name of Registrant: Abdikadir Hassan Mohamed

NMC PIN 16D1034C

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

Relevant Location: Wiltshire

Type of case: Misconduct

Panel members: Janet Fisher (Chair – Lay member)
Emily Davies (Registrant member)
Keith Murray (Lay member)

Legal Assessor: Nicholas Baldock

Hearings Coordinator: Vicky Green

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: **Striking-off order to come into effect at the end of 6 August 2024 in accordance with Article 30(1)**

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that the Notice of Meeting had been sent to Mr Mohamed's registered email address by secure email on 15 May 2024.

The panel took into account that the Notice of Meeting provided details of the review, namely, that the review meeting would be held no sooner than 24 June 2024 and invited Mr Mohamed to provide any written evidence seven days before this date.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Mohamed 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).

Decision and reasons on review of the current order

The panel decided to impose a striking-off order. This order will come into effect at the end of 6 August 2024 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the third review of a substantive suspension order originally imposed for a period of six months by a Fitness to Practise Committee at a substantive meeting on 7 October 2022. This was reviewed at another meeting on 8 March 2023 where the panel extended the suspension order for a further three months. On 13 July 2023 a panel of the Fitness to Practise Committee decided to impose a suspension order for a period of 12 months. The current order is due to expire at the end of 6 August 2024.

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 registered nurse whilst employed at Culver Hayes Nursing Home, a nursing home for residents with dementia, did:

- 1) On 12 April 2021 behaved in an aggressive, threatening and demeaning manner towards Resident B, in that you;
 - a) Shouted at Resident B;*
 - b) Repeatedly told Resident B to go to his room;*
 - c) Invited Resident B to hit you;*
 - d) Got very close to Resident B and said that you would hit him;*
 - e) Shouted 'if you are a resident then behave as a resident';**

- 2) Your aggressive behaviour caused distress to;
 - a) Residents, notably Resident B and Resident C;*
 - b) Staff, notably Colleague A, Colleague B and Colleague C all of whom witnessed the incident.**

- 3) Your actions at 1 and 2 above were unprofessional and caused escalation of an incident which had the potential to put others at risk rather than de-escalating a situation.*

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

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

'The panel noted that the last reviewing panel took account of all the information before it. It considered that there had still been no engagement from Mr Mohamed since those proceedings. It noted that the original panel requested 'Mr Mohamed's re-engagement with the NMC' and 'Evidence of insight into the misconduct found and steps taken to strengthen practice', however there has been no information before it today from Mr Mohamed that he has shown any insight into his misconduct, evidence that he has strengthened his practice, or

whether he understands the impact his actions could have had on residents, colleagues and the wider public. There is no evidence to show the level of risk in this case has reduced.

The panel has received no new information or evidence from Mr Mohamed indicating that he has addressed the original concerns and there has been no further engagement. It noted that the original concerns took place in April 2021 at which time his employment was terminated on 16 April 2021. It was of the view that the concerns are extremely serious. The panel noted there was no information around Mr Mohamed's working practice in excess of two years.

The panel noted that the incident did not just traumatise one resident, there were other residents and care workers present. There were a range of people affected by his misconduct. As a registered nurse Mr Mohamed should have de-escalated the situation but Mr Mohamed actually appeared to escalate it which is the opposite of what would be expected. It noted that the onus is on Mr Mohamed to demonstrate he has taken steps to strengthen his practice and show that he is no longer impaired.

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 Mr Mohamed's fitness to practise remains impaired.'

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

'The panel first considered whether to take no action but concluded that this would be inappropriate. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

The panel then considered the imposition of a caution order but as Mr Mohamed has not shown any evidence of remediation or insight, again determined that an order that does not restrict Mr Mohamed'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 Mohamed'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 on Mr Mohamed'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 determined that the concerns are attitudinal which could not be appropriately managed by a conditions of practice order. The panel bore in mind the absence of any insight, remorse, lack of awareness and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel noted that Mr Mohamed is continuing to disengage with the proceedings, and there is no evidence before it to suggest that he would comply with any conditions of practice imposed. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Mr Mohamed's misconduct.

The panel considered the imposition of a further period of suspension. The panel considered that this is the second review of the substantive order and the suspension currently in place expires on 6 August 2023. It noted that there continues to be no engagement from Mr Mohamed with these proceedings, and there is no evidence before the panel today that the level of risk has reduced

since the last meeting. The panel was disappointed that there is still no engagement by Mr Mohamed and was aware that it had all sanction options available to it today. However, upon careful consideration, the panel decided that a period of suspension would provide Mr Mohamed with another opportunity to engage with the NMC and take steps to address the concerns and would be proportionate. The panel highlighted that, should Mr Mohamed continue to disengage with these proceedings, a future reviewing panel may consider a more severe sanction at that stage.

The panel considered that this is a serious albeit one off incident and there is potential to change and reflect from mistakes made by Mr Mohamed. It considered that a striking off order would not be proportionate at this stage. Mr Mohamed's regulatory concerns were dealt with both in the first instance and at the first review at meetings which Mr Mohamed would not have been able to attend. Mr Mohamed is not represented. The panel noted the previous panel's comments with regard to imposing a higher sanction, however, in light of the fact it has only been nine months since Mr Mohamed was suspended, the panel felt that the public would be suitably protected with a suspension order in place. The panel hopes that Mr Mohamed will engage in future proceedings and take steps to remediate and strengthen his practise. The panel reminded itself that there is a duty on registrants to engage with their regulator and any future panel may be concerned if Mr Mohamed does not engage over that extended period of time.

The panel determined therefore that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of one year which would provide Mr Mohamed with a further opportunity to engage with the NMC.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 6 August 2023 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- *Mr Mohamed's engagement with the NMC and attendance at the next review;*
- *Evidence of insight, remorse, remediation to the misconduct and steps taken to strengthen his practise;*
- *Any references from paid or unpaid work.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mr Mohamed'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 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 Mohamed's fitness to practise remains impaired. The panel had regard to the charges found proved and considered that Mr Mohamed's misconduct was serious and attitudinal in nature. Whilst these types of concerns are inherently difficult to remediate, the panel was of the view that if Mr Mohamed were to demonstrate full insight, genuine remorse and take steps to strengthen his practice then his misconduct would potentially be remediable.

The panel has had regard to all of the documentation before it which included the NMC bundle. It also had regard to the following recommendations of the last reviewing panel:

- *Mr Mohamed's engagement with the NMC and attendance at the next review;*
- *Evidence of insight, remorse, remediation to the misconduct and steps taken to strengthen his practise;*
- *Any references from paid or unpaid work.*

The panel noted that Mr Mohamed has not engaged with the NMC since the last review hearing and he did not request a hearing so that he could attend. Furthermore, Mr Mohamed has not provided any written submissions, evidence of insight or remorse into his misconduct or evidence of any steps he has taken to strengthen his practice. The panel has no information about Mr Mohamed's future intentions in respect of his nursing career or where he is currently working.

Given Mr Mohamed's continued lack of engagement and his failure to provide any evidence of insight or remorse, the panel determined that his level of insight into his behaviour and misconduct has not developed since the substantive order was imposed. The panel also has no evidence of strengthened practice. In the light of this and the seriousness of the charges found proved the panel determined that Mr Mohamed has not demonstrated that he is capable of kind, safe and effective practice as a nurse.

Accordingly, the panel found that there is a continuing risk of repetition of the misconduct and a consequent risk of harm to patients if Mr Mohamed was permitted to practise as a registered nurse without restriction. The panel therefore determined that a finding of impairment remains 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 was of the view that Mr Mohamed's continued disengagement with his regulator raises attitudinal concerns and the public would be concerned if a finding of impairment was not made given his

disengagement and the seriousness of the charges found proved. The panel therefore determined that, in this case, a finding of continuing impairment on public interest grounds is required to maintain professional standards and confidence in the NMC as the regulator.

For these reasons, the panel finds that Mr Mohamed's fitness to practise remains impaired on both public protection and public interest grounds.

Decision and reasons on sanction

Having found Mr Mohamed'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 and the public protection issues identified. 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 Mohamed'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 Mohamed'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 conditions of practice on Mr Mohamed'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 meeting and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was not able to formulate conditions of practice that would adequately address the attitudinal concerns and a conditions of practice order would not be workable and would serve no useful purpose given Mr Mohamed's lack of engagement.

The panel next considered imposing a further suspension order. The panel noted that Mr Mohamed has been subject to a suspension order for a period of approximately 21 months in total. The panel also noted that Mr Mohamed has continued to disengage himself from the NMC and he has not provided any evidence that he has acted on any recommendations made by previous panels. The panel therefore had no information before it to demonstrate that he has addressed the concerns identified in his practice. In the absence of any evidence of insight or strengthened practice, the panel found that there is a continuing risk of harm to patients if Mr Mohamed was able to practice without restriction.

In these circumstances the panel determined that a further period of suspension would not serve any useful purpose. The panel decided that as a result of Mr Mohamed's persistent disengagement and failure to demonstrate safe practice and insight into his serious misconduct, his conduct is now fundamentally incompatible with him remaining on the NMC Register. The panel therefore determined that it was necessary to take action to prevent Mr Mohamed from practising in the future and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order. The panel therefore directs the registrar to strike Mr Mohamed's name off the NMC Register.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 6 August 2024 in accordance with Article 30(1).

This decision will be confirmed to Mr Mohamed in writing.

That concludes this determination.