

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

Restoration Hearing

Tuesday 15 October 2024

Virtual Hearing

Name of Applicant: Ann Marie Griffin

NMC PIN: 98Y0326E

Part(s) of the register: Registered Nurse – RNA – Adult
18 February 2002

Relevant Location: Kensington and Chelsea

Panel members: Nicholas Rosenfeld (Chair, Lay member)
Purushotham Kamath (Registrant member)
Gill Mullen (Lay member)

Legal Assessor: Melissa Harrison

Hearings Coordinator: Monsur Ali

Nursing and Midwifery Council: Represented by Jerome Burch, Case Presenter

Miss Griffin: Present but not represented at the hearing

Outcome Application for restoration granted subject to the applicant satisfying the NMC's Return to Practice standards.

Determination of application for Restoration to the Register:

This is a hearing of your first application for restoration to the Nursing and Midwifery Council ("NMC") Register. A panel of the Conduct and Competence Committee directed on 13 May 2015 that your name be removed from the Register based on its findings with regard to the facts of your case and your impairment.

This application is made by you in accordance with Article 33 of the Nursing and Midwifery Order 2001 ("the Order"), as at least five years have now elapsed since the date of the striking-off order.

At this hearing the panel may reject your application or it may grant your application unconditionally. It may grant your application subject to your satisfying the requirements of Article 19(3) and it may make a conditions of practice order.

The panel has considered your application for restoration to the Register.

Background as taken from the previous hearing

'...information was received by the Local Counter Fraud Specialist (LCFS) alleging that you, a bank band 5 staff nurse working predominantly within the Acute Assessment Unit (AAU) at the Chelsea and Westminster NHS Foundation Trust ("the Trust") were submitting multiple timesheets for payment each week.

The LCFS recovered every original timesheet submitted by you between May 2010 and April 2013, these were then analysed and cross matched against each other to confirm whether you had claimed for any shifts on more than one occasion.

Analysis of the timesheets confirmed you had submitted timesheets where one or more shifts had been duplicated on 65 occasions between May 2010 and April 2013. This involved you submitting two, three and on a small number of occasions four timesheets for each week worked.

Following consultation with the Director of Finance and Deputy Director of Human Resources, a prosecution file was prepared and the matter reported to the Metropolitan Police for consideration of prosecution. You were subsequently arrested on the evening of 17 September 2013 at the commencement of your shift and interviewed by the LCFS and an officer from CID in respect of the allegations. Following your arrest, you made a self-referral to the NMC on 18 September 2013 at 09:54.

You were initially summonsed to appear at Hammersmith Magistrates court on 9 January 2014 to respond to the charges of Abuse of Position – Section 4, Fraud Act 2006. You entered a plea of not guilty and the case was referred to Isleworth Crown Court for trial.

You attended Isleworth Crown Court for a plea and case management hearing on 8 April 2014. At this hearing you changed your plea to guilty on all charges. You were bailed to re-attend the Court on 6 May 2014 for sentencing. The LCFS received confirmation from Isleworth Crown Court that you had been sentenced to 18 months imprisonment, suspended for two years and ordered to repay £34,478.00 at a rate of £500 per month.'

The panel at the substantive hearing considered on 13 May 2015 the following charge:

'That you, a registered nurse:

- 1. Were convicted on 8 April 2014 at the Crown Court sitting at Isleworth of one count of fraud.*

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

The substantive hearing panel, determined the following with regard to impairment:

'The panel considered your actions in light of the circumstances as they exist today in order to establish whether your fitness to practise is currently impaired. In particular, the panel considered the extent of any insight shown by you into your conduct and dishonesty and the impact of your dishonesty on colleagues and your employers. It also considered the extent to which your actions are capable of remedy, whether they have been remedied and whether they are likely to be repeated.

The panel notes that, at the outset of this hearing, you made admissions to the charges however you dispute that your fitness to practise is currently impaired. The panel recognises that dishonesty is difficult to remedy but it has taken into account your sworn evidence.

The panel recognises that you have fully engaged throughout the entire investigation and hearing process. You have demonstrated clear and genuine recognition that your actions were wrong and your evidence indicates a commitment to ensuring that this is not repeated. You have shown remorse and regret and the panel is mindful that you self-referred to the NMC the day after your arrest. However, the panel is concerned that you have only demonstrated some degree of remorse and insight. This was not an isolated incident, but rather, occurred over 3 years involving 65 fraudulent payments. In evidence you said that (during the relevant time) your "head was all over the place and you were having a bad time". You further said that you "knew this was the wrong thing to do." Having observed the manner in which you gave evidence the panel concluded that you do not fully appreciate the impact your actions had and continue to have on those around you, including patients, the NHS and the reputation of the profession.

The panel had regard to the sentencing remarks in particular where Judge Davis, the sentencing judge said of your actions:

This was a breach of trust, a grave breach of trust as you acknowledge... This is a fraud characterised by a degree of planning and / or multiple transactions.

Throughout its deliberations, the panel has borne in mind its responsibility to consider all aspects of the public interest which includes the protection of patients, the maintenance of public confidence in the profession and the NMC as a regulator and the declaring and upholding of proper standards of conduct and behaviour. In view of the context and seriousness of the conviction in this case, the panel considers that a finding of impairment is necessary to protect the public, uphold proper standards and maintain public confidence in the profession. The panel finds that for all these reasons your fitness to practise is currently impaired both on public protection and public interest grounds.'

The substantive panel went on to determine the following with regard to sanction:

'Having determined that your fitness to practise is impaired both on the grounds of public protection and public interest, the panel has now considered what sanction, if any, it should impose in relation to your registration.

In reaching its decision on sanction the panel has had regard to the submissions of Mr Bentley on behalf of the NMC and the submissions made by you.

The panel has carefully considered all the evidence and documentation placed before it.

*Mr Bentley submitted that the panel should have regard to the NMC's Indicative Sanctions Guidance (ISG) when considering what sanction, if any to impose. He drew the panel to the cases of *Parkinson v. Nursing and Midwifery Council* [2010] EWHC 1898, *Bolton v Law Society* [1994] 1 W.L.R. 512 and *Council for the Regulation of Healthcare Professionals v (1) General Dental Council (2) Alexander Fleischmann* [2005] EWHC 87 (Admin).*

You submitted that you accept what you did was wrong and you apologised to the panel for your behaviour. You stated that you would never act in such a way

ever again, that these offences had been out of character and that ‘everyone deserved another chance’.

You advised the panel that you had been complying with the Court Order to make monthly repayments to the Trust of £500.00. You submitted that you are willing to go on any courses or training and invited the panel not to strike you off the NMC Register.

The panel has accepted the advice of the legal assessor. She drew the panel’s attention to the legal principles advanced in the cases of Parkinson v. Nursing and Midwifery Council [2010] EWHC 1898, Atkinson v GMC [2009] EWHC 3636 and Fleischmann [2005] EWHC 87 (Admin).

The panel has borne in mind the ISG, has exercised its own judgement in reaching its decision and has applied the principles of proportionality.

The panel had regard to the public interest and your own interest. The public interest includes the protection of members of the public, the maintenance of public confidence in the profession and the NMC as a regulatory body, and the declaring and upholding of proper standards of conduct and performance.

The panel considered all of the sanctions available to it, in ascending order of seriousness, when deciding what sanction, if any, would be proportionate and sufficient in this case.

Under Article 29 of the Nursing and Midwifery Council Order 2001, the panel may impose the following sanctions or take no further action; a caution order for one to five years; a conditions of practice order for no more than three years; a suspension order for a maximum of one year; or a striking-off order.

The panel is mindful that a sanction must demonstrate in each case a proportionate balance between the interests of the public and your own interests, taking into account the mitigating and aggravating factors in the particular case.

The panel further recognises that the purpose of sanctions is to protect the public and not to be punitive, although any sanction may have a punitive effect.

The panel considered the aggravating and mitigating factors in this case.

The aggravating factors may be summarised as follows:

- Your deliberate and calculated fraudulent actions took place over a three year period, on 65 occasions and amounted to a total loss to the Trust of £34,470*
- The offence was committed against your employer in breach of trust*
- Your insight into how the public would view your actions and how your actions may have impacted on the reputation of the profession is limited*
- Your conduct was so serious that it constituted a breach of a fundamental tenet of the profession*

The mitigating factors may be summarised as follows:

- You self-referred to the NMC immediately after arrest and pleaded guilty at the earliest opportunity during the criminal proceedings*
- You have attended these proceedings and engaged with the NMC*
- You have expressed some remorse for your conduct and apologised for your actions before this panel*
- [PRIVATE]. The panel wishes to emphasise that such circumstances can never excuse your conduct but do go towards explaining it*
- Your previous lengthy period of unblemished nursing practice*

The panel took into consideration the three references from your employer and two personal testimonials provided in your support, but was not persuaded that these wholly addressed the issues identified in this case. Furthermore, it noted that two of the references from your employer were identical, save from the change of date from May 1, 2013 to January 12, 2015.

In response to a question from the panel regarding your employer, you stated, “In the job I have at the moment...I help him pay his bills, I have access to his account, and he has given me the responsibility.” This is not corroborated by your employer who further stated that in his opinion you were, “...easily led down the wrong path as she is easily manipulated.”

The testimonial dated 7 April 2014 from a former colleague and a close personal friend, is of limited value as it is unclear whether the writer knew of either your criminal conviction or of these NMC proceedings.

In the final reference from your sister, dated 5 April 2014, written for a different purpose, namely mitigation of sentence in the Crown Court, your sister states that you admitted to her “that what happened was irresponsible and careless.”

The panel took the view that your expressions of remorse related more to the regret that you now feel about the effect that your actions have had on yourself rather than the impact your criminal actions have had on colleagues and the profession.

The panel considered whether the offences were, as you submitted ‘out of character’. It has concluded that notwithstanding [PRIVATE] when the fraud first occurred, the lengthy period of time and the significant number of occasions when the fraud was committed would tend to imply that this behaviour had now become characteristic.

The panel first considered taking no action and decided that this would be inappropriate. The panel considered that the circumstances of this case do not justify taking no action, given the serious nature of your actions and the fact that the panel has found that your fitness to practise is currently impaired.

The panel went on to consider whether a caution order would be appropriate. The panel has taken account of the ISG as it relates to caution orders. Your dishonesty was a serious breach of trust and the panel considers that it is not at

the lower end of the spectrum. Accordingly, the panel's judgement is that it would not be sufficient or proportionate in this case. The panel considers that a caution order, even for the maximum period of five years, would be insufficient to mark the seriousness of your actions or to maintain the public's confidence in the nursing profession and the regulatory process.

The panel next considered whether it would be sufficient to impose conditions on your registration. You have told the panel that you wish to demonstrate that you are able to return to nursing in the future. A conditions of practice order is normally appropriate in cases where there are identifiable areas of nursing practice that require assessment and/or retraining. This does not apply in this case. Given its finding of dishonesty the panel has determined that appropriate and practicable conditions could not be formulated to address the dishonesty. Furthermore, this sanction would be insufficient to satisfy the public interest.

The panel next considered the imposition of a suspension order. The panel referred itself again to the aggravating and mitigating factors in this case and paragraph 39 of the ISG as it relates to dishonesty:

39 Dishonesty, even where it does not result in direct harm to patients but is related to matters outside of a nurse or midwife's professional practice, for example, fraudulent claims for monies, is particularly serious because it can undermine the trust the public place in the profession. Honesty, integrity and trustworthiness are to be considered the bedrock of any nurse or midwife's practice.

The panel noted that your conduct which led to the charge found proved was serious and that your behaviour brought the reputation of the profession into disrepute and breached a fundamental tenet of the profession. The panel considers that this was not an isolated incident and has seen little evidence from you either in writing or in person to adequately explain your actions and the impact those actions had on others.

Whilst the panel has felt able to give some weight to the mitigating factors of your previous unblemished career and the stressful personal circumstances you were facing at the time, the professional references and personal testimonials are of limited assistance for the reasons set out earlier.

The panel concluded that four of the five relevant mitigating factors in section 71 of the ISG were not satisfied, namely 71.1, 71.2, 71.3 and 71.5.

Accordingly, the panel concluded that the exceptional circumstances required for the possible imposition of this sanction in a dishonesty case, were absent.

The panel then went on to consider whether to impose a striking off order. The panel noted that this was not a single instance of misconduct, but misconduct repeated over a period of three years. You dishonestly and deliberately abused your position of trust by fraudulently submitting duplicated timesheets on 65 occasions. The panel concluded that misconduct of this severity is fundamentally incompatible with continuing to be a registered nurse.

Whilst the panel has seen no evidence of repetition of the misconduct, it nevertheless considers that a significant risk remains.

The panel then considered the key considerations appropriate for a striking off order at paragraphs 74 and 75 of the ISG, the relevant parts of which states:

74.3 Can public confidence in the professions and the NMC be sustained if the nurse or midwife is not removed from the register?

75 This sanction is likely to be appropriate when the behaviour is fundamentally incompatible with being a registered professional, which may involve any of the following (this list is not exhaustive):

75.1 Serious departure from the relevant professional standards as set out in key standards, guidance and advice including (but not limited to)

75.2

5.3 Abuse of position, abuse of trust.....

75.6 Dishonesty, especially where persistent or covered up

75.7 Persistent lack of insight into seriousness of actions or consequences

75.8 Convictions or cautions involving any of the conduct or behaviour set out above With regard to the matters the panel identified in paragraphs 74 and 75 of the ISG, in particular bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of striking off would be sufficient. The panel concluded that public confidence in the profession and the NMC as its regulator would be undermined if you were not removed from the register. In all the circumstances the panel was of the view that a striking off order is the only appropriate and proportionate order which would be sufficient to satisfy the public interest.

The panel has therefore determined to impose a striking off order and directs the Registrar to strike your name off the register.'

Submissions and evidence

The panel took into account the documentary evidence which included your application for restoration and three written references.

The panel had regard to the submissions of Mr Burch, on behalf of the NMC, and those made by you.

Mr Burch, on behalf of the NMC, outlined the background of the case and the facts that led to the striking-off order. He referred this panel to the previous panel's decision which

resulted in your removal from the Register. Mr Burch referred the panel to the test set out in Article 33(5) of the Order.

Mr Burch submitted that the panel must determine whether, in light of the circumstances leading to the striking-off order, you are now a fit and proper person to practise as a nurse. Furthermore, the panel must verify that all other registration requirements are satisfied. The panel's duty is to safeguard public health, safety, and well-being, maintain public confidence in the profession, and uphold proper standards of conduct.

Mr Burch contended that your actions, which resulted in the conviction, deprived the NHS of substantial funds that could have been allocated for patient care and treatment. He argued that such actions potentially exposed patients to an unwarranted risk of harm. He said that it was accepted that you engaged in repeated dishonest behaviour over a three-year period, thereby bringing the profession into disrepute. The previous panel had determined that the public would likely be significantly concerned about the extent of the dishonesty, which constituted a fundamental breach of the professional standards expected of a registered nurse. It was found that honesty, integrity, and trustworthiness are critical tenets of nursing practice, and your conduct was in clear violation of these principles. Given the prolonged and serious nature of the dishonesty, the previous panel expressed concerns regarding the risk of repetition.

In terms of insight, Mr Burch submitted that the previous panel considered your understanding of your conduct, dishonesty, and the impact it had on colleagues and employers. The panel also assessed whether your actions were remediable, whether they had been addressed, and whether there was a likelihood of repetition. The panel noted that dishonesty is inherently challenging to remedy, a point emphasised during the 2015 hearing. However, the panel acknowledged that you had cooperated throughout the investigation and hearing process, demonstrating a clear and genuine acknowledgment of your wrongdoing.

Mr Burch submitted that the evidence indicated a commitment on your part to prevent any recurrence of such actions. He said that you expressed remorse and regret, and your self-referral was taken into account. Nevertheless, the panel highlighted that this

was not an isolated incident; it occurred over a span of three years and involved 65 instances of fraudulent payments.

Mr Burch submitted that the previous panel referenced the sentencing remarks made by the judge, underscoring that your conduct constituted a serious breach of trust, marked by a degree of planning and multiple fraudulent transactions. He said, the 2015 panel remained mindful of its obligation to consider the public interest, including the protection of patients, maintaining public confidence in the profession and the regulator, and upholding proper standards of conduct. Given the severity of the misconduct, the panel concluded that an order was necessary to protect the public, uphold professional standards, and maintain confidence in the nursing profession.

Mr Burch submitted that, in considering the decision to impose a striking-off order, the panel reviewed other available sanctions as documented in its 2015 decision. Although there was no evidence of further misconduct, the panel determined that a significant risk persisted. The panel consulted the NMC's guidance on sanctions before concluding that the striking-off order was the most appropriate and proportionate measure.

Mr Burch further submitted that you have now applied for restoration to the Register, providing your rationale for this request. He stated that you acknowledge the reasons for your removal but assert that, following your conviction, you have been continuously employed in healthcare, including conducting medical examinations on construction sites and working for Network Rail. He said that you also mentioned your involvement in charitable donations and expressed that you were in a difficult situation in 2013, vowing not to repeat your past conduct.

Mr Burch concluded that the panel now has before it this information, including testimonials, which provide the background and current status of the case.

You also gave oral evidence. You expressed your sincere remorse for the events in 2013 that caused disruption and concern. Over the past decade, you have made efforts to rebuild your professional reputation and prove your commitment. You said you have been given opportunities by employers and have worked consistently to regain their

trust. You explained that you were *“truly sorry for causing the mayhem back in 2013”* and *“worked hard to prove myself in the last ten years”*.

[PRIVATE] You acknowledged that these issues impaired your judgment, leading to actions driven by greed and self-interest. You accepted full responsibility and deeply regret your actions, emphasising that you have changed significantly since then, telling the panel *“everything I did was wrong”* and that you were *“disgusted”* with yourself.

Before the revocation of your registration in 2014, you found work, as a carer, for a patient with complex needs. You said you were transparent about your past, and the agency continued to employ you. Since then, you have consistently worked with various patients, often for extended periods, where you stated all families were informed about your background.

You stated that in 2022, you began working with Proactive Wellbeing, conducting medical examinations at construction sites. You have maintained a professional and consistent work ethic, submitting invoices without issues and upholding integrity. You emphasised that you would never engage in dishonest behaviour again and there had been no issues with any of your employers. You told the panel that you were entrusted to work within vulnerable patients’ homes without incidents.

You told the panel that your supportive and stable environment has also contributed to your insight. [PRIVATE].

You expressed a strong desire to return to nursing, aiming to pursue a degree and work within the community if your application is successful. Nursing remains your passion, and you seek to restore your professional standing and regain your reputation. You have explored various options for re-entering the profession, including volunteer work and university programs, and are preparing for the competency-based test.

You told the panel that you stay up to date through completion of mandatory annual training and additional courses. You also read nursing journals and listen to podcasts. You said that you recognise the need to update your skills, particularly in IV drug

administration, and are open to further training. You told the panel that you intend to apply to programs at your local hospital and other institutions to facilitate your readmission to the Register.

The panel accepted the advice of the legal assessor.

The legal assessor referred the panel to the test provided in Article 33(5) of the Order. Firstly, you must satisfy the panel that you satisfy the requirements of Article 9(2)(a) (approved qualification and prescribed education, training and experience) and Article 9(2)(b) (capable of safe practice). Secondly, you must satisfy the panel whether, having regard in particular to the circumstances which led to the making of the striking-off order in 2015, you are a *“fit and proper person to practise as a registered nurse”*. The legal assessor advised the panel that it is for you to satisfy the panel of these matters and it is for the panel to use its own independent judgment as to whether it is so satisfied.

Decision on the application for restoration

The panel has considered your application for restoration to the Register very carefully. It determined to grant the application subject to you satisfying the NMC's Return to Practice standards.

In reaching its decision the panel recognised its statutory duty to protect the public as well as maintain public confidence in the reputation of the profession, which includes the declaring and upholding of proper professional standards. The panel bore in mind that the burden was upon you to satisfy it that you are a fit and proper person who is able to practise safely and effectively as a nurse.

The panel conducted a comprehensive review of your written application, the three references provided, and your oral testimony. The panel noted the reference of an employer who has known you for ten years where they state:

‘Anne Marie is reliable and trustworthy. One thing she did well was build the confidence of the client in her abilities by her confidence and ability to consistently deliver a good level of care.

'Anne Marie was honest with her registration status and the reasons for being struck off the register. She seems remorseful of her behaviour that led to her being struck off and was talking of lessons learnt for the future. She has kept her head down and worked as a care worker diligently doing her delegated care worker duties without any conflict with her registered nurse background. There has not been any disciplinary matter through her tenure...'

Considering this evidence collectively, the panel concluded that you have demonstrated sufficient improvement in your insight. It was clear to the panel that you now fully acknowledge and understand the profound impact of your past misconduct on patients, colleagues, the NHS, the nursing profession, and the public's trust in nursing as a whole. From the evidence before it, the panel was satisfied that your insight has developed sufficiently to grant your application for restoration.

While the original allegation of dishonesty was serious and sustained over a period of time, the panel noted that you have maintained continuous employment since 2013. During this time, evidence presented to the panel clearly indicated that you have been working with vulnerable patients in their homes, consistently submitting invoices. There was no indication of any repeated misconduct.

The panel recognised that, despite the gravity of the initial allegations, you have taken steps to attempt to demonstrate an attitudinal change, including compliance with the repayment terms of your conviction. You have also demonstrated candour with your three substantive employers since having been struck off, as evidenced by your references. Your employment history and supporting references, therefore gave reassurance to the panel that your past misconduct would not be repeated.

The panel was satisfied that the concerns raised had been appropriately addressed. In your written application and throughout your oral evidence, you demonstrated an understanding of the reasons for your original misconduct. You acknowledged what went wrong and accepted full responsibility for your actions. Furthermore, you

articulated a developed understanding of what you would do differently moving forward, supporting your commitment to avoiding similar situations in the future.

The panel was of the view that your consistent employment since being struck off provided you with the opportunity to test your resilience in stressful situations. You have worked diligently with vulnerable individuals in their homes and submitted invoices without issues. Throughout this process, you expressed, what the panel considered as genuine remorse, both in your written application for restoration and in your oral testimony before it.

The panel determined that you have taken necessary steps to rectify the original concerns through your sustained employment with three employers. The panel is confident that, given your current employment circumstances and the insight and remorse you have shown, it is highly unlikely that there would be a repetition of similar misconduct.

The panel determined that there is no evidence to suggest that your past misconduct will recur. In fact, the evidence is to the contrary. The panel was satisfied that by the absence of any concerns regarding your current professional conduct and that you otherwise have a positive professional record.

Considering the circumstances that led to the striking off order, the panel was satisfied that you are a fit and proper person to practise as a nurse. In restoring you to the Register the panel was further satisfied that the health, safety and wellbeing of members of the public would be protected and that public confidence in the profession and proper standards and conduct would be maintained.

In determining to grant your application for restoration the panel bore in mind that you have not practised as a registered nurse since 13 May 2015 and that you no longer meet the requirements for registration with the NMC on this basis. However, the panel determined to allow your application for restoration subject to you satisfying the NMC's Return to Practice standards and paying the prescribed fee which satisfies the requirements of Article 19(3) and Article 33(7)(a). This article states:

“The Council may by rules require persons who have not practised or who have not practised for or during a prescribed period, to undertake such education or training or to gain such experience as it shall specify in standards.”

“(7) On granting an application for restoration, the Committee—

(a) shall direct the Registrar to register the applicant in the relevant part of the register on his satisfying any requirements imposed under paragraph (6) and on payment of the prescribed fee; and”

This decision will be confirmed to you in writing.

That concludes this determination.