

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

**Substantive Order Review Hearing
Friday, 14 February 2025**

Virtual Hearing

Name of Registrant: **Mohamed Ali El Sheikh**

NMC PIN 90G0758E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – 28 September 1993

Relevant Location: Liverpool

Type of case: Misconduct

Panel members: Nicola Dale (Chair Lay member)
Jane McLeod (Lay member)
Charlotte Cooley (Registrant member)

Legal Assessor: Charlene Bernard

Hearings Coordinator: Yousra Hassan

Nursing and Midwifery Council: Represented by Eilish Lindsay, Case Presenter

Mr El Sheikh: Not present and not represented

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: **Striking-Off order to come into effect on 26 March 2025
in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of the hearing that Mr El-Sheikh was not in attendance and that the Notice of Hearing had been sent to Mr El-Sheikh's registered email address by secure email on 14 January 2025.

Ms Lindsay, 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 El-Sheikh's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In the light of all of the information available, the panel was satisfied that Mr El-Sheikh 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 El-Sheikh

The panel next considered whether it should proceed in the absence of Mr El-Sheikh. The panel had regard to Rule 21 and heard the submissions of Ms Lindsay who invited the panel to continue in the absence of Mr El-Sheikh. She submitted that despite attempts by the NMC to make contact with Mr El-Sheikh to secure his attendance he had voluntarily absented himself.

Ms Lindsay submitted that there had been no engagement at all by Mr El-Sheikh with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure his attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mr El-Sheikh. In reaching this decision, the panel has considered the submissions of Ms Lindsay, and the advice of the legal assessor. It had particular regard to the overall interests of justice and fairness to all parties. It noted that:

- Mr El-Sheikh has not engaged with the NMC and has not responded to any of the letters and emails sent to him about this hearing;
- No application for an adjournment has been made by Mr El-Sheikh;
- There is no reason to suppose that adjourning would secure his attendance at some future date;
- Today's hearing is a mandatory review of a substantive order and there is a strong public interest in the expeditious review of this case; and
- It is also in Mr El-Sheikh's own interests that an order restricting his practice be reviewed.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mr El-Sheikh.

Decision and reasons on review of the substantive order

The panel decided to replace the current suspension order with a striking off order.

This order will come into effect at the end of 26 March 2025 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 26 February 2024.

The current order is due to expire at the end of 26 March 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 registered nurse;

1. On 22 June 2016 did not record Patient D's saturations levels on their Observation Scores and Pain Assessment Chart at:

(a) 15.00.

(b) 16.00.

(c) 16.30.

2. On 22 June 2016 did not take Patient D's saturation observations at:

(a) 15.00.

(b) 16.00.

(c) 16.30.

3. On 22 June 2016 did not conduct observations on Patient D at 15 minute intervals between 15.00 and 16.30 hours.

4. On 22 June 2016 having administered a second 2mg dose of Oxycodone to Patient D at 16.05 did not record this on Patient D's EPMA chart

5. On 22 June 2016 did not seek a review from Doctor Lane prior to administering 2mg of Oxycodone to Patient D at:

(a) 15.40 and/or

(b) 16.05.

7. *On 10 November 2016 having emptied Patient C's catheter into a bottle did not immediately take it to the sluice room to be emptied.*

8. *On 10 November 2016 failed to prevent air from getting into Patient C's catheter tube by not replacing the irrigation fluid.*

9. *On 10 November 2016 failed to empty Patient C's urinary catheter bag when requested.*

10. *On 10 November 2016 did not investigate why Patient C's monitor did not take blood pressure readings at:*

(a) 11.40.

(b) 11.50.

11. *On 10 November 2016 inaccurately recorded in Patient C's perioperative booklet blood pressure readings at:*

(a) 11.40.

(b) 11.50.

12. *Your actions in charge 11 were dishonest in that you were attempting to mislead others into believing that the monitor had recorded blood pressure readings when you knew that it had not.*

13. *On 10 November 2016 did not take Patient C's blood pressure using the sphygmomanometer at:*

(a) 11.40.

(b) 11.50.

14. On 10 November 2016 did not complete Patient C's recovery care plan.

15. On 6 August 2020 having been informed that there was an issue with Resident A's catheter did not:

(a) Assess whether the catheter was draining urine correctly, and/or

(b) Conduct a bladder washout, and/or

(c) Re-catheterise Resident A.

16. On 6 August 2020 did not record the care provided on Resident A's PCS care notes.

17. On 6 August 2020 having been informed that there was an issue with Resident B's catheter did not:

(a) Assess whether the catheter was draining urine correctly, and/or

(b) Conduct a bladder wash, and/or

(c) Re-catheterise Resident B.

18. On 6 August 2020 did not record the care provided on Resident B's PCS care notes.

19. On 6 August 2020 handed over to Colleague 1 two residents that were deceased.

In light of the above your fitness to practise is impaired by reason of your Misconduct.'

The original panel determined the following with regard to impairment:

'Taking into account its findings on facts and all of the evidence adduced in this case, the panel determined that all four limbs in the above test are engaged. The panel then went on to consider whether your fitness to practise is impaired at the current time.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. 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.

The panel considered the Cohen test:

- a. whether the misconduct is capable of remediation;*
- b. whether it has been remediate; and*
- c. whether the misconduct is highly unlikely to be repeated.'*

and the NMC guidance on impairment in regulatory proceedings i.e. 'can the nurse, midwife or nursing associate practise kindly, safely and professionally?'

The panel bore in mind the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions. Additionally, the panel has a duty to ensure that the public, and the wider public interest, are protected.

Regarding insight, the panel acknowledged that you made some early admissions, apologised and expressed remorse during the hearing in your oral evidence at the facts and misconduct stages. You also provided a brief reflective piece. However, the panel was of the view that your insight was limited, for example whilst telling the panel you accepted responsibility for your actions, you also frequently deflected

blame onto colleagues and your working environment. The panel was of the view that your insight was not sufficiently developed to address the regulatory concerns found proved.

The panel finds that your misconduct put the well-being of patients at significant risk of harm. It noted the number of past incidents that put patients at risk of harm, and on one occasion of actual harm where a patient was in pain and discomfort. The panel finds that your failings in relation to these incidents occurred over a number of years while working for two separate employers at three different locations. The panel therefore was of the view there is a significant risk of repetition of a similar kind occurring in the future.

The panel considered whether your misconduct in relation to your clinical practice is capable of being remediated. The panel was of the view that the clinical failings identified can be remediated with appropriate training, clinical supervision and full engagement by you. The panel bore in mind that dishonesty is particularly difficult to remediate. However, it noted that the dishonesty found proved in this case relates to a single act and considered it to be potentially remediable.

The panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice. In terms of training, in evidence you told the panel that you had last undertaken any training in 2021 when you were employed in a nursing home setting. Since then you said that you have a nursing journal subscription and had read articles on children with high temperatures and female genital mutilation (FGM). You said that you had completed some online training as well as the mandatory training in your last substantive role. This included communication, drug administration, conflict resolution and equality and diversity. The panel was not provided with any independent evidence of any training or other activity undertaken to strengthen your practice.

The panel acknowledged the difficulties you have had in demonstrating strengthened practice as you have not practised as a nurse for some time. Nevertheless, the panel had no evidence before it to show that you can practice kindly, safely and professionally as a nurse at the current time. Therefore, there is a

high risk of repetition based on insufficient evidence of insight and strengthened practice.

On the basis of all the information before it, the panel decided that there is a risk to patients if you were allowed to practise without restriction. The panel heard evidence from colleagues from different work places who raised concerns about your practice and the safety of patients in your care. Repeated failings were found proved over a long period of time and at various work sites, many of which did or could have resulted in harm to patients and you have shown limited insight into these failings. The panel therefore determined that a finding of current impairment on public protection grounds is necessary.

The panel was of the view that your misconduct had breached 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. Further, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired by reason of your misconduct.'

The original panel determined the following with regard to sanction:

'The panel then went on to consider whether a suspension order would be an appropriate sanction. 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;*
- *In cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions; and*
- *In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register. However, the panel was of the view that the misconduct evidenced in some areas of your practice did present a risk to patient safety if you were allowed to practise even with conditions.

Whilst the panel acknowledges that a suspension may have a punitive effect, protection of patients was paramount and outweighed any punitive effect the decision may have on you.

The panel did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be a disproportionately harsh sanction. Further, the panel was of the view the dishonesty found proved in this case was a one-off event and have determined that it is potentially remediable.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order may cause you, however this is outweighed by the public interest in this case.

The panel considered that this order is 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.

The panel determined that a suspension order for a period of 12 months with review was appropriate in this case to mark the seriousness of the misconduct.'

Submissions on impairment and sanction

Ms Lindsay outlined the background and the previous panel's findings and referred the panel to the relevant pages within the bundle.

Ms Lindsay submitted that Mr El-Sheikh was not in attendance today and had not provided any further evidence that the previous panel indicated may be of assistance. She referred to the case of *Abrahaem v General Medical Council* [2008] EWHC 183 and submitted that the persuasive burden rests upon the registrant to show that he is no longer impaired. It's Mr El-Sheikh's responsibility to satisfy the panel that he has sufficiently addressed his past misconduct and impairment.

Ms Lindsay submitted that Mr El-Sheikh has not complied with the recommendations made by the previous panel although they are not mandatory this indicates a lack of compliance on his behalf. And, as there was no evidence of sufficient insight or remediation of concerns within his practice he remains impaired.

Regarding sanction, Ms Lindsay referred the panel to *NMC Guidance regarding the review of substantive orders, specifically Rev 3H*, and submitted that, whilst all available sanctions were open to the panel, the panel might consider a further suspension order to allow Mr El-Sheikh more time to engage or, it could consider allowing Mr El-Sheikh's registration to lapse upon its expiry or strike him off the register if the panel was not minded to extend his suspension. She submitted that Mr El-Sheikh has shown no further evidence of insight, has not engaged with the NMC and there is no information before the panel with regards to his current employment.

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

Decision and reasons on current impairment

The panel has considered carefully whether Mr El-Sheikh'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 and practise kindly, safely and professionally 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 and on-table documents detailing correspondence between Mr El-Sheikh and the NMC. It has taken account of the submissions made by Ms Lindsay on behalf of the NMC.

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 El-Sheikh's fitness to practise remains impaired.

The panel noted that the original panel found that Mr El-Sheikh had not demonstrated that he had developed sufficient insight into his actions and had not taken steps to address any of the concerns. At this hearing, the panel noted that there was no new information before it to show that the risk to the public had changed or Mr El-Sheikh's fitness to practise was no longer impaired. Furthermore, since his substantive hearing Mr El-Sheikh has not demonstrated any insight into his misconduct or remediated any of the concerns identified with his clinical practice. The panel also noted that Mr El-Sheikh did not attend today's hearing and has not provided the NMC with any information recommended by the previous panel to suggest that his fitness to practice is no longer impaired. The panel acknowledged the case of *Abraheem v GMC* [2008] and noted that the persuasive burden of demonstrating that his fitness to practise is no longer impaired rested with Mr El-Sheikh. The original panel determined that Mr El-Sheikh was liable to repeat matters of the kind found proved. Today's panel has no new information before it and in light of this, this panel determined that Mr El-Sheikh is still liable to repeat matters of the kind found proved. 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, given the seriousness of the case and Mr El-Sheikh's lack of engagement, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that Mr El-Sheikh's fitness to practice remains impaired.

Decision and reasons on sanction

Having found Mr El-Sheikh's fitness to practise impaired, the panel first 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. It had found that Mr El-Sheikh had failed to demonstrate any insight into the seriousness of the concerns and that he had failed to take any steps to strengthen his nursing practice. The panel therefore determined that it would neither protect the public nor be in the public interest to take no further action.

The panel 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 El-Sheikh's nursing practice would not be appropriate in this case. 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 practice and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that this case 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 a caution order would neither protect the public nor be in the public interest.

The panel next considered whether a conditions of practice order on Mr El-Sheikh's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. This panel found that there are no workable conditions that could address the wide ranging concerns in this case. In addition, the panel determined that Mr El-Sheikh's non-engagement will make a conditions of practice order meaningless and unworkable.

Consequently, the panel decided that a conditions of practice order was not be appropriate in this case and would not protect the public nor be in the public interest.

The panel next considered imposing a further suspension order. The panel found that Mr El-Sheikh had twelve months to demonstrate taking any steps to show insight remorse or strengthen his nursing practice but had failed to provide any evidence in this regard. The panel referred to the *NMC guidance at Rev-3a*, and determined that the continuation of a suspension order is an unlikely to serve any useful purpose and is unlikely to result in Mr El-Sheikh returning to safe unrestricted practice within a reasonable period of time. The panel found that this would not therefore protect the public nor satisfy the public interest considerations in this case. The panel therefore determined that he should be removed from the register.

The panel therefore considered a striking-off order. It noted that at the substantive hearing, the panel had imposed a suspension order for a period of a twelve months. That panel also provided comprehensive guidance as to the steps required to strengthen Mr El-Sheikh's nursing practice and to provide meaningful insight into his failings. It was also made clear that at any future review hearing, a striking-off order could be an available sanction.

In today's hearing, the panel was concerned that Mr El-Sheikh's failure to engage and failure to show sufficient insight into his failings or any steps taken to strengthen his nursing practice over the past twelve months raises fundamental concerns regarding his professionalism, and this is incompatible with Mr El-Sheikh's continued registration. Consequently, the panel concluded that the only sanction that would adequately protect

the public and serve the public interest is a striking-off order. The panel therefore directs the Registrar to strike Mr El-Sheikh'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 26 March 2025 in accordance with Article 30(1).

The decision will be confirmed to you in writing.

That concludes this determination.