

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

**Substantive Order Review Hearing
Tuesday 14 January 2025**

Virtual Hearing

Name of Registrant: Israel Jamera

NMC PIN: 06I00230

Part(s) of the register: Registered Nurse: Sub part 1
RN1 – Adult (5 September 2006)

Relevant Location: Scotland

Type of case: Misconduct

Panel members: Adrian Blomefield (Chair, Lay member)
Cora Presley (Registrant member)
Chantelle Whitehead (Lay member)

Legal Assessor: Simon Walsh

Hearings Coordinator: Hazel Ahmet

Nursing and Midwifery Council: Represented by Bethany Brown, Case Presenter

Mr Jamera: Not present and not represented at the hearing

Order being reviewed: Conditions of practice order (12 months)

Fitness to practise: Impaired

Outcome: **Conditions of practice order extended for 12 months from 15 January in accordance with Article 30 (1) (a).**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Jamera was not in attendance and that the Notice of Hearing had been sent to Mr Jamera's registered email address by secure email on 16 December 2024. The panel also noted that the notice of hearing had been sent to Mr Jamera's secondary email address which, although was not his registered email address, had been used to communicate with him prior to the substantive hearing in November 2023.

Further, the panel noted that the Notice of Hearing was also sent to Mr Jamera's representative on 16 December 2024. However, Mr Jamera's previous representative informed the NMC that they would no longer be representing Mr Jamera in relation to this matter.

Ms Brown, 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 Jamera'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 Jamera 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 Jamera

The panel next considered whether it should proceed in the absence of Mr Jamera. The panel had regard to Rule 21 and heard the submissions of Ms Brown who invited the panel to continue in the absence of Mr Jamera.

Ms Brown submitted that there had been no engagement by Mr Jamera with the NMC in relation to this review 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 decided to proceed in the absence of Mr Jamera. In reaching this decision, the panel considered the submissions of Ms Brown and the advice of the legal assessor. The panel noted that:

- Mr Jamera has not engaged with the NMC and has not responded to any of the letters sent to him about this hearing;
- Mr Jamera has not provided the NMC with details of how he may be contacted other than his registered email address;
- There is a strong public interest in the expeditious review of the case, especially as the current order expires on 15 January 2025.

In these circumstances, the panel has decided that it is appropriate to proceed in the absence of Mr Jamera.

Decision and reasons on review of the substantive order

The panel decided to extend the current conditions of practice order for a period of 12 months.

This order will come into effect on 15 January 2025 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 15 December 2023. This order was then due to be reviewed on 13 December 2024, however this hearing was adjourned.

The current order is due to expire at the end of 15 January 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: At Borders General Hospital:

1. On a night shift 24/25 February 2018 failed to complete a NEWS (National Early Warning Score) set of observations for the patients in Room 1 as follows:

b. At 2am for:

v. Patient 6.

2. On a night shift 24/25 February 2018 failed to escalate the care of Patient 6 to:

a. The Shift Coordinator, and/or

b. The HAN (Hospital at Night) Team.

At Drummohr Care Home:

5. On 7 February 2020 after recording a pulse rate of 36 for patient 7:

a. Failed to escalate the patients care, and/or

c. Failed to take a full set of observations within 2 hours.

6. Around 7 February 2020 administered PRN (When Required) Diazepam to Patient 8 on four consecutive days without recording a reason on the back of the MAR (Medicines Administration Record).

7. On 12 February 2020:

a. Failed to respond promptly to an emergency alarm.

AND 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:

'The panel was not satisfied that it was highly unlikely that your conduct would be repeated in the future, nor was it satisfied that you can currently practise safely, kindly and professionally. On this basis, the panel found that there is a risk of repetition and that a finding of current impairment of fitness to practise is necessary on the grounds of public protection.

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.

The panel determined that a finding of impairment on public interest grounds is required because you put patients at risk of harm through your misconduct. The panel considered that a well-informed member of the public would be concerned if a finding of impairment were not made to mark the public interest.

In addition, the panel concluded that public confidence in the profession and the NMC as a regulator would be undermined if a finding of impairment were not made in this case which concerned failures around prioritising care and escalating concerns. It therefore also found 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 on public protection and public interest grounds.'

The original panel determined the following with regard to sanction:

'Balancing all of these factors, the panel determined that that the appropriate and proportionate sanction is that of a conditions of practice order.'

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of your case. It considered that either of these sanctions would prevent you from addressing the concerns, developing your skills and demonstrating safe practice in order for you to return to unrestricted practice in the future. The panel was satisfied that your misconduct was not fundamentally incompatible with remaining on the register.

Having regard to the matters it has identified, the panel has concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.

The panel determined that the following conditions are appropriate and proportionate in this case:

For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.

- 1. You must limit your nursing practice to one substantive employer.*
- 2. You must not be the nurse in charge of any shift, ward or unit.*

3. You must ensure that you are supervised by working at all times on the same shift as, but not always directly observed by, a registered nurse

4. You must work with your mentor, supervisor or line manager to develop a Personal Development Plan (PDP) to address the following areas of concern:

- record keeping
- escalating the deteriorating patient
- medicine administration and management
- clinical observations and assessments
- dealing with emergencies
- end of life care
- collaborating with and communicating in teams to ensure that patient care is effective and adequately prioritised.

5. You must meet with your line manager, mentor or supervisor every month to discuss the standard of your performance and your progress towards achieving the aims set out in your PDP and any other concerns which have arisen.

6. You must forward to the NMC a copy of your PDP within 28 days of starting employment.

7. You must send your case officer a report from your line manager, mentor or supervisor 28 days before any review of this order. This report must comment on your progress towards achieving the aims set out in your PDP and your clinical practice generally, including any concerns which have arisen.

8. You must keep us informed about anywhere you are working by:

- a) Telling your case officer within seven days of accepting or leaving any employment
- b) Giving your case officer your employer's contact details.

9. You must keep us informed about anywhere you are studying by:

- a) Telling your case officer within seven days of accepting any course of study.

b) Giving your case officer the name and contact details of the organisation offering that course of study.

10. You must immediately give a copy of these conditions to:

- a) Any organisation or person you work for.*
- b) Any employers you apply to for work (at the time of application).*
- c) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*

11. You must tell your case officer, within seven days of your becoming aware of:

- a) Any clinical incident you are involved in.*
- b) Any investigation started against you.*
- c) Any disciplinary proceedings taken against you.*

12. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:

- a) Any current or future employer.*
- b) Any educational establishment.*
- c) Any other person(s) involved in your retraining and/or supervision required by these conditions.*

The period of this order is for 12 months.'

Decision and reasons on current impairment

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

The panel has had regard to all of the documentation before it, including the NMC bundle. It has taken account of the submissions made by Ms Brown on behalf of the NMC.

Ms Brown submitted that in relation to impairment, Mr Jamera has provided no evidence to show that he has developed his insight. She noted that there has been no information provided relating to whether or not Mr Jamera has been working or is working as a registered nurse. Ms Brown submitted therefore that, given the lack of engagement, there remains a real risk of repetition, and therefore, a need for a finding of impairment on the ground of public protection.

Ms Brown further submitted that a finding of impairment remains to be required on the ground of public interest, as the confidence in the nursing profession would be undermined if such a finding were not to be concluded in this case.

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

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

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

The panel noted that the original panel found that Mr Jamera's insight into his failings was *'developing'* but *'did not fully address all of the regulatory concerns'*. At this hearing, due to Mr Jamera's lack of engagement, the panel were unable to conclude whether or not Mr Jamera has had any enhanced level of developing insight. In its consideration of whether Mr Jamera has taken steps to strengthen his practice, the panel took into account the lack of engagement from Mr Jamera, and the lack of information on whether or not he is currently working within a nursing capacity.

Today's panel has heard no new information put before it and has received no evidence of developing or improved insight, or a strengthening of Mr Jamera's practice. The original panel determined that Mr Jamera was liable to repeat matters of the kind found proved, and that a risk of repetition remained. This panel also determined that Mr Jamera remains

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, in this case, a finding of continuing impairment on public interest grounds is also required.

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

Decision and reasons on sanction

In relation to sanction, the panel had regard to all of the documentation before it, including the NMC bundle. It has taken account of the submissions made by Ms Brown on behalf of the NMC and the advice of the legal assessor.

Ms Brown submitted that there has been no change in relation to the position of sanction in this case. She highlighted that the previous panel determining an outcome for this case had found there to be workable and practical conditions which could be formulated to address the concerns and to assist Mr Jamera in strengthening his practice and insight. Ms Brown noted that given that there has been no update or engagement from Mr Jamera, there is no information to suggest a breach of such conditions.

Ms Brown highlighted the previous panel's decision that a suspension or striking off order would be wholly disproportionate; either of these sanctions would prevent Mr Jamera from addressing the concerns raised against his practice, and prevent him from developing his skills, allowing him to eventually return to safe practice.

Ms Brown therefore submitted that the conditions of practice order currently in place, should continue.

Having found Mr Jamera'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 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 Jamera'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 Jamera'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 extending the conditions of practice order on Mr Jamera's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel accepted that Mr Jamera has not engaged and not provided any evidence of him complying with the current conditions of practice order; however, it noted that this does not result in a breach of his conditions.

The panel was of the view that an extension of the current conditions of practice order is sufficient to protect patients and the wider public interest. In this case, there are conditions which protect patients during the period they are in force. The panel reviewed the conditions which were imposed by the original panel and determined that these conditions cover all areas of concern whilst ensuring the protection of the public. Therefore, this panel determined that the same conditions remain appropriate.

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of Mr Jamera's case.

Accordingly, the panel determined, pursuant to Article 30(1)(a) to extend the conditions of practice order for a period of 12 months, from the expiry of the current order, namely at the end of 15 January 2025.

For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.'

1. You must limit your nursing practice to one substantive employer.
2. You must not be the nurse in charge of any shift, ward or unit.
3. You must ensure that you are supervised by working at all times on the same shift as, but not always directly observed by, a registered nurse
4. You must work with your mentor, supervisor or line manager to develop a Personal Development Plan (PDP) to address the following areas of concern:
 - Record keeping
 - Escalating the deteriorating patient
 - Medicine administration and management
 - Clinical observations and assessments
 - Dealing with emergencies
 - End of life care
 - Collaborating with and communicating in teams to ensure that patient care is effective and adequately prioritised.
5. You must meet with your line manager, mentor or supervisor every month to discuss the standard of your performance and your progress towards achieving the aims set out in your PDP and any other concerns which have arisen.
6. You must forward to the NMC a copy of your PDP within 28 days of starting employment.

7. You must send your case officer a report from your line manager, mentor or supervisor 28 days before any review of this order. This report must comment on your progress towards achieving the aims set out in your PDP and your clinical practice generally, including any concerns which have arisen.

8. You must keep us informed about anywhere you are working by:
 - a) Telling your case officer within seven days of accepting or leaving any employment
 - b) Giving your case officer your employer's contact details.

9. You must keep us informed about anywhere you are studying by:
 - a) Telling your case officer within seven days of accepting any course of study.
 - b) Giving your case officer the name and contact details of the organisation offering that course of study.

10. You must immediately give a copy of these conditions to:
 - a) Any organisation or person you work for.
 - b) Any employers you apply to for work (at the time of application).
 - c) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.

11. You must tell your case officer, within seven days of your becoming aware of:
 - a) Any clinical incident you are involved in.
 - b) Any investigation started against you.
 - c) Any disciplinary proceedings taken against you.

12. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:
 - a) Any current or future employer.
 - b) Any educational establishment.

- c) Any other person(s) involved in your retraining and/or supervision required by these conditions.

The extension of this order is for 12 months, in order to provide Mr Jamera with an opportunity to engage with this NMC process.

This extension will take effect from the 15 January 2025 in accordance with Article 30(1)(a).

The panel directs that this determination be securely provided to both Mr Jamera's registered email address and the alternative email address that has been used to provide the notice of this hearing. Additionally, the panel directs that this determination be posted to Mr Jamera's registered address so that, should Mr Jamera not be using his email addresses, the posted paperwork will inform him of this determination.

Before the order expires, it will be reviewed by a further panel.

The panel in its deliberations considered the option of allowing the current order to lapse on 15 January 2025 which would result, in the particular circumstances of this case, in Mr Jamera being automatically removed from the register. However, the panel was mindful that it has had no contact from Mr Jamera as to his intentions regarding continuing or not continuing in the nursing profession and accordingly, discounted this option at this stage.

This will be confirmed to Mr Jamera in writing.

That concludes this determination.