

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

**Substantive Order Review Meeting  
Thursday 9 May 2024**

Virtual Meeting

**Name of Registrant:** Maria Lourdes Kasmai

**NMC PIN:** 74F0499E

**Part(s) of the register:** Registered Nurse – Sub Part 1  
Adult Nursing (Level 1) – 25 April 1998

Registered Nurse – Sub Part 2  
Adult Nursing (Level 2) – 1 December 1976

**Relevant Location:** Norfolk

**Type of case:** Misconduct

**Panel members:** Caroline Rollitt (Chair, lay member)  
Sabrina Sheikh (Lay member)  
Rosalyn Mloyi (Registrant member)

**Legal Assessor:** Michael Levy

**Hearings Coordinator:** Shela Begum

**Order being reviewed:** Suspension order (12 months)

**Fitness to practise:** Impaired

**Outcome:** **Order to lapse upon expiry in accordance with Article 30 (1), namely 14 June 2024**

## **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 Ms Kasmai's registered email address by secure email and to her registered address by recorded delivery and by first class post on 3 May 2024.

The panel had regard to the email from Ms Kasmai's representative dated 3 May 2024 in response to the notice of meeting which stated:

[PRIVATE]

The panel had regard to the Royal Mail 'Track and trace' printout which showed the Notice of Meeting was delivered to Ms Kasmai's registered address and was signed for on 8 May 2024.

On 8 May 2024, Ms Kasmai's NMC case officer sent her and her representative an email which stated:

*"I note that the notice of meeting sent via recorded delivery (in addition to the notices that were sent to you both via email on 03 May 2024) was signed for today. I would be most grateful if you could kindly confirm whether you agree to waive the notice period so that a panel can hear the case as soon as possible."*

A response from Ms Kasmai's representative was received on the same date which stated:

*"Happy to waive the notice period."*

The panel took into account that the Notice of Meeting provided details of the review that the review meeting would be held no sooner than 29 April 2024 and inviting Ms Kasmai 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 Ms Kasmai 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 allow the order to lapse upon expiry in accordance with Article 30 (1), namely 14 June 2024 thereby removing Ms Kasmai from the register. This will come into effect at the end of 14 June 2024 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (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 17 May 2023. The current order is due to expire at the end of 14 June 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:*

- 1. On 29 June 2019 inadequately responded to an emergency situation in respect of Patient A in that you:
  - a. left Patient A with a healthcare assistant to call 999;*
  - b. lacked the knowledge on how to deflate an airflow mattress to enable cardiopulmonary resuscitation (CPR) to be administered;*
  - c. Failed to move Patient A into the recovery position.**
- 2. Failed to administer CPR without clinical justification, in that you:
  - a. did not ask for assistance to move Patient A on to the floor to administer CPR;*
  - b. did not check Patient A’s vital signs;*
  - c. did not act in the best interests of the patient.**
- 3. Whilst in the presence of Person A, indicated a lack of skill and/or willingness to commence CPR in that you said “I am 62 years of age, I cannot do CPR anymore” or words to that effect.’*

The original panel determined the following with regard to impairment:

*'The panel determined that Ms Kasmai's failures to act to preserve life was misconduct that breached the fundamental tenets of the nursing profession and that her actions brought the reputation of the profession into disrepute. The panel is aware that its decision on impairment is a forward-looking exercise and accordingly, it went on to consider whether Ms Kasmai's misconduct was remediable and whether it had been remediated.*

*The panel then considered the factors set out in the case of Cohen v GMC [2007] EWHC 581 (Admin). It determined that the misconduct in this case is capable of remediation should Ms Kasmai choose to recognise the gravity of the misconduct findings made against her and demonstrate insight.*

*The panel went on to consider whether Ms Kasmai remained liable to act in a way that would put patients at risk of harm, would bring the profession into disrepute and breach the fundamental tenets of the profession in the future. In doing so, the panel considered whether there was any evidence of insight and remediation.*

*The panel carefully considered the documentation and found that there was nothing that indicated any evidence of insight or remediation. The panel concluded that there was no evidence of any contextual, personal or working environment factors that may have adversely affected Ms Kasmai's ability to practise safely and professionally. The panel considered Ms Kasmai's response to the regulatory concerns through her representative and it determined that Ms Kasmai had not recognised her failings in respect of Patient A and continued to deny that she was at fault and to deflect blame onto others. The panel was therefore unable to find that Ms Kasmai had demonstrated any insight into her misconduct or that she had considered the impact of her behaviour on Patient A's family, colleagues and the reputation on the profession.*

*Furthermore, the panel noted that it had no evidence of reflection and/or apology from Ms Kasmai.*

*In the absence of any evidence of steps to strengthen her practice or provide evidence of remediation, the panel concluded that Ms Kasmai had not remediated her actions.*

*In all the circumstances, the panel considered that there is a risk of repetition should Ms Kasmai return to practice as she remained liable to act in a way which could place patients at risk of harm, bring the profession into disrepute and breach fundamental tenets of the profession in the future. The panel therefore determined that a finding of impairment is necessary on the grounds of public protection.*

*The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health, safety and wellbeing of the public and patients, and to uphold and protect the wider public interest, which includes promoting and maintaining public confidence in the nursing profession and upholding the proper professional standards for members of the profession.*

*Having regard to Ms Kasmai's actions in this case, the panel considered that members of the public and patients would expect a nurse to provide safe and effective care to patients in an emergency situation. The panel therefore determined that a finding of impairment is also necessary on public interest grounds.*

*Having regard to all of the above, the panel concluded that Ms Kasmai's fitness to practise is currently impaired.'*

The original panel determined the following with regard to sanction:

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

*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 Ms Kasmai'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 Ms Kasmai'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, nor would it protect the public.*

*The panel next considered whether placing conditions of practice on Ms Kasmai'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 a conditions of practice order is not relevant to her misconduct.*

*The panel determined that in ordinary circumstances conditions of practice could have been formulated. However, in this case, it determined that several weeks before the incident Ms Kasmai had training on CPR and that she failed to seek support or escalate her concerns about her inability/unwillingness to do CPR which in the panel's view shows lack of insight into her lack of abilities expected of a Registered Nurse. This could not be addressed with conditions of practice.*

*The panel noted that Ms Kasmai's insensitive comment cause significant distress to Patient A's next of kin and Ms Kasmai in response to the charge deflected the blame to others as opposed to offering any apology. The panel considered that the misconduct in this case reflected attitudinal problems. However, the panel determined that given the limited timeframe in which the incident happened, it was not satisfied that the attitudinal problems associated with the conduct was deep-seated.*

*The panel is of the view that in light of her lack of insight, remediation and reflection, there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. Furthermore, the panel concluded that the placing of conditions on Ms Kasmai's registration would not adequately address the*

*seriousness of this case, nor could workable conditions be formulated which would protect patients in the event of a similar incident occurring.*

*The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that 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 panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register. Although there was evidence of a potential attitudinal problem, the panel did not feel that this was sufficiently deep-seated as to prevent Ms Kasmal strengthening her practice and meaningfully addressing the misconduct findings made by the panel should she choose to do so.*

*The panel did go on to seriously consider whether a striking-off order would be an appropriate sanction in light of the seriousness of the misconduct. However, the panel was of the view that a striking-off order would be disproportionate at this time. It heard no other issues relating to Ms Kasmal's practice as a nurse, and that she has been practising for 38 years without any prior regulatory concerns. The panel considered that if Ms Kasmal is able to demonstrate insight and remediation, she should be able to return to nursing which would be in the public interest.*

*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 will inevitably cause Ms Kasmal. However, this is outweighed by the public interest in this case.*



*The panel considered that this order is necessary to protect the public, 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 was appropriate in this case to mark the seriousness of the misconduct.*

*At 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:*

- *Ms Kasmai's engagement with the NMC and her attendance at the next review hearing*
- *Reflections on the findings of the panel*
- *A written reflective piece addressing the impact Ms Kasmai's actions have had on Patient A's family, on her colleagues and on public confidence in the profession*
- *Evidence of training on the role of the nurse in charge in leading and managing a crisis in clinical practice*
- *Evidence of any other relevant training undertaken in relation to strengthening her practice*
- *Evidence of any relevant work, paid or unpaid*
- *Testimonials from colleagues particularly those from a healthcare setting.'*

## **Decision and reasons on current impairment**

The panel has considered carefully whether Ms Kasmai'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 and the email responses from Ms Kasmai's representative.

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 Ms Kasmai's fitness to practise remains impaired.

The panel noted that via her representative, Ms Kasmai has informed the NMC that she no longer wishes to practise as a nurse and has asked to be removed from the register. The email from Ms Kasmai's representative dated 3 May 2024 stated:

*"[PRIVATE]. She just wants her name to be removed from the register. She has not renewed her registration since the order was place on her. [...] there is no possibility of her going back to work. She strongly believes that she was unfairly treated by the system and was made an escape goat for wrong doing of others."*

The panel noted that at the original hearing, that panel made some recommendations for Ms Kasmai in order to assist this panel in making its decision. Ms Kasmai has not completed any of the actions as suggested by the original panel. Further, there has been no engagement from Ms Kasmai at the original hearing nor for the purposes of this meeting.

The panel noted that the original panel did not have any evidence of Ms Kasmai's insight or remediation. At this meeting, the panel did not have any evidence of Ms Kasmai's insight nor did it have any evidence of remorse from Ms Kasmai. Like the original panel, this panel did not have any evidence that Ms Kasmai understood how her actions put the patient at a risk of harm nor did it have evidence to suggest that she recognised the

negative implications of her actions on the reputation of the nursing profession. Ms Kasmai has not provided this panel with evidence about how she would intend on handling the situation differently in the future. However, it noted that Ms Kasmai does not intend on practising as a nurse in the future.

In its consideration of whether Ms Kasmai has taken steps to strengthen her nursing practice, the panel took into account that she has clearly indicated to the NMC that she has no intention of returning to nursing practice. It did not have any information which was contrary to this.

The original panel determined that Ms Kasmai was liable to repeat matters of the kind found proved. Today's panel has not received any information to undermine this decision. In light of this the panel determined that there remains a risk of repetition should Ms Kasmai be allowed to return to nursing practise. 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 Ms Kasmai's fitness to practise remains impaired.

## Decision and reasons on sanction

Having found Ms Kasmai 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 had regard to its previous findings on impairment in coming to this decision. It bore in mind that its primary purpose was to protect the public and maintain public confidence in the nursing profession and the NMC as its regulator.

The panel noted that the charges in this case relate to incidents which occurred in 2019 and that since this time, Ms Kasmai has not been practising as a nurse. It had regard to the email from Ms Kasmai's representative dated 3 May 2024 which stated:

*"[...] She just wants her name to be removed from the register. She has not renewed her registration since the order was place on her. [PRIVATE] and [...] there is no possibility of her going back to work. [...]."*

The panel considered that Ms Kasmai has informed the NMC via her representative that she wishes to be removed from the register. It noted that she only remains on the register by way of the suspension order which is currently in place. The panel carefully considered whether it should allow the current suspension order to lapse effectively removing Ms Kasmai from the register which will mean she will not be able to practise as a nurse.

The panel had regard to the NMC guidance (the Guidance) on 'Allowing nurses, midwives or nursing associates to be removed from the register when there is a substantive order in place' which stated:

*"it is important that the panel is sure that the nurse, midwife or nursing associate no longer wants to practise before it decides to let an order expire."*

On the basis of all of the information before it, the panel was satisfied that there has been a clear indication from Ms Kasmai that she no longer wishes to practise as a nurse. This included the emails from her representatives, Ms Kasmai's lack of engagement with the NMC and the lack of any evidence showing that Ms Kasmai has addressed the concerns or wants to take steps to strengthen her nursing practice. The panel has concluded that a further period of suspension would serve no useful purpose given Ms Kasmai has clearly indicated that she does not wish to practise as a nurse.

The panel considered the overarching objectives of the NMC which is to protect the public and meet the wider public interest. The panel had regard to the guidance which stated:

*“Before allowing a professional to leave the register by lifting a substantive order or allowing it to expire, the panel should make it clear whether they consider the professional's fitness to practise to be currently impaired.*

*This is because nurses, midwives or nursing associates, whose registration lapses or are removed from the register after a suspension or conditions of practice order expires or is lifted, can apply for readmission. In looking at any application in the future, and deciding whether the nurse, midwife or nursing associate is capable of safe and effective practice and meets the requirements for health and character, the Registrar (or one of our Assistant Registrars who also make decisions on behalf of the Registrar) would be able to take account of the panel's decision whether the nurse, midwife or nursing associate's fitness to practise was still impaired when they were removed from the register.”*

The panel has made a clear finding of impairment on both public protection and public interest grounds. It was satisfied that if Ms Kasmai were to apply for readmission to the register, the Assistant Registrar would have regard to this panel's decisions in relation to that finding of impairment and would be able to take this into account when considering any application for readmission and whether or not Ms Kasmai is fit to practise safely as a nurse. Further, the panel noted that if Ms Kasmai did decide to make an application for readmission onto the register, she would also be required to complete a return to practice course before she was allowed to practise. On the basis of this, the panel was satisfied that allowing this order to lapse upon expiry would suitably protect the public and meet the wider public interest.

The panel noted that sanctions are not intended as a punishment for the nurse and are there to protect the public and meet the wider public interest. As the panel was satisfied that allowing the current order to lapse upon expiry would suitably protect the public and meet the wider public interest, it has concluded that a further period of suspension would serve no useful purpose given Ms Kasmai has clearly indicated that she does not wish to practise as a nurse and there has been no evidence that she wishes to strengthen her nursing practice.

The substantive suspension order will be allowed to lapse at the end of the current period of imposition, namely the end of 14 June 2024 in accordance with Article 30(1).

This will be confirmed to Ms Kasmai in writing.

That concludes this determination.