

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

**Substantive Meeting
14 August 2020**

Virtual Meeting

Name of registrant: Sandra Karim

PIN: 92I3567E

Part(s) of the register: Registered Nurse (Sub Part 1)
Adult Nursing – September 1995

Area of registered address: Scunthorpe

Type of case: Conviction

Panel members: Christina Mckenzie (Chair, Registrant member)
Claire Rashid (Registrant member)
Alison Lyon (Lay member)

Legal Assessor: Breige Gilmore

Panel Secretary: Amira Ahmed

Consensual Panel Determination: Accepted

Facts proved: All

Fitness to practise: Impaired

Sanction: Striking-off order

Interim order: Interim suspension order (18 months)

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that Ms Karim was not in attendance and that the Notice of Meeting had been sent to Ms Karim's registered email address on 09 July 2020.

Further, the panel noted that the Notice of Meeting was also sent to Ms Karim's representative at the Royal College of Nursing (RCN) on 09 July 2020.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, date and venue of the meeting.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Ms Karim 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).

Details of charge

That you, a Registered Nurse

1. Were tried and convicted on 14/6/2019 of ill treatment /wilful neglect contrary to sections 20 (1) and (2) of the Criminal Justice Act 2015

And in light of the above your fitness to practise is impaired by reason of your conviction as set out in charge 1.

Consensual Panel Determination

At the outset of this meeting, the panel was made aware that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between the NMC and Ms Karim.

The agreement, which was put before the panel, sets out Ms Karim's full admissions to the conviction, and that her fitness to practise is currently impaired by reason of that conviction. It is further stated in the agreement that an appropriate sanction in this case would be striking-off order.

The panel has considered the provisional CPD agreement reached by the parties.

That provisional CPD agreement reads as follows:

- 1. The Registrant first entered the Council's register of nurses on 18 September 1989, sub part Registered Nurse – Adult Nursing. The Registrant was referred to the NMC by Humberside Police on 13 February 2018.*
- 2. At the material time, the Registrant was employed as a nurse at Sycamore Lodge Nursing Home having commenced employment in approximately November 2016.*
- 3. The incident took place at Sycamore Lodge Nursing Home, Scunthorpe. Sycamore Lodge is a specialist home who cater to residents with dementia.*
- 4. On the 13 January 2018 the Registrant, along with a healthcare assistant (HCA) went into the room of a resident to change her and her bed sheets as they were soiled. The Registrant helped the resident move from the bed to the commode in order to change the bed sheets.*
- 5. The resident became stiff and the Registrant then struck the resident on the back three times, before striking the resident twice across the face with the back of her hand. This action left bruising on the resident's face. The Registrant called the*

resident “a horrible fucking lady”. The Registrant also let go of the left hand side of the resident’s body as she was helping her onto the commode. This resulted in the resident falling onto the commode.

- 6. The incident was witnessed by the HCA. The HCA was extremely distressed after witnessing the incident and didn’t know what to do. She went to the toilet in tears and messaged her husband. The HCA reported what she had witnessed to a member of staff.*
- 7. The Registrant was suspended pending investigation and was subsequently dismissed following a disciplinary meeting on 21 February 2018.*
- 8. The police subsequently undertook an investigation and the Registrant was interviewed by the police. The Registrant denied the allegation.*
- 9. The registrant was charged with ill-treatment / wilful neglect contrary to sections 20 (1) and (2) of the Criminal Justice and Courts Act 2015.*
- 10. The Registrant was convicted on 14 June 2019 and the Magistrates Court committed her case to Great Grimsby Crown Court for sentencing. On the 18/7/19 the Registrant was sentenced to 15 months imprisonment, which was suspended for 24 months. The Registrant’s suspended sentence will expire on the 18/7/2021. The Certificate of Conviction can be found at Appendix 1.*
- 11. The Registrant has engaged with the NMC through her representatives the Royal College of Nursing. In her case management form, signed and dated 31 March 2020, the Registrant admits the charge.*

Impairment

12. *The Registrant admits that her fitness to practice is impaired by reason of her conviction.*

13. *The parties have considered the principles laid down in CHRE v (1) NMC and (2) Grant [2001] EWHC 927 (Admin).*

14. *In the case of CHRE v NMC & Grant [2011] EWHC 927 (Admin) (“Grant”) Mrs Justice Cox adopted the matters outlined by Dame Janet Smith in the Fifth Shipman report which invites panels to ask:*

Do our findings of fact in relation to the misconduct show that the Registrant’s fitness to practise is impaired in the sense that he:

a) *Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*

b) *Has in the past brought and/or is liable in the future to bring the professions into disrepute; and/or*

c) *Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the professions; and/or*

d) *Has in the past acted dishonestly and/or is liable to act dishonestly in the future?*

15. *The Registrant accepts that her fitness to practise is currently impaired by reason of her conviction and the parties agree that the first, second and third limbs are engaged.*

16. *It is agreed that a finding of impairment on the grounds of public interest and public protection is required.*

Have in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm

17. *The Registrant accepts that in the past she acted so as to put a patient at unwarranted risk of harm by assaulting a resident and causing an injury to that resident. Due to the nature of her conviction of ill treatment/wilful neglect and in the absence of any evidence of meaningful insight or remorse there is a risk she could place patients at harm in the future.*

18. *The parties agree there was a deliberate intent on the part of Ms Karim to cause the harm which occurred to the Resident and that there is a risk that the Registrant could behave in a similar way in the future.*

Have in the past brought the profession into disrepute

19. *The Registrant accepts that her actions, the resulting criminal conviction and receiving a 15 month custodial sentence, although suspended for 24 months, has brought the profession into disrepute. The Registrant accepts that she must comply with the laws of the country and in not doing so, accepts that a fully informed ordinary member of the public would have their confidence in the profession seriously harmed if no finding of impairment were to be made.*

20. *The Registrant has been convicted of a criminal offence which determines by its nature that she has culpability for the harm caused. The Registrant's conduct took place whilst at her place of work. The Registrant did not admit the allegations throughout her police interview and was convicted after a Criminal Trial. It is acknowledged that the Registrant admitted the regulatory concerns in this case. The Registrant has not demonstrated genuine remorse and full insight into her conduct and has not provided any references.*

21. *The sentencing Judge, HHJ McKone made the following sentencing remarks. "The public and family rightly expects that elderly patients will be safe in a care home*

and a high degree of trust is placed in carers and the public expect anyone who ill-treats patients to be sent to prison". He also commented "this case is more serious than an offence of assault occasioning actual bodily harm and "the combination of factors I have referred to, the seriousness of your offending , the outrage that this creates for the public but also your personal mitigation make this a very difficult case for the court". It was also mentioned that it was right for the Registrant's legal representative to submit that she was "very unlikely to reoffend. You are somebody who is likely to comply with any order". A copy of the Sentencing Remarks can be found at Appendix 2.

22. Ms Karim is criminally culpable for the events and that is reflected in her conviction and the passing of a criminal Sentence of imprisonment, albeit suspended.

23. It is agreed that a Registered Nurse being convicted of such a serious criminal offence, with such devastating consequences, brings the profession in to disrepute.

Have in the past breached fundamental tenets of the profession

24. The Registrant accepts that she has in the past breached one of the fundamental tenets of the profession and that this is capable of bringing the profession into disrepute.

25. Nurses are required to promote professionalism and trust. These are fundamental tenets of the profession. In the preamble to the section of the Code for Nurses and Midwives (March 2015 edition), hereafter 'the Code', which is entitled 'Promote Professionalism and Trust' it is stated that Nurses must uphold the reputation of the profession at all times.

26. It states that Nurses should display a personal commitment to the standards of practice and behaviour set out in the Code. They must be a model of integrity and leadership for others to aspire to.

27. *The Code states, at standard 20.4, that in order to achieve the objective of upholding of the profession at all times a Nurse must keep to the laws of the country in which they are practising.*

28. *The Registrant's criminal conviction for this offence breaches those fundamental tenets of the profession. Such a conviction is in abject discord with the key qualities that the public expect of a registered nurse such as caring for others and acting in the best interests of others.*

29. *A conviction for a serious criminal offence of this nature and the consequential offending of standard 20.4, breaches fundamental tenets of the profession namely to preserve the safety of others and ensure professionalism and trust by observing the laws of the country.*

30. *Standard 1.1 states that Registrants must treat people with kindness, respect and compassion. Assaulting a resident in her care is a clear breach of that standard.*

Insight

31. *The parties agree that the Registrant has shown little insight in to her conduct and why it falls below the standards expected of a member of the profession. The Registrant has not provided a reflective piece. However the Registrant has accepted the regulatory concerns.*

Remorse

32. *The parties agree that the Registrant has not demonstrated genuine remorse for her actions.*

Remediation and Risk of Repetition

33. *Conduct arising from assaulting a patient, which leads to their conviction for a serious criminal offence such as in the Registrant's case, is conduct which is difficult to put right as it breaches the trust in a Registrant.*
34. *The parties agree that it is necessary for Nursing & Midwifery Council to take regulatory action against the Registrant as her practice presents a risk of harm to patients. Also because it is necessary to ensure that it meets its objective to promote and maintain public confidence in nurses and midwives, as set out in its statutory framework and guidance.*
35. *The parties agree that there is a risk of similar conduct occurring in the future due to the Registrant assaulting a resident in her care. The lack of remorse, remediation and insight so far demonstrated by the Registrant supports a finding that she is likely to engage in a repeat of such behaviour which led to her conviction.*
36. *It is agreed that in the circumstances of this case that remediation is required and the identified harm to the reputation of the profession should be formally marked by the Nursing & Midwifery Council's intervention through a finding of current impairment, which declares publically that such conduct is not acceptable.*
37. *The parties have considered the comments made by Mrs Justice Cox in her consideration of the issues in the case of CHRE v (1) NMC and (2) Grant [2001] EWHC 927 (Admin). She said*
- 'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'*

38. *It is agreed that a finding of impaired fitness to practise is required following the Registrant's conviction for a criminal offence in such serious circumstances, which resulted in her being made subject to a custodial sentence of imprisonment, albeit suspended, in order to uphold proper standards for the profession and ensure that confidence in the Nursing & Midwifery Council as a regulator is maintained.*

Sanction

39. *It is acknowledged that sanction is a matter for the Panel alone. In considering sanction in a proportionate manner, the Panel should begin with consideration of the least restrictive sanction first. Sanctions are not intended to be punitive, but may have punitive effects.*

40. *The parties agree that the appropriate sanction in this case is a **striking off order**.*

41. *In determining the appropriate sanction the parties have considered the NMC Guidance on Sanction which reinforces that the purpose of a regulatory sanction is not punitive, although it may have that effect, and is to ensure a fair balance between the Nurse's right to practise and achieving the Nursing & Midwifery Council's overarching objective of public protection.*

42. *The consensual panel determination provisional agreement has the overarching objective of the need to declare and affirm proper professional standards and maintain confidence in the Council as a regulator.*

43. *The parties identify the following aggravating features in this case are:*

- *The case involves an assault on a patient which is directly linked to the Registrant's practice.*
- *The registrant has physically assaulted and verbally abused an elderly and vulnerable patient.*

- *An injury was inflicted on the patient.*
- *The registrant put the HCA in a difficult position as she was present at the time of the incident.*
- *During the process we have received no evidence of insight.*
- *There has been a previous regulatory concern.*

44. The Registrant was previously subject to a conditions of practice order imposed by the Conduct and Competence Committee in relation to unrelated clinical matters. That order came to an end on the 6 March 2016 as the Registrant was found to no longer be impaired and at the time of the incident in the present case the Registrant was practising unrestricted.

45. The Parties agree that the actions of the Registrant caused a harm to a Patient in her care. It is difficult to establish any mitigating feature in this matter except, perhaps, the Registrant admitting the regulatory concern.

46. The Parties agree that the allegations are too serious to take no further action or to impose a caution order. Such sanctions would not restrict the Registrant's practice, nor would it adequately mark the seriousness of the conduct. Particularly when one considers that there has been no demonstrable insight in this case.

47. The Parties agree that a conditions of practice order would not be appropriate, in that there are no identifiable areas of retraining required or any workable conditions to meet the concerns in this case. Such an order would also not mark the seriousness of the conduct and would not be sufficient to maintain trust and confidence in the profession. Additionally, the lack of engagement from the Registrant would suggest that a sanction would not be appropriate and workable.

48. The parties next considered a suspension order. A suspension order would restrict the Registrant's practice and uphold the public interest. However, such an order would not mark the seriousness of the conduct in question and would not be

sufficient to uphold trust and confidence in the profession and the regulatory process.

49. The parties determined the appropriate sanction is a striking off order. A striking off order would uphold trust and confidence in the profession. The Registrant's conduct is fundamentally incompatible with being a registered professional.

50. Having regard to the NMC Sanctions Guidance, the regulatory concerns raise fundamental questions about the Registrant's professionalism. Public confidence in the profession would be undermined by any lesser sanction and a striking off order is the only sanction which will be sufficient to protect patients, members of the public, and maintain professional standards.

51. The imposition of a striking off order adequately reflects the seriousness of the circumstances underlying the conviction where a suspension order would not sufficiently do so.

52. A striking off order is an appropriate sanction where there is evidence of harmful attitudinal problems. The Registrant's persistent lack of insight and remorse are indicative of attitudinal problems.

53. There has been no repetition of the behaviour since the incident.

54. Having determined that a striking off order is the appropriate sanction the parties also had regard to the case of CHRE v General Dental Council and Fleischmann [2005] EWCH 87 (Admin). This case also dealt with appropriate sanction in a case of criminal conviction and articulated the following considerations

he *'...where a practitioner has been convicted of a serious criminal offence or offences should not be permitted to resume his practice until he has satisfactorily completed his sentence. Only circumstances which plainly justify a different course should permit otherwise. Such circumstances could arise in connection with a period of disqualification from driving or time allowed by the court for the payment of a fine.'*

55. Such a sanction would also be compliant with the spirit of the case law, as the Registrant's suspended sentence order will expire on 18 July 2021.

56. The parties agree that, should the panel agree with the proposed sanction, the panel should also make an interim suspension order, under Article 31(1) (c) of the Nursing and Midwifery Order 2001, on the grounds that it is necessary to protect the public and is otherwise in the public interest. This order, which should be for a period of 18 months to cover the appeal period, will fall away at the end of that period if there is no appeal. The parties agree that such an order is necessary to protect the public and is otherwise in the public interest for the reasons set out in relation to sanction, above.

The parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings impairment and sanction is a matter for the panel. The parties understand that, in the event that a panel does not agree with this provisional agreement, the admissions to the charges set out above, and the agreed statement of facts set out above, may be placed before a differently constituted panel that is determining the allegation, provided that it would be relevant and fair to do so.

Here ends the provisional CPD agreement between the NMC and Ms Karim. The provisional CPD agreement was signed by Ms Karim and the NMC on 02 July 2020.

Decision and reasons on the CPD

The panel decided to accept the CPD.

The panel heard and accepted the legal assessor's advice. She referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. She reminded the panel that they could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Ms Karim. Further, the

panel should consider whether the provisional CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the professions and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

The panel noted that Ms Karim admitted the facts of the charges. Accordingly the panel was satisfied that the charges are found proved by way of Ms Karim's admissions as set out in the signed provisional CPD agreement.

Decision and reasons on impairment

The panel then went on to consider whether Ms Karim's fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Ms Karim, the panel has exercised its own independent judgement in reaching its decision on impairment.

In respect of Ms Karim's conviction the panel determined that by its nature she has culpability for the harm caused. The panel was also provided with the memorandum of conviction, which confirmed that Ms Karim was convicted on 14 June 2019 for ill-treatment/wilful neglect contrary to sections 20 (1) and (2) of the Criminal Justice and Courts Act 2015.

The panel noted the absence of any insight, remorse or remediation by Ms Karim and therefore determined that the risk of repetition was high.

The panel then considered whether Ms Karim's fitness to practise is currently impaired by reason of her conviction. The panel determined that Ms Karim's fitness to practise is currently impaired. In this respect the panel endorsed paragraphs 13 to 39 of the provisional CPD agreement.

Decision and reasons on sanction

Having found Ms Karim's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- The case involves an assault on a patient which is directly linked to Ms Karim's practice.
- Ms Karim has physically assaulted and verbally abused an elderly and vulnerable patient.
- An injury was inflicted on the patient.
- Ms Karim put the HCA in a difficult position as she was present at the time of the incident.
- During the process we have received no evidence of insight.
- There has been a previous regulatory concern.

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.

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 Karim'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 Karim's

misconduct was not at the lower end of the spectrum and that a caution order 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 impose a caution order.

The panel next considered whether placing conditions of practice on Ms Karim's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Ms Karim's registration would not adequately address the seriousness of this case and would not protect the public.

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 Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a Registered Nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Ms Karim's actions is fundamentally incompatible with Ms Karim's remaining on the register.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

Ms Karim's actions were significant departures from the standards expected of a Registered Nurse, and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Ms Karim's actions put vulnerable patients at serious risk and to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel agreed with the CPD that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the matters it identified, in particular the effect of Ms Karim's actions in 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 this would be sufficient in this case.

The panel considered that this order was 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.

Decision and reasons on interim order

The panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Ms Karim's own interest. The panel heard and accepted the advice of the legal assessor.

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel agreed with the CPD that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months.

If no appeal is made, then the interim suspension order will be replaced by the striking-off order 28 days after Ms Karim is sent the decision of this hearing in writing.

That concludes this determination.