

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

**Substantive Meeting
Wednesday 16 December 2020**

Virtual meeting

Name of registrant:	Sian Elizabeth Connor
NMC PIN:	87Y1759E
Part(s) of the register:	Registered Adult Nurse - RN1 (February 1990)
Area of registered address:	Nottingham
Type of case:	Conviction
Panel members:	Derek McFaul (Chair, Lay member) Pauleen Pratt (Registrant member) Geoffrey Baines (Lay member)
Legal Assessor:	Trevor Jones
Panel Secretary:	Christine Iraguha
Facts proved:	Charges 1 and 2
Facts not proved:	None
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 Mrs Connor was not in attendance and that the Notice of Meeting had been sent to Mrs Connor's registered email address on 5 November 2020.

The panel noted that the emergency statutory instrument in place allows for electronic service of the notice of meeting to be deemed reasonable in the current circumstances, involving Covid-19.

The panel took into account that the Notice of Meeting provided details of the allegation and confirmation that the case would be heard on or after Thursday 10 December 2020. Mrs Connor was also asked to provide comment no later than Friday 4 December 2020 by using the response form attached to the notice of meeting, if she had anything that she wanted the panel to take account of in considering this matter.

The panel noted that the NMC has received no response from Mrs Connor in relation to the notice of meeting.

The panel also had regard to the email dated 14 September 2020 from Mrs Connor's representative from the Royal College of Nursing informing the NMC that:

'Please note that Mrs Connor is disengaging from the NMC process. She would like the panel of the FtPC to know that she means no disrespect by making this decision, [PRIVATE]. She requests that the NMC not contact her except as required by the Rules.'

The panel noted that Mrs Connor wants to disengage from the NMC process as she has requested not to be contacted in relation to this matter. The panel noted that Mrs Connor had not requested a hearing or meeting and this indicated to the panel that she would not be engaging with either.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mrs Connor 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 were;

- 1. Convicted on the 30th May 2019 at Nottingham Magistrates Court of five (5) Counts (charges) of dishonestly making a false representation to make a gain for self / another or cause loss to other / expose other to risk.*
- 2. Convicted on the 30th May 2019 at Nottingham Magistrates court of eight (8) Counts (charges) of theft by employee.*

In light of the above your fitness to practise is impaired by reason of your convictions as set out in charges 1 and 2 above.'

Decision and reasons on facts

The charges concern Mrs Connor's conviction and, having been provided with a copy of the certificate of conviction, the panel finds that the facts are found proved in accordance with Rule 31 (2) and (3). These state:

- '31.—** (2) *where a registrant has been convicted of a criminal offence—*
- (a) a copy of the certificate of conviction, certified by a competent officer of a Court in the United Kingdom (or, in Scotland, an extract conviction) shall be conclusive proof of the conviction; and*
 - (b) the findings of fact upon which the conviction is based shall be admissible as proof of those facts.*
- (3) *The only evidence which may be adduced by the registrant in rebuttal of a conviction certified or extracted in accordance with paragraph (2)(a) is evidence for the purpose of proving*

that she is not the person referred to in the certificate or extract.

The panel noted Mrs Connor had made full admissions to charges in her local investigation and made full admissions throughout the Court proceedings.

The panel therefore finds charges 1 and 2 proved in their entirety, by way of Mrs Connor's admissions and by the certificate of conviction.

Background

The charges arose whilst Mrs Connor was employed as a bank nurse by Suncare Homes Limited, The Gables (the Home).

Mrs Connor was employed by NEMS out of office medical practice, the Bakersfield Medical Centre (BMC) and The Gables Nursing Home (the Home). Through her employment and position Mrs Connor had access to fridges containing drugs and locked stores containing medical equipment and medical sources.

Mrs Connor's offending came to light on the 16 February 2018 when a nurse at the Home discovered that there was a medical administration record in the name of AE. This caused suspicion because there was no patient at the Home by the name of AE, albeit this was a patient at another practice where Mrs Connor worked. Further checks were carried out and it was discovered that the medication purportedly prescribed to AE was Tramadol, which she had never in fact received such a prescription herself.

A local investigation was initiated and Mrs Connor was suspended from duties on 9 February 2018. During the investigation, further concerns about her practice came to light. Whilst undertaking stock checks, another nurse discovered a MAR chart for an unknown resident, and with a general practitioner who was not used by the Home. Further investigations with the local pharmacy revealed that a prescription for Tramadol had been issued on 29 January 2018, Mrs Connor was on duty.

The manager of the Home made contact with the BMC where Mrs Connor also worked. BMC conducted their own investigation which revealed that Mrs Connor had issued multiple patients with a prescription for Tramadol although none of the patients actually received this medication. Mrs Connor was suspended from BMC. When she was interviewed locally, she admitted misusing prescriptions from the practice.

No patient harm was recorded as a result of any of the alleged actions.

[PRIVATE].

The concerns about Mrs Connor's practice were referred to the police and she was subsequently arrested, and interviewed by the Police in April and September 2018. She answered no comment to all questions.

On 30 May 2019, at Nottingham Crown Court, Mrs Connor pleaded guilty to all charges and was convicted on five counts of dishonestly making false representations and eight counts of theft by employee. On 19 July 2019, Mrs Connor was sentenced to 16 months imprisonment, suspended for 12 months.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the documentary evidence provided by both the NMC and Mrs Connor.

The panel noted the certificate of conviction dated 31 July 2019 confirmed that Mrs Connor had pleaded guilty at Nottingham Magistrates Court to all the offences (as set out in both charges) on 30 May 2019 and the case was committed to the Crown Court for sentencing. Mrs Connor received full credit for her guilty pleas and was sentenced at Nottingham Crown Court on the 19 July 2019 to 16 months imprisonment, for each offence concurrent, suspended for a period of 12 months with a single requirement to complete 15 days Rehabilitation Activity Requirement.

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, Mrs Connor's fitness to practise is currently impaired by reason of her conviction. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

The NMC state that there is no burden or standard of proof to apply as this is a matter for the Panel's own professional judgement. However, it submitted that the convictions in this matter were for very serious offences. The NMC invited the panel to find Mrs Connor's fitness to practise currently impaired by reason of her conviction on both protection of the public and public interest grounds.

The NMC submitted that this has breached a fundamental tenet of the nursing profession and brought the profession into disrepute.

Representations on impairment

The NMC requires the panel to bear in mind its overarching objective to protect the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. The panel has referred to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

In her reflective statement dated 23 July 2020 Mrs Connor stated:

[PRIVATE]

The panel had sight of documents provided by Mrs Connor for this meeting which included a significant number of testimonials attesting to her good character and professional expertise, and a detailed and comprehensive reflective statement plus certificates of training.

The panel accepted the advice of the legal assessor.

Decision and reasons on impairment

The panel next went on to decide if as a result of the conviction, Mrs Connor's fitness to practise is currently impaired.

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

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, 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.'

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:

- a) *has in the past acted and/or is liable in the future to act as so 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 medical profession 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 medical profession; and/or*

- a) *has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel found that limbs b, c and d of *Grant* have been engaged in this case.

The panel took into account that Mrs Connor's offence is unrelated to her direct clinical practice in that there was no evidence that any patients did not receive their medication or that there was a shortage any medication at the Home due to her actions. As such there is nothing to suggest that she has in the past placed patients at unwarranted risk of harm or that she would do so in the future.

[PRIVATE]

The panel was of the view that Mrs Connor's actions took place over a prolonged period of time resulting in a conviction. This breached the 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.

Regarding insight, the panel considered that Mrs Connor in her detailed reflective statement dated 23 July 2020 made admissions, demonstrated an understanding of how her actions could put patients at a risk of harm, demonstrated an understanding of why what she did was wrong and how this impacted negatively on the reputation of the

nursing profession, apologised for her actions and sufficiently demonstrated how she would handle the situation differently in the future.

The panel took into account that Mrs Connor has accepted her wrong doing and the conviction. She has not at any time sought to minimise the importance of nurses demonstrating integrity and honesty in the course of their professional and private lives.

In its consideration of whether Mrs Connor has remedied her practice, the panel took into account the additional training Mrs Connor has undertaken and the reflective statement written dated 23 July 2020. However, the panel noted that Mrs Connor is not practising as a nurse, [PRIVATE].

The panel took into account that the sentencing judge expressed the opinion that Mrs Connor was highly unlikely to commit a further offence. The sentencing Judge stated: *'You have displayed genuine remorse and I accept that a custodial sentence for you at this stage would have severe consequences. You are correctly assessed as being at low risk and I endorse that.'* The panel was of the view that there appears to be a low risk of repetition of this criminal behaviour.

The panel considered that criminal offending this serious, which results in a custodial sentence undermines the public's trust in nurses and a finding of current impairment is therefore necessary to uphold proper professional standards and public confidence in the profession by marking Mrs Connor's behaviour as unacceptable for a registered professional.

The panel therefore finds Mrs Connor's' fitness to practise impaired on the grounds of public interest.

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

Having regard to all of the above, the panel was satisfied that Mrs Connor's fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Mrs Connor off the register. The effect of this order is that the NMC register will show that Mrs Connor has been struck-off the register.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

Representations on sanction

The Panel is invited to bear in mind the NMC Sanctions guidance, in particular that concerning dishonesty (SAN-2), which states:

"Dishonesty is more likely to be considered serious where there is personal, financial gain from a breach of trust and where dishonesty is premeditated, systematic or long-standing"

The factors in this guidance are of relevance in this case and as stated, the dishonesty is at the most serious end of the spectrum.

The NMC submitted that the appropriate sanction in this case is a striking off Order.

Decision and reasons on sanction

Having found Mrs Connor'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:

- Offending that occurred over a significant period of time
- The offending was premeditated, planned and sophisticated (forging signatures)
- Mrs Connor used her colleagues to affect the frauds, thereby showing a lack of regard for their reputation and trustworthiness
- Abuse of position of trust as a nurse for personal gain.

The panel also took into account the following mitigating features:

- Early admissions to her employer and at the Crown Court
- Apologies and evidence of remediation through the training undertaken
- Previous good character
- [PRIVATE]
- High level of insight and deep remorse
- Long standing career
- Positive Testimonials
- No previous regulatory concerns
- Significant training

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 interest issues identified, an order that does not restrict Mrs Connor'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 Mrs Connor'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 Mrs Connor'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 and seriousness of the charges in this case. The serious dishonesty identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Mrs Connor'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 panel noted that it would not be sufficient in this case to mark the seriousness of the conduct in order to maintain public confidence. The conduct is extremely serious due to the level of dishonesty over a long period of time that resulted in a conviction by the Crown Court.

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 Mrs Connor's actions is fundamentally incompatible with a registrant 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?*

Mrs Connor'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 Mrs Connor's actions were:

- extremely serious,
- aggravated by the long period of time,
- involved innocent colleagues,
- involved an element of premeditation and planning.

The panel determined that given the above aggravating factors to allow Mrs Connor 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 determined 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 Mrs Connor'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.

Interim order

As the striking-off order cannot take effect until the end of the 28 day appeal period, 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 Mrs Connor's own interest until the striking-off sanction takes effect.

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

The panel took account of the representations made by the NMC that it is also necessary for the protection of the public and otherwise in the public interest for an interim suspension order for a period of 18 months to cover the appeal period.

Decision and reasons on interim order

The panel was satisfied that an interim order 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 concluded 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 substantive striking off order 28 days after Mrs Connor is sent the decision of this hearing in writing.

That concludes this determination.