

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

**Substantive Hearing
12 February 2020**

Nursing and Midwifery Council
2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of registrant:	Joanne Louise Rayment
NMC PIN:	06E0369E
Part(s) of the register:	Registered Nurse - Sub Part 1 Children's Nurse (February 2007)
Area of registered address:	United Arab Emirates
Type of case:	Misconduct
Panel members:	Najrul Khasru (Chair, Lay member) Lisa Punter (Registrant member) Tricia Breslin (Lay member)
Legal Assessor:	Jayne Salt
Panel Secretary:	Alison Martin
Nursing and Midwifery Council:	Represented by Zainab Mohamed, Case Presenter
Ms Rayment:	Not present and unrepresented at the hearing
Facts proved:	By admission
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim order:	Interim Suspension Order (18 months)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Ms Rayment was not in attendance and that the Notice of Hearing letter had been sent to Ms Rayment's registered address by recorded delivery and by first class post on 13 January 2020.

The panel had regard to the Royal Mail 'Track and trace' printout which showed that on 21 January 2020 an attempt to deliver the Notice of Hearing to Ms Rayment's registered address was made.

Further, the panel noted that the Notice of Hearing was also sent to Ms Rayment's representative at the Royal College of Nursing (RCN) on 13 January 2020.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and venue of the hearing and, amongst other things, information about Ms Rayment's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

Ms Mohamed, 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.

In the light of all of the information available, the panel was satisfied that Ms Rayment has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

The panel noted that the Rules do not require delivery and that it is the responsibility of Ms Rayment to maintain an effective and up-to-date registered address.

Decision and reasons on proceeding in the absence of Ms Rayment

The panel next considered whether it should proceed in the absence of Ms Rayment. The panel had regard to Rule 21(2), which states:

- 21.—** (2) *Where the registrant fails to attend and is not represented at the hearing, the Committee—*
- (a) *shall require the presenter to adduce evidence that all reasonable efforts have been made, in accordance with these Rules, to serve the notice of hearing on the registrant;*
 - (b) *may, where the Committee is satisfied that the notice of hearing has been duly served, direct that the allegation should be heard and determined notwithstanding the absence of the registrant; or*
 - (c) *may adjourn the hearing and issue directions.'*

Ms Mohamed invited the panel to continue in the absence of Ms Rayment on the basis that she had voluntarily absented herself. She informed the panel that a provisional Consensual Panel Determination (CPD) agreement had been reached and signed by Ms Rayment on 8 January 2020. In the CPD agreement Ms Rayment and her representative state that they will endeavour to be available by telephone if required.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of Ms Rayment under the provisions of Rule 21 is not absolute and is one that should be exercised “with the utmost care and caution”. The panel further noted the case of *R (on the application*

of *Raheem*) v Nursing and Midwifery Council [2010] EWHC 2549 (Admin) and the ruling of Mr Justice Holman that:

'...reference by committees or tribunals such as this, or indeed judges, to exercising the discretion to proceed in the person's absence "with the utmost caution" is much more than mere lip service to a phrase used by Lord Bingham of Cornhill. If it is the law that in this sort of situation a committee or tribunal should exercise its discretion "with the utmost care and caution", it is extremely important that the committee or tribunal in question demonstrates by its language (even though, of course, it need not use those precise words) that it appreciates that the discretion which it is exercising is one that requires to be exercised with that degree of care and caution.'

The panel has decided to proceed in the absence of Ms Rayment. In reaching this decision, the panel has considered the submissions of Ms Mohamed, the representations made on Ms Rayment's behalf, and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v. Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- Ms Rayment has engaged with the NMC and has signed a provisional CPD agreement which is before the panel today.
- Ms Rayment has stated in the signed CPD agreement that she is *"content for it to proceed in her and her representative's absence"*.
- Ms Rayment is now living abroad.
- The panel is considering an agreed document and consequently Ms Rayment will not be prejudiced in any way.
- There is no reason to suppose that adjourning would secure her attendance at some future date.
- There is a strong public interest in the expeditious disposal of the case.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Ms Rayment.

Details of charge:

That you, a registered nurse,

1. Between 14 and 19 July 2016, did not follow the emergency protocol in patient A's care plan despite patient A displaying symptoms of autonomic dysreflexia.
2. On 19 July 2016, did not;
 - a. Check patient A's blood pressure,
 - b. Administer patient A with a second dose of Nifedipine,
 - c. Immediately call 999 emergency services despite patient A being in an altered state of consciousness.

AND in light of the above, your fitness to practise is impaired by reason of your misconduct.

Consensual Panel Determination:

At the outset of this hearing, Ms Mohamed informed the panel that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between the NMC and Ms Rayment.

The agreement, which was put before the panel, sets out Ms Rayment's full admissions to the facts alleged in the charges, that her actions amounted to misconduct, and that her fitness to practise is currently impaired by reason of that misconduct. It is further

stated in the agreement that an appropriate sanction in this case would be a striking-off order.

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

That provisional CPD agreement reads as follows:

Consensual panel determination: provisional agreement

‘Agreement

Joanne Louise Rayment, PIN 06E0369E, (‘the Registrant’) is aware of the CPD hearing. The Registrant does not intend to attend the hearing and is content for it to proceed in her and her representative’s absence. The Registrant or her representative will endeavour to be available by telephone should any clarification on any point be required.

The Nursing and Midwifery Council (‘the NMC’) and the Registrant (collectively ‘the Parties’) agree as follows:

The Charges

1. *The Registrant admits the following charges:*

That you, a registered nurse,

1. *Between 14 and 19 July 2016, did not follow the emergency protocol in patient A’s care plan despite patient A displaying symptoms of autonomic dysreflexia.*
2. *On 19 July 2016, did not;*
 - a. *Check patient A’s blood pressure,*

- b. Administer patient A with a second dose of Nifedipine,*
- c. Immediately call 999 emergency services despite patient A being in an altered state of consciousness.*

AND in light of the above, your fitness to practise is impaired by reason of your misconduct.

The Agreed Facts

- 2. The Registrant appears on the register of nurses and midwives maintained by the NMC as a Registered Nurse. She registered in 2007.*
- 3. The NMC received a referral about the Registrant's fitness to practise on 10 January 2017. The referral came from the Group Clinical Director at Thornbury Community Services (TCS). At the time of the concerns raised in the referral, the Registrant was employed by TCS as a Regional Business Manager.*
- 4. Patient A was a 36 year old man. He was involved in a road traffic accident in 1998 when he became paralysed from the neck downwards due to a spinal injury. He had a tracheostomy for breathing. He lived at home and required help with all aspects of care. The Registrant was the clinical lead for this care, which was provided by health care assistants ('HCAs') 24 hours a day.*
- 5. Patient A could not be left alone and had to be monitored at all times of day and night. This was because he had autonomic dysreflexia ('AD'). AD is over activity of the nervous system. If AD is not managed correctly, it can lead to complications such as a stroke and seizures.*
- 6. The symptoms of AD are sweats, headaches, increased blood pressure, urine infection, constipation, pain and loss of consciousness or an altered state of consciousness. AD could also cause a brain haemorrhage, a cardiac arrest and a stroke.*

7. *Patient A had an adult care plan. The care plan was provided by TCS and fully detailed his clinical history, clinical care, medication and how it should be administered. It also set out his personal hygiene routine, dietary requirements, and social interaction. The care plan was always kept next to Patient A's bed.*
8. *Patient A had an emergency protocol in place which had to be followed in the event of symptoms of AD. The protocol to be followed was written on the care plan. The trigger for the emergency protocol was raised blood pressure (BP). The Registrant was fully aware of the details of Patient A's care plan as she had undertaken a clinical review of it with Patient A in March 2016. The care plan was always kept by Patient A's bed.*
9. *The Registrant attended Patient A's house on 15, 17 and 19 July 2016. Between Thursday 14 July 2016 and Tuesday 19 July 2016, Patient A showed symptoms of AD which should have triggered the implementation of his emergency protocol. On 19 July 2016, the Registrant was called by the HCA to attend to Patient A as his blood pressure was above the trigger level for the AD emergency protocol and was rising. Upon arrival the Registrant did not act in line with the emergency protocol in that she did not immediately call emergency services, did not check Patient A's blood pressure and did not administer Nifedipine, which was required to reduce Patient A's blood pressure. At 09:28, several hours after she had arrived at Patient A's house, the Registrant called 999. Patient A was taken to Kingsmill Hospital. He had suffered a catastrophic cerebral bleed. On 20 July 2016 Patient A died.*
10. *Following a local investigation, the Registrant was dismissed from TCS in December 2016. It is not asserted that the Registrant's conduct contributed to Patient A's death or amounted to a loss of opportunity for life.*
11. *As part of its own investigation the NMC has received and assessed all of the relevant evidence obtained during the local investigations.*

12. All facts as detailed in the charges are admitted by the Registrant.

Misconduct

13. In the case of *Roylance v General Medical Council (No.2)* [2000] 1 AC 311, Lord Clyde stated that:

'misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by the medical practitioner in the particular circumstances'.

14. The Registrant admits that her conduct fell seriously short of the standards of behaviour expected of Registered Nurses. Moreover, the Registrant accepts that her actions breached the following paragraphs of the 2015 NMC Code of Conduct:

1 Treat people as individuals and uphold their dignity

To achieve this, you must:

- 1.2 make sure you deliver the fundamentals of care effectively.
- 1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay.

16 Act without delay if you believe that there is a risk to patient safety or public protection

To achieve this, you must:

- 1.4 acknowledge and act on all concerns raised to you, investigating, escalating or dealing with those concerns where it is appropriate for you to do so.

15. *The Registrant failed to follow Patient A's care plan, failed to accurately identify and assess signs of Patient A's worsening condition and failed to take the necessary clinical action. These were failings in areas of Patient A's required care that were vital in preserving his health and welfare and ultimately, his life. The Registrant's failure to follow the emergency protocol in Patient A's care plan meant that there was a significant delay in the emergency services being called and Patient A receiving the care he needed.*
16. *The Registrant accepts that the facts, individually and collectively, amount to misconduct.*

Current Impairment

17. *The Parties have considered the questions formulated by Dame Janet Smith in her Fifth Report from Shipman, approved in the case of CHRE v Grant & NMC [2011] EWHC 927 (Admin) ('Grant') by Cox J. They are 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 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 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*
- d. ...*

18. *The Parties agree that the admitted facts do amount to the Registrant putting Patient A at unwarranted risk of harm. The Registrant accepts that she has brought the reputation of the nursing profession into disrepute. The Parties also agree that the Registrant has breached fundamental tenets of the profession.*

19. *In considering the question of whether the Registrant's fitness to practise is currently impaired, the Parties have considered Cohen v GMC [2007] EWHC 581 (Admin), in which the court set out three matters which it described as being 'highly relevant' to the determination of the question of current impairment:*

1. *Whether the conduct that led to the charge(s) is easily remediable.*
2. *Whether it has been remedied.*
3. *Whether it is highly unlikely to be repeated.*

20. *The Parties agree that the clinical errors in this case are capable of being remedied, namely; following emergency protocols and escalating concerns.*

Remediation

21. *The Registrant is no longer residing in the UK. There is no evidence that the Registrant has attempted to remediate her practice by undertaking further training in relation to the concerns in this case.*

Insight

22. *The Registrant has demonstrated little insight or remorse into her clinical failings. She does not address what went wrong with her care to Patient A and does not say what she would do differently in the future. The Registrant has not provided a reflective statement. Although the Registrant has accepted the charges and current impairment, detailed evidence in relation to her insight is lacking.*

Impairment - public protection

23. It is noted that the Registrant has not been referred to the NMC aside from the matters arising in this case.

24. The Parties agree that the Registrant has not provided evidence of her understanding into the seriousness of her failings and does not therefore show insight into these failings.

25. Accordingly, the Parties agree that there is a risk of repetition of the misconduct. Therefore, a finding of current impairment is required on public protection grounds.

Impairment – public interest

26. The full seriousness of the regulatory concerns has been identified and is accepted by the Parties. The clinical failings are serious in nature and must be considered in the context of Patient A's condition and the acute and specified care he required.

27. Accordingly the Parties agree that this is a case where a finding of current impairment is also required to declare and uphold proper professional standards and protect the reputation of the nursing profession. This is in accordance with the comments of Cox J in Grant at paragraph 101:

“The Committee should therefore have asked themselves not only whether the Registrant continued to present a risk to members of the public, but whether the need to uphold proper professional standards and public confidence in the Registrant and in the profession would be undermined if a finding of impairment of fitness to practise were not made in the circumstances of this case.”

Sanction

28. *The appropriate sanction in this case is a striking-off order. The Parties considered the NMC Sanctions Guidance, bearing in mind that it provides guidance not firm rules.*
29. *The aggravating feature of this case is that the Registrant's failings led to a delay in the required emergency care being provided to Patient A which placed his life at risk.*
30. *No mitigating features are identified in this case.*
31. *In considering what sanction would be appropriate the Parties began by considering whether this is a case in which it would be appropriate to take no further action. The Parties agree that this would leave the public exposed to an unwarranted risk of harm, given the risk of repetition of the misconduct. The Parties also agree that such a sanction would not be sufficient to maintain public confidence.*
32. *The Parties next considered whether a caution order would be appropriate. A caution order would not restrict the Registrant's practice and would therefore be insufficient to protect the public given the risk of repetition of the misconduct. The Parties also agree that such a sanction would not be sufficient to maintain public confidence.*
33. *The Parties considered the imposition of a conditions of practice order. The Parties agree that there are serious failings in this case. The Registrant has not indicated any desire to return to practise as a nurse in the UK. The Parties agree that it could not formulate workable conditions of practice and further that conditions would not provide sufficient protection to the public. In addition, the Parties agree that the wider public interest would not be satisfied by the imposition of a conditions of practice order due to the very serious nature of the concerns.*

34. The Registrant has not demonstrated remediation for her clinical failings through training and/or supervised safe practise nor has she shown any significant remorse and/or reflection regarding her misconduct. The Parties agree that a suspension order is neither sufficient nor appropriate in this case. Further, the Parties agree that a suspension order is not sufficient to address the wider public interest.

35. In relation to a striking-off order, the Parties agree that the Registrant's conduct is fundamentally incompatible with continued registration. A striking-off order is the necessary and appropriate sanction in this case.

Interim order

36. Finally, the Parties agree that an interim order is required in this case. The order is necessary for the protection of the public and is otherwise in the public interest (for the reasons given above). The order should be for a period of 18 months to guard against the risk to the public in the event that the Registrant seeks to appeal against the substantive order. The interim order should take the form of an interim suspension order.

The Parties understand that this provisional agreement cannot bind 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 and the agreed statement of facts set out above, may be placed before a differently constituted panel that is determining the allegations, provided that it would be relevant and fair to do so.'

Here ends the provisional CPD agreement between the NMC and Ms Rayment. The provisional CPD agreement was signed by Ms Rayment on 8 January 2020 and by the NMC on 7 February 2020.

Decision and reasons on the CPD

The panel decided to accept the CPD.

The panel heard and accepted the legal assessor's advice.

Ms Mohamed told the panel that although Ms Rayment had made full admissions to the facts alleged in the charges, that her actions amounted to misconduct, and that her fitness to practise is currently impaired by reason of that misconduct, she submitted that Ms Rayment has not demonstrated meaningful insight.

Ms Mohamed referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. She reminded the panel that it could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Ms Rayment. 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 Rayment admitted the facts of the charges. Accordingly the panel was satisfied that the charges are found proved by way of Ms Rayment'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 Rayment's fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Ms Rayment, the panel has exercised its own independent judgement in reaching its decision on impairment.

In respect of misconduct, the panel determined that Ms Rayment accepts that the facts, individually and collectively, amount to misconduct. In this respect, the panel endorsed paragraphs 14 to 16 of the provisional CPD agreement in respect of misconduct.

The panel then considered whether Ms Rayment's fitness to practise is currently impaired by reason of misconduct. The panel determined that Ms Rayment's fitness to practise is currently impaired. While Ms Rayment has not provided a reflective statement, by agreeing to the facts alleged in the charges; that she put Patient A at unwarranted risk of harm; that she brought the reputation of the nursing profession into disrepute and that she has breached fundamental tenets of the profession, the panel was of the view that Ms Rayment has demonstrated limited insight into her misconduct.

The panel considered that Ms Rayment has demonstrated no remorse for her misconduct. While the clinical errors in this case are capable of being remedied, Ms Rayment has provided no evidence to the panel that she has attempted to remediate her practice and therefore there is a risk of repetition. In this respect the panel endorsed paragraphs 17 to 27 of the provisional CPD agreement.

Decision and reasons on sanction

Having found Ms Rayment'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:

- Ms Rayment's failings led to a delay in the required emergency care being provided to Patient A which put his life at risk.

The panel also took into account the following mitigating features:

- Ms Rayment's full admissions to the facts alleged in the charges, that her actions amounted to misconduct, and that her fitness to practise is currently impaired by reason of that misconduct. Although her demonstration of insight is not detailed and not accompanied by any remorse and therefore it is limited.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case and would leave the public exposed to an unwarranted risk of harm, given the risk of repetition of the misconduct. 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 Rayment'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 Rayment'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 Rayment'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 that Ms Rayment is no longer practising in the UK. The misconduct identified, albeit that it could be addressed through retraining, there is no evidence that Ms Rayment has done so. Furthermore, the panel concluded that the placing of conditions on Ms Rayment'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 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 Rayment's actions is fundamentally incompatible with Ms Rayment remaining on the register.

Furthermore, Ms Rayment has not demonstrated remediation for her clinical failings through training or supervised safe practise nor has she shown any remorse or reflection regarding her misconduct. 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 Rayment'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 Rayment's actions were serious 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 Rayment'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.

This will be confirmed to Ms Rayment in writing.

Decision and reasons on 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 Ms Rayment's own interest until the striking-off sanction takes effect. 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 substantive striking off order 28 days after Ms Rayment is sent the decision of this hearing in writing.

That concludes this determination.