

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

**Substantive Meeting
Monday 4 September-
Tuesday 5 September 2023**

Virtual Meeting

Name of Registrant: Sandra Rachel Lloyd

NMC PIN 80G0053W

Part(s) of the register: Registered Nurse – Adult (Level 2)
(25 August 1982)

Registered Nurse – Adult (Level 1)
(07 November 1997)

Relevant Location: Caerphilly

Type of case: Conviction

Panel members: Andrew Harvey (Chair, Lay Member)
Sharon Peat (Registrant Member)
Georgina Foster (Lay Member)

Legal Assessor: Paul Hester

Hearings Coordinator: Angela Nkansa-Dwamena

Facts proved: Charge 1

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 the Notice of Meeting had been sent to Ms Lloyd's registered email address by secure email on 31 July 2023.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided the charge particularising the allegation, the time, date and the fact that this meeting would be heard virtually.

In light of all of the information available, the panel was satisfied that Ms Lloyd 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. On 1 July 2022 at Merthyr Tydfil Magistrates' Court, were convicted of theft from the person of another, contrary to section 1(1) and 7 of the Theft Act 1968.

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

Background

The Nursing and Midwifery Council (NMC) received a referral from Cwm Taf Morgannwg University Health Board (the Board) on 15 September 2022, with regards to Ms Lloyd. The charge arose in respect to Ms Lloyd's employment at Ysbyty Ystrad Fawr Hospital (the Hospital) as a registered nurse, which is part of the Aneurin Bevan University Health Board (the Trust).

On 6 September 2022, Ms Lloyd attended Merthyr Tydfil Crown Court for sentencing in respect of a theft charge to which she had pleaded guilty at the Magistrates' Court. She had continued to receive her monthly salary for eight months following her resignation from the Hospital. The money was paid due to NHS administrative errors and was discovered following a payroll audit.

Between 8 November 2020 and 31 July 2021, it is believed that Ms Lloyd received £21,389.68 in gross salary payments. After deductions, the actual sum reportedly received by her totalled £14,218.80. Over the eight-month period, Ms Lloyd neither informed the Trust that she was receiving the money in error, nor did she make any offer to repay the amount. During this time Ms Lloyd was also being paid the salary in her new job and was receiving her NHS pension. The NHS Counter Fraud Authority carried out an investigation and its report stated that as well as identifying the overpayment, it had also found evidence that Ms Lloyd had accessed her payroll records nine times between the dates above. It was said in proceedings that all of the money had been spent.

Ms Lloyd initially refused to reply to questions she was sent by email by a health board investigator and then later told them that she knew she was being overpaid and claimed she had been in contact with the payroll department to inform them of the overpayment. The payroll department stated that there was no record of contact being made by Ms Lloyd as when this happens a unique reference is generated. No unique reference for Ms Lloyd could be found.

Ms Lloyd pleaded guilty to theft in Court and was sentenced to an eight-month prison sentence, suspended for 12 months. She was ordered to carry out 100 hours of unpaid work (community service) and repay the overpaid amount along with a fine and costs totalling £1200.

Decision and reasons on facts

The panel accepted the advice of the legal assessor.

The sole charge concerns Ms Lloyd's conviction. The panel was provided with a copy of the certificate of conviction certified by a competent officer of the Court, dated 25 October

2022. The panel noted that the certificate of conviction clearly states that Ms Lloyd pleaded guilty to and was convicted of Theft from the Person of another, contrary to section 1(1) and 7 of the Theft Act 1968 on 1 July 2022. The panel also had sight of the transcript of the Judge's sentencing remarks dated 6 September 2022.

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) of the Rules. 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 that Ms Lloyd did not submit her Case Management Form (CMF). However, it noted that Ms Lloyd did respond to a Regulatory Concerns Response Form, which is undated. In this form, Ms Lloyd accepts the regulatory concern. The panel bore in mind that this form outlines the initial regulatory concern, which is different from the charge before the panel. The legal assessor reminded the panel that Ms Lloyd's acceptance of the regulatory concern does not constitute an admission to Charge 1. The panel also noted that Ms Lloyd reported her conviction to the NMC.

The panel finds Charge 1 proved in its entirety, by way of Ms Lloyd's criminal conviction and Rule 31 (2) of the Rules.

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, Ms Lloyd'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 requires the panel to bear in mind its overarching objective to protect the public and the wider public interest. This includes 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 referred to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) and *Cohen v GMC* [2015] EWHC 581 (Admin).

The panel took into account of the NMC's submissions with regards to impairment. The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council (No 2)* [2000] 1 A.C. 311, *Nandi v GMC* [2004] EWHC 2317 (Admin), *GMC v Meadow* [2007] QB 462 (Admin), *Grant* and *Cohen*.

Decision and reasons on impairment

The panel next went on to decide if as a result of the conviction, Ms Lloyd'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. 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/their fitness to practise is impaired in the sense that S/He/They:

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

The panel determined that limbs b, c and d are engaged in this case when looking at Ms Lloyd's past conduct. The panel acceded to the NMC's submission that limb a was not engaged, in the past, as Ms Lloyd's conviction and Charge 1 did not directly relate to patient care and there was no actual patient harm. However, the panel considered that although Ms Lloyd's dishonesty did not directly involve patients, theft of NHS funds could put patients at risk of harm by depriving the NHS of much needed resources. However, the panel noted that there is no evidence before it to suggest that Ms Lloyd's actions directly impacted patients. The panel was of the view that Ms Lloyd had brought the reputation of the nursing profession into disrepute and her actions were considered so disreputable that

they resulted in a criminal charge and conviction. The panel found that Ms Lloyd's actions had breached the fundamental tenets of the nursing profession as there were numerous breaches of the Code, specifically:

'Promote professionalism and trust

You uphold the reputation of your profession at all times. You should display a personal commitment to the standards of practice and behaviour set out in the Code. You should be a model of integrity and leadership for others to aspire to. This should lead to trust and confidence in the professions from patients, people receiving care, other health and care professionals and the public.

20 Uphold the reputation of your professional at all times

To achieve this, you must:

20.1 *keep to and uphold the standards and values set out in the Code*

20.2 *act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment*

...

20.4 *keep to the laws of the country in which you are practising*

...

21 Uphold your position as a registered nurse, midwife or nursing associate

To achieve this, you must:

...

21.3 *act with honesty and integrity in any financial dealings you have with everyone you have a professional relationship with, including people in your care*

...'

In addition, the panel was of the view that Ms Lloyd's behaviour was a serious departure from the standards expected of a registered nurse and considered that her lack of honesty is fundamentally incompatible with being a registered nurse, as nurses are expected to act with honesty and integrity. The panel was of the view that it is likely that Ms Lloyd would be liable to repeat this behaviour in the future, as there has been no evidence of insight from

Ms Lloyd as she still continues to state this happened due to an admin issue with the payroll department and has not accepted responsibility for her actions. The panel noted that once Ms Lloyd had received the money, she could have put it to one side until the issue was resolved however, there is evidence that Ms Lloyd accessed the money and spent it. The panel acknowledged that the Court, by imposing a custodial sentence, considered Ms Lloyd's behaviour as extremely serious.

The panel also acknowledged that members of the public would be concerned to learn of Ms Lloyd's conviction for theft and the panel was satisfied that confidence in the nursing profession would be undermined if its regulator, the NMC, did not find Ms Lloyd's theft, conviction and dishonesty extremely serious.

The panel was aware that this is a forward-looking exercise, and accordingly it went on to consider whether Ms Lloyd's behaviour was remediable and whether it had been remediated.

The panel had regard to the case of *Cohen* and considered whether Ms Lloyd's behaviour and dishonesty were capable of remediation. The panel noted that in some cases, the behaviour can be remediated.

The panel had regard to an email from Ms Lloyd dated 13 April 2023, which states:

'I wont [sic] ever be able to work as a nurse again and that is punishment enough it will haunt me to my death. I will never be able to forgive my self [sic] for the whole incident and I regret not being able at the time to make the appropriate decisions and take more forceful actions.'

The panel also had regard to the Judge's sentencing remarks on 6 September 2022, which states:

'I am sure nothing like this will happen again.'

The panel noted that Ms Lloyd, at the Crown Court, had expressed some remorse with regards to her actions and has had references (before the Court, but not this panel) that

have referred to her as 'a good nurse' with over 40 years of unblemished service. However, the panel was concerned about Ms Lloyd's attitudinal issues. Not only had she repeatedly received money that she knew was not owed to her, but she also did not seek to contact the relevant departments to try to rectify this issue and instead spent the money. Additionally, when confronted about the issue, Ms Lloyd sought to blame others. The panel was of the view that even though Ms Lloyd's clinical practice has never been called into question, her conduct and dishonesty is of significant concern and she has not demonstrated any insight or understanding into her actions or their consequences. The panel determined that Ms Lloyd's behaviour was so serious in this regard that it could not easily be remediated.

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

Regarding insight, the panel considered that there was limited information before it to demonstrate Ms Lloyd's insight. Although Ms Lloyd had expressed some remorse, the panel noted that Ms Lloyd has gone no further, such as providing a written reflective piece, to demonstrate further insight or how she would handle this situation if it were to arise again. The panel took into account that Ms Lloyd still has not accepted responsibility for her actions and continues to state that she was not at fault but rather, that the admin error was the fault of the payroll department. The panel also acknowledged that Ms Lloyd previously stated that her actions were as a result of working during the difficult period of the COVID-19 pandemic and [PRIVATE]. The panel noted that Ms Lloyd has not presented [PRIVATE] to support this despite being invited to by the NMC. The panel is of the view that there is a risk of repetition based on the fact that Ms Lloyd has not acknowledged the seriousness of her offence or accepted responsibility for her actions.

The panel bore in mind that the overarching objective of the NMC is to protect, promote and maintain the health safety and well-being of the public and patients. The public interest also includes 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.

The panel considered whether there were matters of public protection that were engaged by the charge proven and Ms Lloyd's actions. It noted that the theft took place in the narrow confine of her payment by her employer and did not relate to matters which involved any dealing by her with patients, their families or the public. Given that the dishonesty arose solely in relation to her salary payment and did not involve any element of the public, the panel decided that there is a succinct difference so as to determine that public protection issues are not sufficiently engaged in Ms Lloyd's case for it to find impairment on the public protection ground.

The panel determined that a finding of impairment on public interest grounds alone is required as a member of the public and other members of the nursing profession would find Ms Lloyd's behaviour unacceptable. In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment was not made in this case.

Having regard to all of the above, the panel was satisfied that Ms Lloyd'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 Ms Lloyd off the register. The effect of this order is that the NMC register will show that Ms Lloyd 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.

The panel took into account of the NMC's submissions with regards to sanction.

Decision and reasons on sanction

Having found Ms Lloyd'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:

- Lack of insight
- Ms Lloyd's limited remorse for the consequences of her actions
- Theft from the NHS, a publicly funded service.
- Ms Lloyd still seeking to apportion blame on the payroll department
- A pattern of behaviour which occurred over a period of time (eight months)
- Breach of trust

The panel also took into account the following mitigating features:

- Full repayment of the overpaid amount
- Guilty plea to the charge in the Magistrates' Court

The panel noted that Ms Lloyd has made representations about [PRIVATE] in her response to the NMC. However, she has not provided the panel with [PRIVATE]. The panel noted that the sentencing Judge did take into account Ms Lloyd's [PRIVATE]. The panel noted the sentencing Judge's remarks in relation [PRIVATE] and took those into account but decided that, in the absence of any independent evidence, not to take this into account as a mitigating feature.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the serious nature of the charge proved. 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 serious nature of Ms Lloyd's conviction, an order that does not restrict Ms Lloyd'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 Lloyd's behaviour was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the serious nature of this case as it would not mark its seriousness or enhance the reputation of the nursing profession. 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 Lloyd's registration would be a sufficient and appropriate response. The panel noted that a conditions of practice order is typically imposed in cases where the regulatory concerns can be remediated by a registrant's strengthened clinical practice through learning and retraining. However, the panel determined that, in Ms Lloyd's case, the conviction relates to a behavioural and attitudinal problem which cannot be addressed by a conditions of practice order. The panel was of the view that there are no practical or workable conditions that could be formulated and that, given the nature of the conviction and charge in this case, Ms Lloyd's behaviour cannot be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Ms Lloyd's registration would not adequately address the seriousness of this case.

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 panel initially considered that Ms Lloyd has had over 40 years of an unblemished career and appears to be in good standing with her employer, colleagues and the health board. The panel also noted that there have been no reported concerns with her clinical practice and the Judge remarked that it was

unlikely that Ms Lloyd would repeat her actions. However, the panel considered her conduct, highlighted by the facts of the conviction, as a significant departure from the standards expected of a registered nurse. The panel considered that Ms Lloyd's actions were not a single event and occurred over a period of eight months. The panel noted that there was no evidence of any insight from Ms Lloyd and a suspension order in this case, which involves theft and dishonesty, would not sufficiently mark the seriousness of this case or the public interest. The panel also acknowledged that there is evidence of harmful deep-seated personality or attitudinal problems, clearly demonstrated by Ms Lloyd's actions and her attempts to blame others. The panel was of the view that suspending Ms Lloyd's practice for a period of time may not change her attitudes and behaviour and a well-informed member of the public would be concerned if a nurse convicted of theft was able to return to the register. The panel considered the Judge's remarks and determined that although this specific type of theft may not occur again, opportunistic theft may present in another way, for example, if Ms Lloyd were to attend a patient's home unaccompanied or in similar situations.

The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Ms Lloyd's actions is fundamentally incompatible with Ms Lloyd 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 Lloyd's actions were a significant departure from the standards expected of a registered nurse and breached the fundamental tenets of the nursing profession as there were numerous breaches of the Code. The panel was also of the view that her proven actions 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 Lloyd'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 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 Ms Lloyd's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves, the panel has concluded that nothing short of this would be sufficient in this case.

The panel considered that this was the only sanction that would mark the importance of maintaining public confidence in the profession, and 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 Lloyd in writing.

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 Lloyd's own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

The panel took account of the submissions made by the NMC with regards to an interim order.

Decision and reasons on interim order

The panel acceded to the NMC's submissions and 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 fact 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 determined that the charge found proved was serious enough to warrant a striking off order therefore, Ms Lloyd should be restricted from practice during the appeal period.

The panel has therefore imposed an interim suspension order for a period of 18 months to allow for the possibility of an appeal to be made and determined.

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

That concludes this determination.