

Nursing and Midwifery Council
Fitness to Practise Committee
Substantive Hearing
24 - 25 April 2019

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

Name of registrant:	Katie Corrigan
NMC PIN:	09E0115E
Part(s) of the register:	Registered Adult Nurse (31 August 2009)
Area of Registered Address:	England
Type of Case:	Misconduct
Panel Members:	John Hamilton (Chair, lay member) Allison Hume (Registrant member) Patricia Breslin (Lay member)
Legal Assessor:	Nicholas Wilcox
Panel Secretary:	Kelly O'Brien
Registrant:	Ms Corrigan not present and not represented in absence
Nursing and Midwifery Council:	Represented by Matthew Cassells, Case Presenter, NMC Legal Team
Facts proved:	All
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim Order:	Interim suspension order (18 months)

Details of charge

That you, a registered nurse, on 5 October 2018 were convicted of:

- 1. Between 30/07/17 and 14/11/17 made an article, namely a false prescription, knowing that it was designed or adapted for use in the course of or in connection with fraud contrary to section 7 of the Fraud Act 2006.*
- 2. Between 09/10/17 and 16/11/17 made a false representation, namely that a prescription handed over was properly completed by a doctor, intending to make a gain for yourself contrary to sections 1 and 2 of the Fraud Act 2006.*
- 3. On 25/11/17 made a false representation, namely that a prescription handed over was properly completed by a doctor, intending to make a gain for yourself contrary to sections 1 and 2 of the Fraud Act 2006.*

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

Decision on service of notice of hearing

The panel was informed at the start of this hearing that Ms Corrigan was not in attendance and that written notice of this hearing had been sent to Ms Corrigan's registered address by recorded delivery and by first class post on 19 March 2019. Royal Mail Track and Trace documentation confirmed that an attempt was made to deliver notice of this hearing on 19 March 2019 but it was not signed for as "there didn't seem to be anyone in".

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

Mr Cassells submitted the NMC 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 Corrigan had been served with notice of this hearing in accordance with the requirements of Rules 11 and 34. It noted that the rules do not require delivery and that it is the responsibility of any registrant to maintain an effective and up-to-date registered address.

Decision on proceeding in the absence of the Registrant

The panel next considered whether it should proceed in the absence of Ms Corrigan.

The panel had regard to Rule 21 (2) states:

- (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.

Mr Cassells invited the panel to continue in the absence of Ms Corrigan on the basis that she had voluntarily absented herself. Mr Cassells submitted that there had been no real engagement by Ms Corrigan with the NMC in relation to these proceedings, despite extensive efforts by the NMC to engage with her. He submitted that the various attempts from the NMC to engage with Ms Corrigan via email, letter, and telephone between January 2019 and April 2019 have gone unanswered. As a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor which included reference to the case of *GMC v Adeogba* [2016] EWCA Civ 162 and *Sanusi v General Medical Council* [2018] EWHC 1388 (Admin).

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised “with the utmost care and caution” as referred to in the case of *R. v Jones (Anthony William)*, (No.2) [2002] UKHL 5.

The panel noted the NMC's attempts to engage with Ms Corrigan via email, letter, and telephone between January 2019 and April 2019. Each of these attempts to contact Ms Corrigan went unanswered.

The NMC produced evidence from a tracing and information agency that confirmed Ms Corrigan remained at the address she had provided and there were no alternative addresses for her.

The panel had regard to the correspondence from Ms Corrigan to the NMC dated 11 November 2018 in which she provided a detailed supporting statement. The panel noted that this is the only engagement from Ms Corrigan regarding this case available to it.

The panel decided to proceed in the absence of Ms Corrigan. In reaching this decision, the panel considered the submissions of the case presenter, and the advice of the legal assessor. It had particular regard to the factors set out in the decision of *Jones*. It had regard to the overall interests of justice and fairness to all parties. It noted that:

- no application for an adjournment has been made by Ms Corrigan;
- Ms Corrigan has not engaged with the NMC and has not responded to any of the letters sent to her about this hearing;
- there is no reason to suppose that adjourning would secure her attendance at some future date;
- the charges relate to events that occurred in 2017;
- there is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Ms Corrigan in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered address, she has made no response to the allegations. She will not be able to challenge the evidence relied upon by the NMC and will not be able to give evidence on her own behalf. However, in the panel's judgment, this can be mitigated. The panel has been

provided with a copy of Ms Corrigan's supporting statement dated 1 November 2018. It can make allowance for the fact that the NMC's evidence will not be tested and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Ms Corrigan's decision to absent herself from the hearing, waive her rights to attend and/or be represented and not to provide evidence or make submissions on her own behalf.

In these circumstances, the panel decided that it was fair, appropriate and proportionate to proceed in the absence of Ms Corrigan. The panel will draw no adverse inference from Ms Corrigan's absence in its findings of fact.

Decision and reasons on application under Rule 19

Mr Cassells indicated that proper exploration of this case may involve reference to Ms Corrigan's health and requested that such parts of the hearing should be heard in private. The application was made pursuant to Rule 19 of the Rules.

The legal assessor reminded the panel that while Rule 19 (1) provides, as a starting point, that hearings shall be conducted in public, Rule 19 (3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

Rule 19 states

19.—(1) Subject to paragraphs (2) and (3) below, hearings shall be conducted in public.

(2) Subject to paragraph (2A), a hearing before the Fitness to Practise Committee which relates solely to an allegation concerning the registrant's physical or mental health must be conducted in private.

(2A) All or part of the hearing referred to in paragraph (2) may be held in public where the Fitness to Practise Committee—

(a) having given the parties, and any third party whom the Committee considers it appropriate to hear, an opportunity to make representations; and

(b) having obtained the advice of the legal assessor, is satisfied that the public interest or the interests of any third party outweigh the need to protect the privacy or confidentiality of the registrant.

- (3) Hearings other than those referred to in paragraph (2) above may be held, wholly or partly, in private if the Committee is satisfied—
 - (a) having given the parties, and any third party from whom the Committee considers it appropriate to hear, an opportunity to make representations; and
 - (b) having obtained the advice of the legal assessor, that this is justified (and outweighs any prejudice) by the interests of any party or of any third party (including a complainant, witness or patient) or by the public interest.
- (4) In this rule, “in private” means conducted in the presence of every party and any person representing a party, but otherwise excluding the public.

Having heard that there will be reference to Ms Corrigan’s health, the panel determined to hold such parts of the hearing in private. The panel determined to rule on whether or not to go into private session in connection with Ms Corrigan’s health as and when such issues are raised.

Background

The charges arose whilst Ms Corrigan was employed as a Registered Nurse by Penalverne Surgery between 7 July 2017 and 27 November 2017. In July 2017 Penalverne Surgery and Morrab Surgery merged. Following the merger of the two surgeries Ms Corrigan was not directly employed by Morrab Surgery but continued to work there.

Ms Corrigan was referred to the NMC on 20 January 2018 by the General Practitioner (GP) Partner at Morrab Surgery. The referrer stated that on 27 November 2017 she received a call from a Boots pharmacist in Hayle, Cornwall, querying a prescription they were concerned about. It appeared that the patient prescription was made out for more medication than was necessary.

On reviewing the surgery records it appeared that a large number of false prescriptions were made out between 7 July 2017 and 24 November 2017.

Prescriptions are created within the Surgery using the computer system and by authorised persons who have to use their account with their own login. The Surgery Manager correlated whose account the prescriptions were created from and then which of those persons were working at the time they were created. From this he identified Ms Corrigan as the most likely suspect.

On 16 January 2018 the Police searched Ms Corrigan's home and found a bottle of Morphine Sulphate not prescribed to Ms Corrigan. Later that evening Ms Corrigan's husband handed the police prescriptions which he said he had located in the house he shared with Ms Corrigan.

On 24 January 2018 Ms Corrigan was interviewed by the police. A full Police investigation was carried out and she was subsequently reported to the Crown Prosecution Service.

On 5 October 2019 Ms Corrigan appeared at Truro Crown Court and was found guilty of two counts of fraud and one count of forgery. Sentencing was carried out on 10 October 2018 and Ms Corrigan received a 10 month custodial sentence suspended for 18 months.

Decision on the findings on facts and reasons

The charges concern Ms Corrigan's convictions 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) of the Rules which states:

- (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.

Submission and decision on impairment

The panel considered if, as a result of this conviction, Ms Corrigan's fitness to practise is currently impaired.

Mr Cassells submitted that Ms Corrigan as a registered nurse had privileged access to controlled medication and had abused this trust breaching fundamental tenets relating to medication management and integrity. He submitted that the theft of medications was conducted on a large scale and involved a series of dishonest representations.

Mr Cassells submitted that Ms Corrigan has not engaged with the NMC in relation to this hearing in any real sense. He submitted that Ms Corrigan has not provided any evidence of remediation, other than her unsubstantiated explanation that she was unwell at the time. He submitted that there is no evidence to support the conclusion that Ms Corrigan is now well and no longer likely to repeat matters of the kind found proved.

Mr Cassells submitted that Ms Corrigan has been convicted of serious crimes which are inextricably bound up with her professional role as a nurse, and which have the potential to damage the reputation of the profession. He invited the panel to find that Ms Corrigan'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 judgement of Mrs Justice Cox in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) 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.”

Mrs Justice Cox went on to say in Paragraph 76:

“I would also add the following observations in this case...as to the helpful and comprehensive approach to determining this issue formulated by Dame Janet Smith in her Fifth Report from Shipman, referred to above. At paragraph 25.67 she identified the following as an appropriate test for panels considering impairment of a doctor’s fitness to practise, but in my view the test would be equally applicable to other practitioners governed by different regulatory schemes.

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. has in the past acted dishonestly and/or is liable to act dishonestly in the future.”

The panel found that all four limbs of Grant were engaged.

The panel found that this case involves serious and criminal dishonesty related to Ms Corrigan’s privileged role as a registered nurse. The panel considered that the Ms Corrigan misappropriated a large quantity of medications which amounts to hundreds of tablets and in some cases (for example Diazepam) thousands of tablets. Although the panel considered that the sheer amount of the medication taken suggests some form of distribution, the panel did not have any evidence to substantiate this. The panel had regard to Ms Corrigan’s supporting statement dated 1 November 2018 which states that the tablets were all taken for personal use, and in the absence of any evidence to the contrary, the panel accepted this.

Regarding insight, the panel considered Ms Corrigan’s supporting statement dated 1 November 2018. Ms Corrigan apologised for her actions and provided an explanation for why, in her view, she abused her position of trust in this way. [PRIVATE] However, the panel considered that Ms Corrigan’s reflection sought to rationalise her actions, and deflect some of the blame onto others such as her management team. The panel found that Ms Corrigan did not appear to accept and appreciate the gravity of her criminal offences, the risk of harm to patients, and the potential damage to the reputation of the profession.

The panel considered that dishonesty by its very nature can be difficult to remediate, and Ms Corrigan’s dishonesty which resulted in criminal convictions is particularly serious. Ms Corrigan abused her position of trust as a nurse with access to patient records and prescriptions for her own personal benefit. Furthermore the theft and

forgery occurred over a sustained period of time between 7 July 2017 and 27 November 2017. They were premeditated and the panel had no doubt that Ms Corrigan knew what she was doing was wrong. The panel had no evidence of any remediation before it. The panel concluded that the seriousness of Ms Corrigan's dishonesty, taken together with her lack of considered reflection and any evidence of remediation, suggests deep-seated attitudinal issues.

The panel found that writing dishonest prescriptions and attributing these to patients who did not take these tablets placed those patients at an unwarranted risk of harm. These patients' medical records were falsified and no longer accurate. Furthermore, the panel has accepted that Ms Corrigan was taking the medication for personal use, and accordingly she would have been attending to patients under the influence of a large quantity of drugs. The panel has no medical evidence of Ms Corrigan's current health, despite the NMC requests for medical examination. The panel considered that there is no evidence to demonstrate that the risks identified have diminished, and accordingly the panel is of the view that there is a high risk of repetition. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel found that Ms Corrigan has in the past breached, and due to her lack of insight, and remediation, could be liable in the future to breach fundamental tenets of the profession. Ms Corrigan in committing the crimes of theft and forgery through the abuse of her position of trust, did not keep to the laws of the country or act with honesty and integrity which breached paragraphs 20.1, 20.2, and 20.4 of *The Code: Professional standards of practice and behaviour for nurses and midwives (2015)* (the Code).

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. The panel determined that, in

this case, a finding of impairment on both grounds was required. The panel determined that the public would be shocked and appalled by the actions of Ms Corrigan, and her actions have brought the profession into disrepute. Any other finding would undermine public confidence in the profession, and the NMC as its regulator.

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

Submissions and determination on sanction

In his submissions on sanction, Mr Cassells invited the panel to impose a striking-off order. Mr Cassells outlined what the NMC considered to be the aggravating and mitigating features of this case, and submitted that, because of the seriousness of the facts underlying Ms Corrigan's conviction, the only sanction that would suitably satisfy the public interest would be to permanently remove Ms Corrigan's name from the register.

In reaching its decision, the panel had regard to all the evidence that has been adduced in this case. The panel accepted the advice of the legal assessor. The panel bore 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 Sanctions Guidance published by the NMC. It recognised that the decision on sanction is a matter for the panel, exercising its own independent judgement.

Before making its determination on sanction, the panel had regard to the aggravating and mitigating features in this case.

The panel considered the aggravating features to be:

- Ms Corrigan's misconduct took place over several months and involved repeated and sophisticated dishonesty
- Ms Corrigan abused the trust of the Surgery, their patients, and her colleagues in order to satisfy her own perceived needs
- Ms Corrigan put patients at risk of harm by causing inaccurate information to be placed on patients medical records, and risk of harm when treating patients whilst taking large quantities of medication not prescribed for her
- Ms Corrigan has shown a lack of engagement with the regulatory process
- Ms Corrigan has shown insufficient insight, remorse and remediation

The panel considered the mitigating features of this case. The panel had regard to Ms Corrigan's supporting statement dated 1 November 2018 which states that she suffers with a health condition [PRIVATE]. However, the panel also considered that it did not have any independent or other evidence to support her claim or to show how her personal circumstances impacted on or caused her dishonest behaviour. It noted Ms Corrigan had been given a fair opportunity to provide such evidence. Accordingly, the panel was of the view it could only give very limited weight to the claim made by Ms Corrigan in her supporting statement.

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

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.

Next, in considering whether a caution order would be appropriate in the circumstances, the panel took into account the Sanctions Guidance (SG), which 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 Corrigan's conduct that led to her conviction 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 was mindful that any conditions imposed must be proportionate, measurable and workable. However, the panel considered that Ms Corrigan's dishonest actions are not something that can be addressed through retraining. The panel bore in mind that Ms Corrigan has not engaged with her regulator since November 2018, and therefore found

that conditions of practice may not be workable. Further, the panel considered that the placing of conditions on Ms Corrigan's nursing registration would not adequately protect the public, address the seriousness of this case, nor uphold the wider public interest. Therefore, the panel determined that a conditions of practice order would not be the appropriate or proportionate sanction.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The panel had regard to the SG and found the following factors were relevant to this case:

- This was not a single instance of misconduct
- There is evidence of harmful deep-seated personality or attitudinal problems
- Ms Corrigan has not demonstrated any adequate insight, remorse or remediation
- The panel has found that there is a high risk of Ms Corrigan repeating the behaviour

Ms Corrigan's conduct, was a significant departure from the standards expected of a registered nurse. The panel found that the serious breach of the fundamental tenets of the profession evidenced by Ms Corrigan's actions is fundamentally incompatible with her remaining on the register. Balancing all of these factors, the panel has determined that a suspension order would not be an appropriate or proportionate sanction.

Finally, in looking at a striking-off order, the panel took note of the following from 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?

The panel considered the seriousness of the dishonesty in this case. The panel had regard to the SG and found that the following features indicating seriousness were engaged in this case:

- misuse of power
- breach of trust
- direct risk to patients
- premeditated, systematic deception

Accordingly, the panel concluded that Ms Corrigan's dishonesty was at the most serious end of the spectrum of dishonesty.

The panel was of the view that the findings in this particular case demonstrate that Ms Corrigan's actions were so deplorable that to allow Ms Corrigan to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body. The panel considers that Ms Corrigan's actions are fundamentally incompatible with her remaining on the register. The panel also considered that Ms Corrigan is still serving to a criminal sentence (albeit suspended) and the public would be extremely concerned to know that a registrant who was serving a sentence was entitled to practise in any capacity.

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 Corrigan'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.

Determination on interim order

The panel considered the submissions made by Mr Cassells that an interim order should be made on the grounds that it is necessary for the protection of the public and is otherwise in the public interest.

The panel accepted the advice of the legal assessor.

The panel was satisfied that an interim suspension 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. To do otherwise would be incompatible with its earlier findings.

The period of this order is for 18 months to allow for the possibility of an appeal to be made and determined.

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

That concludes this determination.