

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

**Substantive Hearing**

**18 April 2019**

Nursing and Midwifery Council, Temple Court, 13a, Cathedral Road, Cardiff, CF11 9HA

**Name of registrant:** Nicola Anne Bartlett

**NMC PIN:** 02I0610W

**Part(s) of the register:** Adult nurse (28 September 2005)

**Area of Registered Address:** England

**Type of Case:** Conviction

**Panel Members:** Robert Barnwell (Chair, Lay member)  
Tracey Jary (Registrant member)  
Natasha Duke (Registrant member)

**Legal Assessor:** Stuart McLeese

**Mrs Bartlett:** Not present nor represented (CPD agreement)

**Nursing and Midwifery Council:** Represented by Sylvia McLean, NMC Legal Team.

**Panel Secretary:** Kelly O'Brien

**Consensual Panel Determination:** **Accepted**

**Facts proved by admission:** **All**

**Fitness to practise:** **Impaired**

**Sanction:** **Striking-off Order**

**Interim Order:** **Interim Suspension order – 18 months**

## **Details of charge**

*That you, a registered nurse:*

1. *On 17 January 2018 were convicted in the Cardiff Crown Court of Conspiracy to Defraud, contrary to Common Law.*

*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 Mrs Bartlett was not in attendance and that written notice of this hearing had been sent to her registered address by recorded delivery and by first class post on 5 March 2019. Royal Mail “Track and Trace” documentation confirmed that the notice of hearing was signed for on 6 March 2019.

The panel took into account that the notice letter provided details of the allegation, the time, date and venue of the hearing and, amongst other things, information about Mrs Bartlett’s right to attend, be represented and call evidence, as well as the panel’s power to proceed in her absence. Mr McLean 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 Mrs Barlett had been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

## **Decision on proceeding in the absence of the Registrant**

The panel next considered whether it should proceed in the absence of Mrs Barlett.

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.

Ms McLean invited the panel to continue in the absence of Mrs Barlett on the basis that she had voluntarily absented herself, and there was therefore no reason to believe that an adjournment would secure her attendance on a future occasion. She drew the panel's attention to the Consensual Panel Determination document which states *"Mrs Bartlett is aware of the CPD hearing. Mrs Bartlett does not intend to attend the hearing and is content for it to proceed in her and her representative's absence. Mrs Bartlett's representative will endeavour to be available by telephone should clarification on any point contained within this agreement be required."*

The panel accepted the advice of the legal assessor which included reference to the case of *R. v Jones (Anthony William), (No.2) [2002] UKHL 5*. The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is one that should be exercised *"with the utmost care and caution"*.

With the above in mind, and having weighed the interests of Mrs Bartlett with those of the NMC and the public interest in an expeditious disposal of this hearing, the panel has determined that it is fair, appropriate and proportionate to proceed in the absence of Mrs Bartlett. It was satisfied that she had voluntarily absented herself and consented to the hearing proceeding in her absence.

## **Consensual panel determination**

At the outset of this hearing, the panel was provided with a provisional agreement of a consensual panel determination (the “CPD agreement”) which had been reached with regard to this case between the NMC and Mrs Bartlett.

The agreement sets out Mrs Bartlett’s admissions to the facts alleged in the charges and that her fitness to practise is currently impaired by reason of her conviction. It is further stated in the agreement that an appropriate sanction in this case would be that of a striking-off order.

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

That provisional agreement reads as follows:

Mrs Bartlett is aware of the CPD hearing. Mrs Bartlett does not intend to attend the hearing and is content for it to proceed in her and her representative’s absence. Mrs Bartlett’s representative will endeavour to be available by telephone should clarification on any point contained within this agreement be required.

The Nursing and Midwifery Council and Mrs Nicola Anne Bartlett, PIN 02I0610W (‘the parties’) agree as follows:

### The Charge

1. Mrs Bartlett (‘the Registrant’) admits the following charge:

*That you, a registered nurse:*

2. *On 17 January 2018 were convicted in the Cardiff Crown Court of Conspiracy to Defraud, contrary to Common Law.*

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

### The Facts

3. The facts of this case are agreed as follows:
4. The Registrant qualified as a Registered General Nurse in October 2005 and from that date until her dismissal for gross misconduct in August 2016 was employed by Aneurin Bevan Health Board. The Registrant worked as an RGN in the Accident and Emergency Department at the Royal Gwent hospital from 2005 until 2011 when she qualified as an Emergency Nurse Practitioner (ENP) and was transferred to the Minor Injuries Unit at Ysbyty Ystrad Fawr Hospital. At the time of her conviction, the Registrant was employed as a Band 7 ENP.
5. The facts behind the offence of which the Registrant was convicted were that she was engaged with a number of other people in a 'crash for cash' motor vehicle insurance fraud in which supposed victims of car crashes conspired to defraud insurance companies in respect of claims for vehicle damage and personal injury arising from fictitious road traffic collisions.
6. The Registrant's involvement in the fraud related to an accident which was alleged to have taken place on 2 June 2012 but which did not in fact occur. Following the alleged accident a number of claims were made, including claims for personal injury by a number of alleged passengers, including the Registrant's father. The Registrant treated her father on 8 June 2012, when he presented at hospital for alleged injuries sustained in the supposed accident, and made medical notes relating to her father's alleged injuries.

7. When the Registrant was interviewed by the police she claimed to have thought that she was treating her father following a genuine road traffic accident. She was subsequently charged with conspiracy to defraud, and pleaded not guilty. The matter proceeded to a Crown Court trial; the prosecution's opening trial remarks, setting out more fully the Registrant and other parties' involvement, can be found at appendix 1 of this CPD agreement.
8. The Registrant was found guilty of her role in the fraud (appendix 2 – certificate of conviction). Upon sentencing the Registrant to an immediate custodial sentence, the judge stated (appendix 3 – sentencing remarks):

*Nicola Bartlett, there was no crash, something which you well knew. There were no injuries to be recorded. This was a scheme which you played an active role in with your thoroughly dishonest brother and father. It is a severely aggravating feature of your case that you used your trusted position as a nurse to further a fraudulent claim. You like to portray yourself as above this sort of grubby fraud, you are not. You are to be commended for that which you have achieved in work but you share some of the dishonesty and much of the arrogance of others in the family when you were so quick to distance yourself from them and you have cast yourself again, equally unconvincingly, as the hapless victim of coincidence.*

9. The Registrant has attempted to appeal her conviction, but has been unsuccessful in obtaining permission to appeal. She has now exhausted all avenues open to her.
10. This was not the Registrant's first involvement, with her family, in a 'cash for crash' scheme, or her first conviction as a result. The Registrant was previously convicted, again following a Crown Court trial in which she pleaded not guilty, of one count of conspiracy to defraud at Cardiff Crown Court in December 2015, and on 29 January 2016 was sentenced to nine months' imprisonment suspended for two years and a requirement that she undertake 250 hours of unpaid work. That conviction arose out of a fraudulent insurance claim the Registrant made following another fictitious

collision alleged to have occurred on 19 February 2010. This earlier conviction was the subject of previous regulatory proceedings and the Registrant is currently subject to a substantive order of suspension in relation to that matter (appendix 4 – previous panel determination).

### Impairment

11. The Registrant accepts that her fitness to practise is impaired as a result of her conviction.

12. The Registrant accepts that the conduct which gave rise to her conviction for conspiracy to defraud amounted to a breach of the following aspects of the NMC's 'Code of Professional standards of practice and behaviour for nurses and midwives' (March 2015):

Point 20: Uphold the reputation of your profession at all times;

Point 20.2: Act with honesty and integrity at all times;

Point 20.4: Keep to the laws of the country in which you are practising.

13. The Registrant accepts that the conduct which gave rise to her conviction was and would be considered deplorable by the public and her fellow professionals. The Registrant accepts that as a registered nurse she is in a position of trust and that her actions have deeply undermined that trust and further undermined the reputation of the profession. Not only has the Registrant been convicted of a serious criminal offence which involved significant dishonesty on her part, she has exploited her privileged and trusted position as a registered nurse in order to further a fraudulent claim. Consequently, the parties agree that the Registrant's conduct fell significantly below the standards expected of a registered nurse.

14. The parties further agree that, having regard to the principles relating to impairment expressed by Dame Janet Smith in her Fifth Shipman Report, the Registrant's conviction for a serious criminal offence involving significant dishonesty demonstrates that the Registrant:

- Has in the past brought the profession into disrepute;
- Has in the past breached one of the fundamental tenets of the profession;
- Has in the past acted dishonestly.

15. The parties acknowledge that the conduct which gave rise to the conviction was not an isolated event, but was rather the repetition of similar conduct two years previously and which also led to a criminal conviction and regulatory sanction. The parties acknowledge that this demonstrates that there is a risk of this behaviour being repeated in the future.

16. The Registrant has offered no explanation to the NMC for her actions and has provided no evidence of any remorse or understanding of the impact that her further conduct has had on the reputation of her profession, save for her acceptance that this is a matter where a striking-off order is appropriate. There is nothing upon which the panel could be satisfied that the Registrant is not liable in the future to bring the profession into disrepute, breach one of the fundamental tenets of the profession or to act dishonestly. It is also noted that whilst the Registrant provided a reflective piece in relation to her previous regulatory proceedings (appendix 5), and that on the basis of that reflection it was agreed that a period of suspension, rather than a striking-off order, would be appropriate, that piece was itself written at a time when she must have known that she had committed other offences, but at that stage had not been charged with them.

17. The parties further agree that the public has the right to expect that nurses will uphold the laws of the country in which they practise and that they will uphold the principles of honesty and integrity at all times. Even if there was no risk of this

behaviour being repeated, the parties agree that the serious and dishonest nature of the offence of which the Registrant was convicted is such that a finding of impairment is necessary to mark this case and to maintain public confidence in the profession and the NMC as a regulator.

18. For the reasons set out above, the parties agree that the serious nature of the offence of which the Registrant was convicted is such that a finding of impairment is required to maintain public confidence in the profession and the NMC as a regulator and to declare and uphold proper standards of conduct and behaviour.

### Sanction

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

20. The parties agree that the following aggravating factors are applicable in this case:

- The dishonest nature of the offence of which the Registrant was convicted.
- The fact that this is the second offence of this nature.
- The Registrant's abuse of her position of trust as a registered nurse.
- The Registrant's conduct was, in that respect, related to her clinical practise.
- The significant damage to the reputation of the profession occasioned by the Registrant's conviction.

21. In reaching agreement on the appropriate sanction in this case, the parties have had regard to the NMC's published Sanctions Guidance. In particular, the parties have noted that any sanction imposed has to be proportionate, and that any decisions to restrict a nurse or midwife's right to practise as a registered professional are justified.

22. It is agreed that the serious and dishonest nature of the offence of which the Registrant was convicted is such that neither taking no further action nor the

imposition of a caution order would adequately protect the public interest. The parties agree that this case is not at the lower end of the spectrum of impaired fitness to practise and that such a sanction would be insufficient to maintain public confidence in the profession and the NMC as a regulator and nor would it adequately declare proper standards of conduct and behaviour.

23. The parties further agree that a conditions of practice order would not be an appropriate sanction in this case. There are no workable conditions that would adequately address the public interest considerations in this case and there are no identifiable areas of the Registrant's clinical practise in need of assessment and/or retraining. There are no workable conditions which could adequately address the dishonesty in this case.

24. The parties have considered whether a suspension order would be appropriate in this case but agree that it would not be. Given the serious nature of this case, and the fact that this is the Registrant's second conviction of this nature, it is agreed that a period of suspension would not be sufficient to protect public confidence in nurses, midwives and nursing associates, or to uphold professional standards. In addition, with reference to the sanctions guidance, it is agreed that:

- Whilst there is no evidence of repetition of the behaviour since the Registrant's conviction, the conviction itself demonstrates a repetition of the same behaviour that the Registrant previously indulged in, amplified by the fact that she used her position as a nurse.
- There could be a suggestion in the circumstances of harmful deep-seated attitudinal problems.
- There is no evidence that the Registrant has insight and does not pose a significant risk of repeating this behaviour.

25. For the reasons set out above, the parties agree that the only appropriate sanction which will maintain public confidence in this case is a striking off order. The parties agree that the Registrant's behaviour is fundamentally incompatible with her remaining on the register. It is agreed that the conviction raises fundamental concerns about the Registrant's professionalism; that public trust and confidence in the professions could not be maintained by any lesser sanction; and that striking-off is the only sanction which will be sufficient to maintain professional standards.

#### Interim Order

26. It is agreed that it is otherwise in the public interest for there to be an interim suspension order for a period of 18 months to cover the appeal period.

#### Conclusion

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

## **Decision and reasons on the consensual panel determination:**

The panel decided to accept the provisional CPD Agreement, and decided that the appropriate sanction was a striking-off order.

The panel accepted the advice of the legal assessor, who referred the panel to the NMC's Sanctions Guidance ("SG") and to the NMC's guidance on Consensual Panel Determinations. He reminded the panel that it could accept, invite an amendment or reject the provisional agreement reached between the NMC and Mrs Bartlett. Further, the panel should consider whether the provisional 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 had regard to the principles in the cases of: *Roylance v General Medical Council (No. 2)* [2000] 1 AC 311, *CHRE v (1) NMC and (2) Grant* [2011] EWHC 927 (Admin) and *Cohen v GMC* [2008] EWHC 581 (Admin), *Raschid v General Medical Council*, *Fatnani v GMC* [2007] EWCA Civ 46.

## **Facts**

The panel noted that Mrs Bartlett admitted the facts of the charges in paragraph 1 of the CPD Agreement. The panel noted that Mrs Bartlett received a conviction. Accordingly, the panel was satisfied that the charges are found proved by way of Mrs Bartlett's conviction.

The panel considered that the agreed facts were set out in paragraphs 2 - 9 of the CPD Agreement, and accordingly endorsed paragraph's 2 - 9 of the CPD Agreement.

## Impairment

The panel then went on to consider whether Mrs Bartlett's fitness to practise is currently impaired by reason of her conviction. Whilst acknowledging the agreement between the NMC and Mrs Bartlett, the panel has exercised its own independent judgement in reaching its decision on impairment.

The panel next went on to decide whether, as a result of her conviction, Mrs Bartlett's fitness to practise is currently impaired. The panel heard and accepted the advice of the legal assessor.

The panel endorsed paragraph 11 of the CPD agreement and agreed that Mrs Bartlett had breached paragraphs 20, 20.2, and 20.4

The panel adopted the findings of the CPD agreement in relation to impairment, as set out at paragraphs 10 - 15. The panel had regard to the observations set out in *Grant* by Justice Cox, and considered that the following three limbs were engaged:

- Mrs Bartlett had acted in a way to bring the medical profession into disrepute
- Mrs Bartlett had breached a fundamental tenet of the profession
- Mrs Bartlett had acted dishonestly.

The panel considered paragraph 14 of the CPD Agreement and noted that this was not an isolated incident, the misconduct is the repetition of similar conduct which also led to a criminal conviction and regulatory sanction. The panel had regard to Mrs Bartlett's reflective piece dated 6 March 2017 for the previous NMC hearing. In light of the subsequent conviction with which the panel are today concerned, the panel found it difficult to attach much weight to this document. In light of Mrs Bartlett's repetition of this behaviour two years apart, the panel found that the risk of repetition is high.

The panel considered that Mrs Bartlett has not given any explanation for her actions nor has she shown any insight or remorse, and endorsed paragraph 15 of the CPD Agreement.

In all the circumstances, the panel found that Mrs Bartlett's conduct fell well below the standard expected of a registered nurse. The panel considered that Mrs Bartlett's conduct had damaged the reputation of the profession and found that her fitness to practise is currently impaired.

### **Sanction**

Having found Mrs Bartlett's fitness to practise currently impaired the panel went on to consider what sanction, if any, is appropriate in this case. The panel bore in mind that any sanction imposed must be appropriate and proportionate. The purpose of any sanction is not intended to be punitive even though it may have a punitive effect. The panel had careful regard to the SG. The decision on sanction is a matter for the panel exercising its own independent judgement.

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

The panel had turned to the question of whether the sanction proposed in the CPD agreement is appropriate. In so doing it considered each available sanction in turn, starting with the least restrictive sanction and moving upwards.

The panel had regard the aggravating and mitigating features in this case.

The panel considered the aggravating features of this case, and accepted and endorsed paragraph 19 of the CPD Agreement.

The panel found that there were no mitigating features in this case.

The panel first considered whether taking no action was be an appropriate and proportionate response. The panel endorsed paragraph 21 of the CPD agreement and accepted that this would be inappropriate in view of the Mrs Bartlett's conviction, and the seriousness of the case. The panel decided that it would be neither proportionate nor protect the public, nor be in the public interest to take no further action. The panel determined that a caution order would be inappropriate for the same reasons. The panel endorsed paragraph 21 of the CPD Agreement.

The panel went on to consider whether a conditions of practice order would be appropriate. The panel endorsed paragraph 22 of the CPD agreement and accepted that a conditions of practice order would be inappropriate in this case as there are no identified issues with Mrs Bartlett's clinical practice. The panel also considered that a conditions of practice order would be insufficient to maintain public confidence in the NMC as regulator, as it would not serve to mark the seriousness of Mrs Bartlett's conviction and associated dishonesty.

The panel went on to consider the imposition of a suspension order and endorsed paragraph 23 of the CPD Agreement. Mrs Bartlett's conduct was a serious breach of trust and a significant departure from the standards expected of a registered nurse.

The panel considered that Mrs Bartlett's dishonesty was;

- Premediated, systematic and long standing deception. Mrs Bartlett repeated and planned the fraud.
- Misuse of power. Mrs Bartlett used her position as a nurse to assist her in her crimes.
- Personal financial gain from a breach of trust.

The panel found that on the scale of dishonesty this was at the most serious end.

The panel has determined that given the aggravating features and the dishonesty in this case a suspension order would not be an appropriate or proportionate sanction. The panel was not satisfied that a period of suspension would satisfy the public interest or uphold public confidence in the profession or the NMC. The public would be both shocked and dismayed to discover that a nurse had abused her position on two occasions to assist in committing serious fraud.

Mrs Bartlett's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with Mrs Bartlett remaining on the register. The panel was of the view that the circumstances in this particular case demonstrate that Mrs Bartlett'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, the panel determined that the appropriate and proportionate sanction is that of a striking-off order, and endorsed paragraph 24 of the CPD Agreement. It concluded that, given the circumstances of the offence, nothing short of this would be sufficient to uphold public confidence and the reputation of the profession. It would also send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

## **Conclusion**

For the reasons set out above, the panel determined that a striking-off order was the appropriate sanction in this case.

The panel considered that it was otherwise in the public interest to impose an interim suspension order for the period of 18 months to cover the appeal period, and endorsed paragraph 25 of the CPD Agreement.

This decision will be confirmed to Mrs Bartlett in writing.

That concluded this determination.