

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

**Substantive Order Review Hearing
24 – 25 August 2020**

Virtual Hearing

Name of registrant:	Hassan Tadjer
NMC PIN:	00B10900
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing – December 1999
Area of registered address:	London
Type of case:	Misconduct
Panel members:	Rachel Ellis (Chair, Lay member) Susan Tokley (Registrant member) Anne Phillimore (Lay member)
Legal Assessor:	Laura McGill
Panel Secretary:	Leigham Malcolm
Nursing and Midwifery Council:	Represented by Alastair Kennedy, Case Presenter
Mr Tadjer:	Not present and not represented in absence
Order being reviewed:	Conditions of Practice Order (12 Months)
Outcome:	Striking-Off Order to come into effect at the end of 29 August 2020 in accordance with Article 30(1)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Tadjer was not in attendance and that the Notice of Hearing had been sent to Mr Tadjer's registered address by recorded delivery and by first class post on 23 July 2020. The panel also noted that the Notice of Hearing was sent electronically to Mr Tadjer's e-mail address on the register on 23 July 2020.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, dates and venue of the hearing and, amongst other things, information about Mr Tadjer's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

Mr Kennedy, 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 Mr Tadjer has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mr Tadjer

The panel next considered whether it should proceed in the absence of Mr Tadjer. The panel had regard to Rule 21 and heard the submissions of Mr Kennedy who invited the panel to continue in Mr Tadjer's absence.

Mr Kennedy, on behalf of the Nursing and Midwifery Council (NMC), informed the panel that the current interim conditions of practice order is due to expire on 29 August 2020 and that in view of its imminent expiry it would be in the public interest to proceed today. Mr Kennedy referred the panel to an email from Mr Tadjer to the NMC sent at 7:49am this morning, 24 August 2020, which stated:

“...Am unable to attend hearing today this is due as family emergency, I will attend hearing on 26/03/2020. Please forward message to panel, thank you.”

Mr Kennedy submitted that in light of this email, Mr Tadjer was clearly aware of today's hearing and highlighted that he had failed to specify the nature of the family emergency. He submitted that the date 26/03/2020 was likely a typographical error and that Mr Tadjer had probably intended to communicate that he would attend the final day of this substantive order review hearing on 26 August 2020.

Mr Kennedy informed the panel of unsuccessful attempts made by the NMC to contact Mr Tadjer, subsequent to his email at 7:49am. In the circumstances, Mr Kennedy invited the panel to proceed in the absence of Mr Tadjer.

The panel accepted advice from the legal assessor.

The panel has decided to proceed in the absence of Mr Tadjer. In reaching this decision, the panel has considered the submissions of Mr Kennedy along with the advice of the legal assessor. The panel bore in mind that the order is due to expire on 29 August 2020. It also noted that:

- Mr Tadjer has made contact with the NMC and he is clearly aware of today's hearing;
- Mr Tadjer has not made an application for an adjournment;
- There is a strong public interest in the expeditious review of the case;
- Two witnesses have been called and are ready to give evidence today;
- The NMC Case Officer made repeated efforts to contact Mr Tadjer prior to today's hearing to ascertain whether he would attend and test the equipment. Mr Tadjer had previously said that he would attend but did not respond to the request to test the equipment. Upon receipt of Mr Tadjer's email this morning, further repeated attempts were made to contact him by telephone and email to obtain further information but without success.

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

Application to consider new information

Mr Kennedy informed the panel that new information, relating to Mr Tadjer's current interim conditions of practice order had come to light. He referred the panel to the NMC's guidance which states:

"If we receive information about the practice of a nurse or midwife which suggests that there has been further misconduct, poor practice or difficulties caused by health or lack of knowledge of English, since a substantive order was put in place, we have to decide whether a panel should be made aware of the new allegation as part of the review process, or whether we should treat the information as a new referral.

Generally, we would make the reviewing panel aware of the new information when:

- *it relates to the existing order, for example it suggests that there may have been a breach of conditions of practice"*

Mr Kennedy submitted that the NMC had received information to suggest that Mr Tadjer had breached condition 6c of his current conditions of practice order requiring him to inform any prospective employer of the restrictions of his nursing practice. Given that the allegations relate to Mr Tadjer's current order, and in view of the NMC's guidance on the matter, Mr Kennedy invited the panel to consider the new information and make findings of fact in the course of its review of Mr Tadjer's case.

The panel accepted the advice of the legal assessor.

The panel took account of the advice of the legal assessor and had regard to the NMC's guidance on new allegations. The panel determined that the new allegations clearly related to Mr Tadjer's existing order and in view of the information and advice available it decided to consider the allegations as part of the review process.

Panel's decision and reasons on the new allegations

The fresh allegations against Mr Tadjer are:

Allegation 1

Dishonestly breaching your conditions of practice order by failing to disclose your conditions of practice order immediately to a prospective employer (Temporary Workforce Service at Lewisham and Greenwich NHS Trust).

Allegation 2

Dishonestly describing your current role as "staff nurse" in your CV when your work is limited to phlebotomy

Mr Kennedy submitted that Mr Tadjer has breached condition 6c of the current interim conditions of practice order and has acted dishonestly in that he declared to a prospective employer that he had been working as a registered nurse when he had not.

The panel heard evidence from two witnesses:

Ms 1 – Head of Temporary Workforce at Lewisham and Greenwich NHS Trust;

Mr 2 - Head of Nursing Professional Practice and Standards at Lewisham and Greenwich NHS Trust.

In relation to the first allegation, Mr Kennedy referred the panel to the conditions of practice currently in place, specifically condition 6c. He submitted that there is clearly a duty on Mr Tadjer to inform any prospective employer of the restrictions on his nursing practice. He further referred the panel to Mr Tadjer's application to Lewisham and Greenwich NHS Trust and accompanying CV. Mr 2, in his oral evidence, confirmed that he carried out checks and uncovered the conditions of practice order restricting Mr Tadjer's nursing practice. He confirmed that the order was not disclosed within Mr Tadjer's application, and he therefore made the referral to the NMC. Mr Kennedy, in view of the

information available, and the evidence of Mr 2, invited the panel to find this allegation proved.

In relation to the second allegation, Mr Kennedy referred the panel to the CV Mr Tadjer submitted as part of his application to Lewisham and Greenwich NHS Trust. He highlighted the oral evidence of Ms 1 who confirmed that Mr Tadjer had not been working as a registered nurse. Mr Kennedy submitted that Mr Tadjer had told an 'untruth' and acted dishonestly.

In view of the evidence available Mr Kennedy invited the panel to find both of the allegations proved.

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

Allegation 1

Dishonestly breaching your conditions of practice order by failing to disclose your conditions of practice order immediately to a prospective employer (Temporary Workforce Service at Lewisham and Greenwich NHS Trust).

Allegation found proved.

Condition 6c states:

6. *You must immediately inform the following parties that that you are subject to a conditions of practice order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (5), to them:*
 - a) ...
 - b) ...
 - c) *Any prospective employer (at the time of application)*
 - d) ...

The panel took account of the documentary evidence before it and the oral evidence of Mr 2. Mr 2 in the course of his oral evidence confirmed that the documents received by Lewisham and Greenwich NHS Trust were an application for a nursing role and drew the panel's attention to Mr Tadjer's application email which stated:

"Dear Bank staff I like to apply [sic] for the general Bank staff nurse with L&G organisation.

Please see attached CV as required by temporary staffing..."

The panel was of the view that the requirements of the current conditions of practice order are clearly set out and that Mr Tadjer breached condition 6c by applying for the role without notifying Lewisham and Greenwich NHS Trust of his conditions of practice order.

The panel noted that there have previously been concerns around Mr Tadjer's understanding of the implications of the order, and that the conditions have been made clear to him. It determined that Mr Tadjer sought to mislead by omitting information, namely that he was subject to a conditions of practice order. The panel therefore found that Mr Tadjer had been dishonest.

Allegation 2

Dishonestly describing your current role as "staff nurse" in your CV when your work is limited to phlebotomy

Allegation found proved.

The panel took account of the CV submitted by Mr Tadjer along with his application to Lewisham and Greenwich NHS Trust and the oral evidence of Ms 1. Mr Tadjer's CV stated:

"Experience and posts held's

08/209.....03/2020

Staff Nurse and bank staff phlebotomy @ queen Elizabeth hospital

full nursing duty and phlebotomy in adult”

The panel heard from Ms 1 that Mr Tadjer had not been employed as a staff nurse with the Lewisham and Greenwich NHS Trust. It therefore determined that Mr Tadjer clearly sought to mislead by stating on his CV that he had been employed as a staff nurse when he had not. The panel considered that there could be no confusion around this, and that Mr Tadjer had clearly acted dishonestly.

Decision and reasons on review of the substantive order

The panel decided to replace the current conditions of practice order with a striking off order.

This order will come into effect at the end of 29 August 2020 in accordance with Article 30(1) of the ‘Nursing and Midwifery Order 2001’ (the Order).

This is the ninth effective review, under Article 30 (1) of the Nursing and Midwifery Order (2001), of an order originally imposed by a panel of the Conduct and Competence Committee on 17 November 2014 for a period of 18 months. Mr Tadjer was initially subject to a conditions of practice order. This was replaced with a suspension order at a review hearing on 11 August 2017. The order was extended by 6 months by a reviewing panel on 9 February 2018. The order was reviewed again on 2 August 2018 and extended for a period of 3 months. On 27 September 2018, the suspension order was replaced by a conditions of practice order for a period of eight months. On 24 May 2019, at a review meeting, the order was referred to a hearing. On 28 June 2019, the conditions of practice order was replaced with a three months suspension order. On 29 August 2019 the suspension order was replaced by a conditions of practice order for a period of 12 months.

The current order is due to expire on 29 August 2020.

The panel is reviewing the order pursuant to Article 30(1)/30(2) of the Order.

The charges found proved which resulted in the imposition of the substantive order were as follows:

That you, whilst employed as a Band 5 Staff Nurse in the Emergency Department at Lewisham Hospital on 20 March 2013:

1. In relation to Patient B;

1.1. failed to conduct observations of;

1.1.1. blood pressure

1.1.2. temperature

1.2. falsely recorded on Patient B's Emergency Department notes;

1.2.1. Patient B's blood pressure

1.2.2. Patient B's temperature

2. ...

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

The last reviewing panel determined the following with regard to impairment:

'The panel took into account the documentation submitted by you and was encouraged by your compliance with the previous reviewing panel's recommendations. It considered that you have undertaken some positive actions since the last hearing. However, the panel were not satisfied that you have fully addressed the regulatory concerns found proved at the substantive hearing. In light of this the panel determined that you remain liable to repeat the misconduct found proved. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel had borne in mind that its primary function was to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that your fitness to practise remains impaired.'

The last reviewing panel determined the following with regard to sanction:

'The panel considered substituting the current suspension order with a conditions of practice order. Your misconduct was serious but remediable. There is now evidence produced by you to show that you have completed a face to face clinical record keeping course and shown some insight. Further, you have expressed a wish to return to return to nursing. The panel considered that it was necessary that you have a period of time where you are able to show that you can put into effect what you have learnt by working in a nursing environment. The panel therefore considered that it is now possible to formulate practicable and workable conditions that if complied with, may lead to your unrestricted return to practice and would serve to protect the public and the reputation of the profession in the meantime.

The panel decided that the public would be suitably protected by the implementation of a conditions of practice order. This order is for a period of 12 months, in order to allow you sufficient time to secure employment and begin to provide evidence for the next hearing of compliance with the following conditions:

- 1. You must work with your line manager, mentor or supervisor (or the nominated deputy) to formulate a personal development plan specifically designed to address the deficiencies in the following areas of your practice:*

- (i) The taking of observations of temperature and blood pressure; and*
- (ii) Your record keeping of those observations.*

- 2. You must forward to the NMC a copy of the personal development plan within 28 days of the date on which these conditions become effective or the date on which you take up an appointment, whichever is sooner.*
- 3. You must send to the NMC a report from your line manager, mentor or supervisor (or the nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your Personal Development Plan at least 14 days before any review hearing.*
- 4. You must notify the NMC within 14 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.*
- 5. You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 14 days of you receiving notice of them.*
- 6. You must immediately inform the following parties that that you are subject to a conditions of practice order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (5), to them:*
 - a) Any organisation or person employing or contracting with you to undertake professional nursing/midwifery work*
 - b) Any agency you are registered with or apply to be registered with (at the time of application)*
 - c) Any prospective employer (at the time of application)*
 - d) Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application)*

These regulatory proceedings are not designed to continue indefinitely. The panel considered that you should make every effort to use the opportunity given to you by these conditions of practice to remediate your practise. The panel noted that given the history of this matter, a reviewing panel may decide that if progress has not been made, that the time has come to impose a striking off order.'

Decision and reasons on current impairment

The panel has considered carefully whether Mr Tadjer's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it and has taken account of the submissions made by Mr Kennedy on behalf of the NMC.

Mr Kennedy outlined the background to Mr Tadjer's case. He highlighted that the allegations originally found proved were remediable as they related to simple patient observations. However, Mr Tadjer's case has continued for six years due to his sporadic engagement and continued non-compliance. Because of Mr Tadjer's lack of compliance with conditions over the past six years he has been subject to periods of suspension. At no time has Mr Tadjer demonstrated sufficient insight into the concerns or fully remediated. Mr Kennedy acknowledged that Mr Tadjer did, some time ago, undertake some training and submit a reflective statement, however, he submitted that any learning could not have been put into practice as Mr Tadjer has not secured work as a nurse since.

Mr Kennedy submitted that the new allegations found proved, and the dishonesty involved, suggest that Mr Tadjer is failing to comprehend the seriousness of the regulatory concerns and the consequences of his behaviour. For these reasons, he submitted that Mr Tadjer's fitness to practise remains impaired on the grounds of public protection as well as the wider public interest.

Mr Kennedy stated that both conditions of practice orders and periods of suspension, over the course of six years, have failed to facilitate the remediation of Mr Tadjer's nursing practice. He impressed upon the panel that, given the number of years which have passed and Mr Tadjer's persistent flagrant attitude towards the regulatory process, the time had come to seriously consider striking him off from the NMC register.

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel accepted the advice of the legal assessor.

There was no information before the panel to indicate that Mr Tadjer had done anything at all to remediate the concerns in respect of his nursing practice since the last review of his case.

The panel acknowledged the training that Mr Tadjer undertook, some time ago, but it considered this to be of little value given that he has not worked as a nurse since and therefore not been able to put any learning into practice.

The panel considered the current conditions of practice order to be clear. The fact that Mr Tadjer intentionally breached the current order and acted dishonestly aggravates the pre-existing issues and raises further questions and concerns around his suitability and fitness to practise as a registered nurse. The panel was of the view that there is now a strong public interest in sending a clear message that such flagrant behaviour, as demonstrated by Mr Tadjer, is unacceptable.

The panel bore in mind that Mr Tadjer's case has been ongoing for six years and in that time he has failed to demonstrate sufficient insight into the concerns or fully remediate. Mr Tadjer's engagement in the regulatory process is inconsistent. He has been subject to both conditions of practice orders and suspension orders and he has been found to have intentionally and dishonestly breached his current conditions of practice order. In the circumstances, namely Mr Tadjer's continued failure to remediate his nursing practice and

recent dishonesty, the panel determined that a finding of current impairment was necessary for the protection of the public.

The panel also bore in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that Mr Tadjer's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mr Tadjer's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the concerns identified, Mr Tadjer's failure to address them, and his persistent non-compliance with the regulatory process. 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, similarly, due to the concerns identified, Mr Tadjer's failure to address them, and his persistent non-compliance with the regulatory process an order that does not restrict his practice would not be appropriate.

The panel next considered whether a conditions of practice order on Mr Tadjer's registration would still be a sufficient and appropriate response. The panel bore in mind that Mr Tadjer's case has been ongoing for six years, during which he has been subject to several conditions of practice orders. In that time, not only has he failed to fully remediate his nursing practice but he has intentionally and dishonestly breached his conditions. The panel had no confidence that Mr Tadjer would comply with a further conditions of practice

order. It therefore could not be satisfied that a conditions of practice order would protect the public or be in the public interest in this case.

The panel next considered imposing a suspension order. It bore in mind that Mr Tadjer has in the past been subject to periods of suspension. The panel was of the view that a further period of suspension would do nothing to facilitate Mr Tadjer's return to safe and effective nursing practice nor would it sufficiently address the strong public interest in this ongoing case, bearing in mind the number of years that have now passed. The panel therefore decided that a suspension order would not be appropriate in the circumstances of this case.

The panel moved on to consider a striking off order. It accepted further advice from the legal assessor who advised of the cases of *Khalaf v GMC* [2018] EWHC 1466 (Admin) and *Parkinson v NMC* [2010] EWHC 1898 (Admin) and their relevance to Mr Tadjer's case.

The panel noted that Mr Tadjer has continually absented himself at crucial moments in the regulatory process. It was of the view that both conditions of practice orders and suspension orders have previously failed to make it clear to Mr Tadjer the importance of remediating his nursing practice.

The panel considered Mr Tadjer to lack insight into the seriousness of these regulatory proceedings, which, in turn raises concerns around his suitability to be on the NMC register. The concerns in respect of Mr Tadjer's nursing practice are compounding as time passes and he continues to neglect the issues identified. In addition, the panel's finding that Mr Tadjer dishonestly breached his conditions of practice order means that the panel had no confidence that Mr Tadjer's attitude would change and that he would return to safe and effective nursing practice any time soon.

In the circumstances, the panel determined that the only sanction that would adequately protect the public and serve the public interest was now that of a striking-off order. The panel therefore directs the registrar to strike Mr Tadjer's name off the register.

This striking-off order will take effect upon the expiry of the current conditions of practice order, namely at the end of 29 August 2020 in accordance with Article 30(1).

This will be confirmed to Mr Tadjer in writing.

That concludes this determination.