

Nursing and Midwifery Council
Fitness to Practise Committee
Substantive Meeting
10 January 2020

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

Name of registrant:	Victoria Taylor
NMC PIN:	16A0865E
Part(s) of the register:	Registered Nurse - Mental Health Sub part 1 — RNMH: Mental health nurse (14 March 2016)
Area of Registered Address:	England
Type of Case:	Conviction
Panel Members:	Timothy Cole (Chair, Lay member) Deborah Hall (Registrant member) Gregory Hammond (Lay member)
Legal Assessor:	Jonathan Whitfield
Panel Secretary:	Maya Hussain
Facts proved:	All
Facts not proved:	N/A
Fitness to practise:	Impaired
Sanction:	Striking-off Order
Interim Order:	Interim Suspension Order for 18 months

Details of charge:

That you a registered nurse,

1. On 13 December 2018, received a caution for:
 - a. theft from person, contrary to section 1 of the Theft Act 1968
 - b. fraud by abuse of position, contrary to section 1.2 and 4 of the Fraud Act 2006

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

Decision on Service of Notice of Meeting:

Rules 11A and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 (as amended) (“the Rules”) state:

‘11A.(1) Where a meeting is to be held in accordance with rule 10(3), the Fitness to Practise Committee shall send notice of the meeting to the registrant no later than 28 days before the date the meeting is to be held.

34.(3) Any other notice or document to be served on a person under these Rules may be sent by—

(a) ordinary post’

The panel accepted the advice of the legal assessor.

The panel considered whether notice of this meeting has been served in accordance with the Rules.

Notice of this substantive meeting was sent to Miss Taylor’s registered address on 5 December 2019 by recorded delivery and first class post however it was returned undelivered. The panel also noted that the NMC have notified Miss Taylor by email on 6 December 2019 using an email address with which she had communicated with the NMC.

The panel is satisfied that the notice was sent at least 28 days in advance of this meeting. The panel therefore finds that notice has been served in accordance with the Rules.

The panel noted that there had been no response from Miss Taylor despite the NMC making attempts to contact her.

Background

Miss Taylor entered on to the NMC register in 2016.

At the material time, Miss Taylor was employed as a staff nurse at Mid Staffordshire General Hospital NHS Trust having commenced employment on 1 October 2017.

The incident took place on the Brockington Ward, St Georges Hospital (the Hospital) in Stafford. Brockington Ward is a prenatal unit for mothers and babies with mental ill health.

Patient A was an inpatient on the ward and on or around 2 June 2018 she handed over her personal belongings including her purse to staff for safe keeping. Patient A's belongings were placed in a locker in the staff room.

Patient A subsequently went on home leave and left her belongings at the Hospital. Whilst on leave, she received a call from her bank on or around 4 July 2018, informing her that her bank card has been used on several occasions.

Patient A informed the Hospital and it was confirmed that Patient A's bank card was missing from her purse.

The police subsequently undertook an investigation and reviewed CCTV footage, which showed Miss Taylor, in nursing uniform, using Patient A's card. It was discovered that Miss Taylor had used Patient A's card 8 times in various shops to the value of £44.36.

On 13 December 2018, Miss Taylor was subsequently interviewed by the police. Miss Taylor admitted and accepted a conditional caution for theft and abuse of position.

The conditions of the caution were as follows:

- Write a letter of apology to the [Patient A] explaining why [Miss Taylor] committed the offence and that [she] fully regret your actions
- To book, pay for and complete a victim awareness course with the Victim Support Service at a cost of £60.00
- To communicate with and agree to all sanctions, meetings etc. arranged by NMC
- To pay compensation to the victim of £44.36.

The police confirmed that Miss Taylor has complied with the conditions of her caution.

Decision on the findings on facts and reasons

The charges concern Miss Taylor's caution and, having been provided with a notice of caution and print out from the police national computer dated 13 December 2018, the panel finds that the facts of charge 1 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 (s)he is not the person referred to in the certificate or extract.

Decision on impairment

The panel next went on to decide if as a result of this caution Miss Taylor's fitness to practise is currently impaired.

The panel accepted the advice of the legal assessor.

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 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 having heard submissions, principally from Ms McDonald, 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 considered that all four limbs of Dame Janet Smith’s test, as set out above, were engaged by Miss Taylor’s past actions.

The panel noted that Miss Taylor used the bank card several times, over a short period of time, of a vulnerable person, Patient A, who had mental health concerns, and to whom Miss Taylor was responsible for providing care. As well as Miss Taylor’s actions putting Patient A at risk of harm, they caused actual harm as they involved the financial abuse of a vulnerable adult. The panel also considered that Miss Taylor’s behaviour would impact on the trust that Patient A would place in nurses caring for her.

The panel considered that Miss Taylor's actions brought the reputation of the nursing profession into disrepute, as they would impact on the trust and confidence placed in nurses by patients, their families and members of the public. The panel considered that such a significant breach of trust by Miss Taylor also breached fundamental tenets of the profession.

The panel had regard to the terms of *The Code: Professional standards of practice and behaviour for nurses and midwives* (2015), and it considered that the following sections were breached by Miss Taylor:

17.1 take all reasonable steps to protect people who are vulnerable or at risk from harm, neglect or abuse

17.3 have knowledge of and keep to the relevant laws and policies about protecting and caring for vulnerable people

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 profession 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”

20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress

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

Furthermore, the panel considered that Miss Taylor’s theft from Patient A was by its nature a dishonest act.

The panel went on to consider whether Miss Taylor remained likely to act in a way which could put patients at risk of harm, bring the profession into disrepute, breach fundamental tenets of the profession and act dishonestly in the future. In doing so, the panel considered whether there was any evidence of remorse, insight and remediation.

The panel noted that theft and dishonesty are by their nature difficult to remediate, although not impossible, for example by providing evidence of reflection and insight into the behaviour. However, the panel noted that Miss Taylor appears to have had limited engagement with these proceedings. She had provided a written response to the charges by completing the form delivered to her from the NMC. However, the panel was of the view that Miss Taylor has not demonstrated sufficient insight into her offence, nor the impact of her behaviour on Patient A, members of the public or the reputation of the nursing profession. The panel considered that there was no evidence to suggest that Miss Taylor had undertaken any steps to remediate her offence.

In light of the lack of evidence of remorse, insight and remediation, the panel considered that a risk of repetition remains. It considered that Miss Taylor did remain likely to act in a way which could put patients at risk of harm, bring the profession into disrepute, breach fundamental tenets of the profession and act dishonestly in the future. The panel therefore determined that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health, safety and wellbeing of the public and patients, and to uphold and protect the wider public interest, which includes promoting and maintaining public confidence in the nursing profession and upholding the proper professional standards for members of the profession. The panel considered that Miss Taylor has received a caution for a criminal offence. It considered that Miss Taylor's behaviour in stealing money from Patient A would significantly undermine the trust that patients and members of the public place in nurses to provide safe care to vulnerable patients and to act with honesty and integrity at all times. The panel considered that public confidence in the nursing profession and in the NMC as a regulator would be undermined if a finding of impairment were not made. The panel therefore determined that a finding of impairment is also necessary on public interest grounds.

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

Determination on sanction:

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

In reaching this decision, the panel has had regard to all the documentary evidence 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 ("SG") published by the NMC. It recognised that the decision on sanction is a matter for the panel, exercising its own independent judgement.

The panel first considered what it deemed to be the aggravating and mitigating factors in this case and determined the following:

Aggravating factors:

- Miss Taylor's behaviour involved an abuse of her position of trust with a vulnerable patient, with the motive of personal financial gain, and occurred within the context of her clinical practice;
- Miss Taylor's actions caused actual harm to Patient A; and
- Miss Taylor has not demonstrated sufficient insight into her behaviour.

Mitigating factors:

- Miss Taylor's early admissions to the police.

The panel considered Miss Taylor's age, her potential lack of life experience and the personal financial situation that she outlined to the police. However, the panel found little mitigation in these factors.

Prior to considering the sanctions available to it in ascending order, the panel had regard to the NMC's guidance on considering sanctions for serious cases. The guidance states that in general, a nurse or midwife should not be permitted to start practising again until they have completed their sentence for a serious offence, a principle established in the case of *CHRE v GDC and Fleischmann* [2005] EWHC 87 (QB). Although this is a general rule, it does not mean that the panel has no choice but to remove the nurse or midwife from the register permanently, as set out in the case of *Chandrasekera v NMC* [2009] EWHC 144 (Admin). The panel bore in mind that Miss Taylor has complied with her conditions of the caution.

The panel also assessed Miss Taylor's dishonesty, and graded how serious it was, having regard to the guidance referred to above. The panel considered that the following factors were apparent in Miss Taylor's offence:

- misuse of power;
- vulnerable victim; and
- personal financial gain from a breach of trust

Having regard to these factors, the panel considered that the dishonesty was towards the higher end of the spectrum of seriousness. Taking the guidance into

account, the panel noted that the dishonesty would call into question whether Miss Taylor should be allowed to remain on the register.

The panel then went on to consider what action to take in this case.

The panel first considered whether to take no action but concluded that this would be wholly inappropriate in view of the seriousness of the criminal offence for which Miss Taylor has been cautioned. Miss Taylor's behaviour involved a breach of trust of a vulnerable patient for whom she was supposed to be providing care. The panel decided that taking no action would not protect the public and it would not satisfy the wider public interest.

The panel next considered whether a caution order would be appropriate in the circumstances. The panel took into account the 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, however the Fitness to Practise Committee wants to mark that the behaviour was unacceptable and must not happen again.

The panel considered that Miss Taylor's behaviour was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of Miss Taylor's caution from the police. Miss Taylor's behaviour involved a breach of trust of a vulnerable patient for whom she was supposed to be providing care. The panel decided that imposing a caution order would not protect the public and it would not satisfy the wider public interest.

The panel next considered whether to impose a conditions of practice order. Having regard to the nature of Miss Taylor's behaviour, which involved acting dishonestly, the panel was of the view that no workable or practicable conditions could be formulated to address her offence and this type of behaviour and which would protect the public. Having regard to the serious nature of her offence, the panel also considered that a conditions of practice order would fail to address the high public interest considerations of this case.

The panel went on to consider whether to impose a suspension order. It had regard to the SG, and considered that Miss Taylor's behaviour did not involve a one-off incident. The panel considered that, by the very nature of Miss Taylor's offence, there was evidence of harmful deep-seated attitudinal problems on her part. Miss Taylor had not demonstrated sufficient insight into her behaviour, and the panel considered that there was a risk of repetition. In light of these factors, the panel did not consider that a suspension order would be sufficient to protect patients and public confidence in nurses and to uphold professional standards. The panel concluded that a suspension order would not be appropriate or proportionate in the circumstances of this case.

The panel then considered whether to impose a striking-off order. It considered that Miss Taylor's theft from Patient A was an extremely serious, dishonest act, involving financial abuse of a vulnerable individual and a significant breach of trust. The panel considered that Miss Taylor's behaviour raised fundamental questions about her professionalism. It considered that public confidence would not be maintained in nurses unless Miss Taylor were to be removed from the register permanently.

Balancing all of these factors and after taking into account all the documentary 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 Miss Taylor'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 a striking-off order would be sufficient in this case.

The panel considered that this order was necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

Determination on Interim Order

Under Article 31 of the Nursing and Midwifery Order 2001 ("the Order"), the panel considered whether an interim order should be imposed in this case. A panel may

only make an interim order if it is satisfied that it is necessary for the protection of the public, and/or is otherwise in the public interest, and/or is in the registrant's own interests.

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 Miss Taylor is sent the decision of this hearing in writing.

That concludes this determination.