

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

**Substantive Order Review Hearing
11 November 2020**

Virtual Hearing

Name of registrant: Mr Francesco Crimi

NMC PIN: 16A0011C

Part(s) of the register: Registered Nurse – Sub part 1
RN1: Adult Nursing – January 2016

Area of registered address: Italy

Type of case: Lack of knowledge of English

Panel members: Jane Kivlin (Chair, registrant member)
Rachel Jokhi (Registrant member)
Jane McLeod (Lay member)

Legal Assessor: Justin Gau

Panel Secretary: Egiliwebi Obaye

Nursing and Midwifery Council: Represented by George Hugh-Jones, Case
Presenter

Mr Crimi: Not present and unrepresented

Order being reviewed: Suspension order (3 months)

Fitness to practise: Impaired

Outcome: Striking-off order to come into effect immediately
in accordance with Article 30(2)(4) of the Nursing
and Midwifery Order 2001

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Crimi was not in attendance and that the Notice of Hearing had been sent to Mr Crimi's email address on the register on 12 October 2020.

The panel had regard to the screenshot which showed the Notice of Hearing was delivered to Mr Crimi's email address on the register on 12 October 2020.

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

The panel noted that under the recent amendments made to the Rules during the COVID-19 emergency period, notice of a hearing can be sent to an email address held for the registrant on the register, or an email address the registrant has notified to the Nursing and Midwifery Council ("NMC") for the purposes of communication.

Mr Hugh-Jones, 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 Crimi 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 Crimi

The panel next considered whether it should proceed in the absence of Mr Crimi. The panel had regard to Rule 21 and heard the submissions of Mr Hugh-Jones who invited the panel to continue in the absence of Mr Crimi. He submitted that Mr Crimi had voluntarily absented himself.

Mr Hugh-Jones submitted that there had been no engagement at all by Mr Crimi with the NMC in relation to today's proceedings and, as a consequence, there was no reason to believe that an adjournment would secure his attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mr Crimi. In reaching this decision, the panel has considered the submissions of Mr Hugh-Jones and the advice of the legal assessor. It has had particular regard to any relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made;
- Mr Crimi has not engaged with the NMC and has not responded to any of the letters sent to him about this hearing;
- There is no reason to suppose that adjourning would secure his attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.

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

Decision and reasons on review of the substantive order

The panel decided to replace the current suspension order with a striking off order.

This order will come into effect immediately in accordance with 30(2) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a suspension order, originally imposed by a panel of the Fitness to Practise Committee on 22 August 2018 for a period of 12 months. That order was reviewed on 8 August 2019 and a suspension order for a further 12 months was imposed. On 10 August 2020, that order was reviewed and a suspension order for a further three months was imposed. The current order is due to expire at the end of 21 December 2020.

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

The charge found proved which resulted in the imposition of the substantive order was as follows:

That you, a registered nurse:

1. *do not have the necessary knowledge of English to practise safely and effectively*

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

“Apart from these two emails, Mr Crimi had not provided any further information or evidence for the panel to consider. There was nothing before the panel to suggest that he had addressed any of the recommendations made by the previous reviewing panel. The panel noted that there was no evidence to suggest that Mr Crimi had undertaken an English language test, and nothing to suggest that the standard of his English had improved, so that it was of the standard required to practise safely and effectively as a registered nurse. Indeed Mr Crimi had not complied with any of the NMC’s requests to undergo an English language test, such as the International English Language Testing System (“IELTS”).

The panel had regard to the content of Mr Crimi's emails, and it considered that they displayed a lack of insight into the concerns in relation to his nursing practice. The panel acknowledged that Mr Crimi's intention was not to work in the UK in the future. However, it considered that any concerns which had arisen in relation to his nursing practice in the UK, could also have a bearing on his nursing practice in another country. Within his emails, Mr Crimi appeared to show a lack of understanding of how the regulatory concerns in his case may bear upon his nursing practice elsewhere. The panel considered that Mr Crimi had failed to demonstrate how concerns with the standard of his English could impact upon patient safety. Indeed within his emails, Mr Crimi did not appear to understand and recognise that there were any concerns with his knowledge of the English language, and he made suggestions to the contrary. Furthermore, the content of his emails appeared to show a complete disregard for the NMC as a regulator. The panel therefore considered that Mr Crimi had failed to show a development of any insight.

Given the lack of evidence of insight as well as the lack of evidence to suggest that the concerns in this case had been in any way remediated, the panel considered that there is a high risk of repetition in this case. The panel considered that patients would be placed at real risk of harm, as a result of Mr Crimi not meeting the required standard of English, if he were able to practise without restriction. The panel therefore determined that a finding of impairment remains necessary on the grounds of public protection.

The panel 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 considered that the content of Mr Crimi's emails to the NMC demonstrated a disregard for his regulator, a lack of willingness to remediate the concerns with his practice and a lack of insight. In these circumstances, the panel determined that a finding of impairment also remains necessary on public interest grounds, in order to maintain confidence in the nursing profession and in the NMC as a regulator."

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

The previous reviewing panel went on to determine the following with regard to sanction:

"The panel therefore determined that a suspension order is appropriate and proportionate in the circumstances of this case. The panel determined that a suspension order for a period of three months will enable Mr Crimi to think about his future intentions in relation to nursing and to provide information about this to a future reviewing panel. It will give Mr Crimi the opportunity to undertake the IELTS and provide evidence of any test results to a future reviewing panel should he wish to do so. The panel also noted that the next reviewing panel will have the option to impose a striking-off order, if it considers that an appropriate course of action.

In accordance with Article 30(1) of the Order, this suspension order will come into effect upon the expiry of the current suspension order, namely at the end of 21 September 2020.

Prior to its expiry, this order will be reviewed by another panel. That panel may revoke the order, allow the order to lapse on expiry, extend the order or replace the order with another order, including that of a striking-off order.

A future reviewing panel may be assisted by evidence of the following:

- *Mr Crimi's engagement with these proceedings;*
- *Testimonials from any employment Mr Crimi has undertaken, whether paid or unpaid, and whether in the UK or elsewhere;*
- *Results from completion of the IELTS or any equivalent English language test accepted by the NMC;*
- *A reflective piece written by Mr Crimi demonstrating an understanding of how the concerns in this case impacted upon patient safety, his colleagues and on the reputation of the nursing profession, as well as information about his future intentions in relation to nursing, whether in the UK, his home country or elsewhere."*

Decision and reasons on current impairment

The panel has considered carefully whether Mr Crimi'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, including the NMC bundle, and responses from Mr Crimi. It has taken account of the submissions made by Mr Hugh-Jones on behalf of the NMC.

Mr Hugh-Jones submitted that Mr Crimi's lack of English could potentially have very serious consequences. He submitted that this has already impacted Mr Crimi's understanding of the risks that could occur should Mr Crimi continue practising. He reminded the panel that although there had been no evidence of actual patient harm, there had been several 'near misses' due to his impaired communication skills. He submitted that Mr Crimi has not engaged with the NMC since his last review and there is nothing to suggest that he has demonstrated insight into his lack of knowledge of English and how this could affect his practice.

Mr Hugh-Jones referred the panel to Mr Crimi's emails to the NMC on 6 and 8 May 2020, in which he expresses his lack of interest in working in the United Kingdom or any other Commonwealth countries and that he wishes for the case to be 'closed'.

For the above reasons, Mr Hugh-Jones submitted that for public protection and also in the wider public interest, a suspension order would not be appropriate given Mr Crimi's lack of engagement and lack of insight. He invited the panel to consider striking Mr Crimi off the register.

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

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 considered whether Mr Crimi's fitness to practise remains impaired.

The panel noted that the previous panels found that Mr Crimi had insufficient insight. At this hearing the panel concluded that Mr Crimi had developed no further knowledge of the English language or has accepted that this is important in providing patient care. The panel also concluded that Mr Crimi has not engaged with the NMC or taken any steps to remediate.

In its consideration of whether Mr Crimi has remedied his practice, the panel took into account Mr Crimi's lack of completion of the International English Language Testing System (IELTS) despite repeated calls and correspondence from the NMC to prompt him. The panel was of the view that in doing this, this would sufficiently address the root cause of Mr Crimi's lack of knowledge of English.

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

Decision and reasons on sanction

Having found Mr Crimi'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.

In the absence of evidence that Mr Crimi has completed the IELTS, and in the light of his apparent lack of understanding of the importance of knowledge of English in order to practice safely together with his continued lack of engagement with the NMC, the panel determined that it was not proportionate or appropriate to allow the current order to lapse.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mr Crimi's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mr Crimi's lack of knowledge of English was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice order on Mr Crimi's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Mr Crimi's lack of knowledge of English.

In view of Mr Crimi's clear settled intention not to return to nursing in the United Kingdom or the Commonwealth, the panel considered that any conditions of practice order would not be workable and would serve no useful purpose.

The panel next considered imposing a further suspension order. It noted that Mr Crimi has not demonstrated any insight into the issues leading to this referral. The panel was of the view that considerable evidence would be required to show that Mr Crimi no longer posed a risk to the public. The panel determined that a further period of suspension would not serve any useful purpose in all of the circumstances. The panel determined that it was necessary to take action to prevent Mr Crimi from practising in the future and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order.

This striking-off order will replace the current suspension order with immediate effect in accordance with Article 30(2).

This decision will be confirmed to Mr Crimi in writing.

That concludes this determination.