

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

**Substantive Order Review Meeting
27 October 2020**

Virtual Hearing

Name of registrant: Ms Carol Anne Rodda

NMC PIN: 92Y0206O

Part of the register: Registered Nurse (Sub Part 1)
Adult Nursing – December 1992

Area of registered address: Coventry

Type of case: Misconduct

Panel members: Chris Morrow-Frost (Chair, Registrant member)
Kim Bezzant (Registrant member)
Andrew Macnamara (Lay member)

Legal Assessor: Mark Ruffell

Panel Secretary: Leigham Malcolm

Order being reviewed: Suspension Order (6 months)

Fitness to practise: Impaired

Outcome: Striking Off Order, to come into effect at the end of 14 December 2020 in accordance with Article 30 (1)

Decision and reasons on service of Notice of Meeting

The panel noted that the Notice of Meeting had been sent to Ms Rodda's registered email address on 20 August 2020. The panel took into account that the notice of the virtual meeting provided details of the substantive order being reviewed, including the time and date.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Ms Rodda has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

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 at the end of 14 December 2020 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the second review of a 12 month suspension order originally imposed by a Fitness to Practise panel on 16 May 2019. The order was first reviewed on 5 May 2020 and continued for a period of six months. The current order is due to expire at the end of 14 December 2020.

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

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

That you, while employed as a band 7 manager at the University Hospitals Coventry and Warwickshire NHS Trust:

1. *On 15 January 2016, accessed colleague A's medical records on the Trusts CRRS.*
2. *On 15 January 2016 disclosed confidential information about colleague A's health to Colleague H.*
3. *On 11 February 2016, accessed Colleague B's medical records on the Trusts CRRS.*
4. *On 3 February, 8 March, 22 March and 13 September 2016, accessed Colleague C's medical records on the Trusts CRRS.*
5. *On a date unknown, discussed information that you had obtained from Colleague C's medical records with Colleague H.*
6. *On 13 September 2016, provided Colleague C with information about her health when you were not authorised to do so.*
7. *On 11 May 2016, accessed Patient A's medical records on the Trusts CRRS.*
8. *On 18 May and 27 July 2016, accessed Patient B's medical records on the Trusts CRRS.*
9. *On 28 June 2016, accessed Colleague D's medical records on the Trusts CRRS.*
10. *On 28 July 2016, accessed Colleague E's medical records on the Trusts CRRS.*
11. *On one or more occasion, between 13 May and 4 August 2016, accessed Colleague F's medical records on the Trusts CRRS.*

12. On 05 and/or 06 July 2016, accessed your own medical records in the name of Carol Rodda on the Trusts CRRS.

13. On 13, 14, 15 and 21 September 2016, accessed Colleague G's medical records on the Trusts CRRS.

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

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

The panel considered carefully whether Ms Rodda's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined it 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, which included the decision and reasons of the substantive Fitness to Practise panel in May 2019. There has been no response provided by Ms Rodda.

The panel 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 noted that the substantive panel found that, while Ms Rodda's misconduct was remediable, her lack of engagement meant that the panel had no evidence of any insight, remorse or remediation from Ms Rodda. This panel was in the same position. Ms Rodda's lack of engagement has persisted and, as a result, this panel has no new information before it. It therefore concluded that, in the absence of any evidence of any remediation, insight or remorse, there remains a

risk of repetition. In these circumstances, the panel was satisfied that Ms Rodda's fitness to practise remains impaired on public interest grounds, for the same reasons identified by the substantive panel.

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

Having found Ms Rodda'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 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 risk of repetition identified. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

The panel then considered whether to impose a caution but concluded that this would also be inappropriate for the same reasons.

The panel next considered the imposition of a conditions of practice order. The panel agreed with the substantive panel that, given that there are no public protection concerns in this case, it would be difficult to formulate workable conditions to address the issue. It also had no reason to suppose that Ms Rodda would engage with conditions. The panel therefore determined that a conditions of practice order was not appropriate, proportionate or sufficient to protect the wider public interest.

The panel then moved on to consider the imposition of a further period of suspension. It noted that Ms Rodda's disengagement with the NMC has persisted and she has not provided any evidence of remediation or insight to either the substantive panel or this reviewing one. However, the panel also bore in mind that Ms Rodda's misconduct is remediable, should she choose to engage. Although Ms Rodda has not engaged thus far, the panel was mindful that this was only the first

review of this order. The panel was of the view that a further period of suspension would give Ms Rodda an opportunity to engage and demonstrate remediation.

The panel gave serious consideration to a striking-off order. However, it decided that this would be disproportionate at this stage, as Ms Rodda's misconduct did not place patients at risk of harm and is not, of itself, fundamentally incompatible with remaining on the NMC register.

Balancing all of these factors, the panel decided that a further six month suspension order was the appropriate and proportionate outcome which would satisfy the public interest and give Ms Rodda ample opportunity to demonstrate engagement and any remediation that she has been able to undertake during this period.

Before this suspension order expires, it will be reviewed by another panel. At that review, the panel may revoke the order allow it to lapse, or replace it with another type of order up to and including a striking-off order. At that review, the panel may be assisted by:

- Ms Rodda's attendance/engagement with the review;*
- a reflective piece;*
- evidence of training in information governance;*
- references and testimonials to include a reference from an employer, voluntary or otherwise, if Ms Rodda is in employment in any capacity.*

Decision and reasons on current impairment

The panel has considered carefully whether Ms Rodda'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 it 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 Ms Rodda's fitness to practise remains impaired.

The panel highlighted the findings of the previous reviewing panel that Ms Rodda had not provided any evidence of insight, remorse or remediation, and it considered that nothing had changed since the last review.

The panel has borne 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. Given the absence of any information to suggest otherwise, the panel considered that Ms Rodda's fitness to practise remained impaired on the grounds of public interest.

Decision and reasons on sanction

Having found Ms Rodda'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 nature and seriousness of Ms Rodda's misconduct. 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, due to the nature and seriousness of Ms Rodda's misconduct, an order that does not restrict her practice would not be appropriate in the circumstances. 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 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 nature of Ms Rodda's misconduct and concluded that there would no conditions of practice which could be formulated to address the issues in this case. Further, given Ms Rodda's lack of engagement in these proceedings, the panel could not be satisfied that she would be willing or able to comply with any conditions imposed.

The panel next considered imposing a further suspension order. The panel noted that Ms Rodda has failed to demonstrate any insight or remorse for her misconduct. The panel bore in mind that Ms Rodda's misconduct involved a significant number of data breaches, over a prolonged period, which it considered to be extremely serious. The panel was of the view that considerable evidence would now be required to show that Ms Rodda had reflected upon, developed good insight into and remediated her misconduct.

Further, the panel was of the view that Ms Rodda's initial denial of the facts subsequently found proved, her continued absence and lack of engagement in these regulatory proceedings, and lack of insight and remorse, were indicative of a deep seated and possibly harmful attitudinal problem.

The panel determined that a further period of suspension would not serve any useful purpose and that, at this stage, the only sanction that would satisfy the public interest in this case was a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 14 December 2020 in accordance with Article 30(1).

This decision will be confirmed to Ms Rodda in writing.

That concludes this determination.