

**Nursing and Midwifery Council
Fitness to Practise Committee
Substantive Order Review Meeting**

15 April 2021
Virtual Hearing

Name of registrant:	Kuldip Kaur Cheema
NMC PIN:	04H05620
Part(s) of the register:	Registered Nurse (Sub Part 1) Adult Nursing – August 2004
Area of Registered Address:	Kent
Type of Case:	Misconduct
Panel Members:	Derek McFaul (Chair, lay member) Jane Jones (Registrant member) Susan Thomas (Lay member)
Legal Assessor:	John Donnelly
Panel Secretary:	Caroline Pringle
Order being reviewed:	Suspension order (12 months)
Fitness to Practise:	Impaired
Outcome:	Striking-off order to come into effect at the end of 7 July 2021

Decision on proof of service

The panel considered whether notice of this meeting has been served in accordance with Rules 11A and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 ('the Rules').

The panel accepted the advice of the legal assessor. The panel noted that under the amendments made to the Rules during the Covid-19 emergency period, a notice of hearing or meeting can be sent to a registrant's registered address by recorded delivery and first class post or to a suitable email address on the register.

The panel noted that notice of this substantive order review meeting was sent to Miss Cheema by email on 9 March 2021. The notice informed Miss Cheema that her suspension order would be reviewed at a meeting on or after 12 April 2021, unless she asked for the review to take place at a hearing.

In these circumstances, the panel was satisfied that the notice was sent more than 28 days in advance of this meeting and had been served in accordance with the Rules. The panel noted that Miss Cheema has not responded to any communication from the NMC since April 2020 and has not requested that this review take place at a hearing. The panel was therefore satisfied that it was appropriate to proceed with this review at a meeting.

Decision and reasons on review of the current order

The panel decided to make a striking-off order. This order will come into effect at the end of 7 July 2021 in accordance with Article 30 (1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the first review of a 12 month suspension order imposed by a Fitness to Practise panel on 8 June 2020. The current order is due to expire at the end of 7 July 2021.

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 a registered nurse,

1. *On an unknown date in 2018, sent an application form with inaccurate information to East Kent Hospitals University NHS Foundation Trust, in that you:*
 - 1.1. *recorded that you were employed as a nurse at Queen Elizabeth Queen Mother Hospital, Endoscopy department from July 2015 - March 2016 when you were employed from 24 August 2015 to 27/28 December 2015.*
2. *On an unknown date in 2018 sent a CV with inaccurate information about your employment history to TFS Healthcare, in that you:*
 - 2.1. *recorded that you were employed as a nurse at Queen Elizabeth Queen Mother Hospital, Endoscopy department from "2012 -2015" when you were employed from 24 August 2015 to 27/28 December 2015.*
 - 2.2. *recorded that you were employed as a nurse at William Harvey Hospital, Emergency department from "September 2015 until present", when you were employed from 8 August 2016 - 10 March 2017*
3. *On an unknown date in September 2016 provided inaccurate information in an application form and or CV, about your employment history to Nurseplus in that you:*
 - 3.1. *recorded and or informed Nurseplus that you were previously employed as a nurse at East Kent Hospital Trust, Endoscopy department from July 2015 – March 2016, when you were actually employed from 24 August 2015 to 27/28 December 2015*
4. *In May 2018, sent a CV with inaccurate information to Appoint Group in that you:*

- 4.1. *recorded that you were previously employed as a nurse at Queen Elizabeth Queen Mother Hospital from “2012 -2015” when you were employed from 24 August 2015 -27/28 December 2015*
- 4.2. *recorded that you were employed at William Harvey Hospital, A&E from “September 2015 until present”, when you were employed from 8 August 2016- 10 March 2017*
5. *In May 2018, during a telephone consultation with Appoint Group, you informed the agent that you were employed in a full time position at William Harvey Hospital, when you were not.*
6. *Your actions at one or more of charges 1-5 above were dishonest in that you attempted to mislead your employers/agencies about the length of time you had previously worked.*

AND in light of the above your fitness to practise impaired by reason of your misconduct.

The original panel determined the following with regard to impairment:

‘The panel has already found that Miss Cheema acted dishonestly. The panel is of the view that Miss Cheema’s actions in providing misleading information regarding her employment history breached the fundamental tenets of the nursing profession and therefore brought the reputation into disrepute. Further, the panel considered that by presenting herself as more experienced than she was, Miss Cheema had put patients at potential risk of harm. The panel considered that a person purporting to have more experience than they do, had the potential to impact on patient care because they might not have the proper skills or experience to care for these patients.

Regarding insight, the panel considered that Miss Cheema has limited insight. Whilst Miss Cheema has made admissions to the NMC for all charges, including dishonesty, she contradicted herself by attributing her dishonest actions to 'errors' and 'mistakes'. Furthermore, the admissions she made to the NMC came at a late stage of the NMC investigation.

The panel determined that Miss Cheema has not demonstrated a genuine understanding of how her actions had the potential to put patients at a risk of harm. Further, Miss Cheema has not adequately recognised the impact of her actions on colleagues or the reputation of the profession.

The panel considered that Miss Cheema has repeatedly attempted to shift blame for 'mistakes' and 'errors' onto others and has sought to displace responsibility for the misleading information contained within her CV and application forms. In addition Miss Cheema has continually minimised her actions. As recently as 15 April 2020 in an email to the NMC Miss Cheema stated:

'... Have I murder or cause harm to someone?? NO NO NO. You have treated me worse than criminals for my mistake and continue to torture me, this is how I feel...'

The panel considered this a further indication that Miss Cheema has focused on herself, and that she has not appreciated the impact of her actions on the public perception of the profession or the potential risk of harm her actions could have posed to patients.

Whilst dishonesty is inherently difficult to remediate, the panel was of the view that the misconduct in this case is potentially capable of remediation. Therefore, the panel carefully considered the evidence before it in determining whether or not Miss Cheema has remedied the concerns identified. The panel concluded that, due to Miss Cheema's

lack of reflection, insight or full acceptance of her misconduct, the concerns identified have not been remedied.

The panel therefore is of the view that there is a risk of repetition based on Miss Cheema's lack of insight or remediation. Miss Cheema knew the standards expected of a nurse and has breached these by misleading potential employers as to her experience and employment history. At the time Miss Cheema was applying for the positions detailed in the charges she had not been working in a substantive post for over a year but was portraying that she was currently working in a full time position. The panel considered that this may lead to an employer believing that she was more experienced than she was and may have impacted on patient care. 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; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on public interest grounds is required. Miss Cheema has breached fundamental tenets of the profession and her dishonest actions have brought the profession into disrepute. The panel concluded that public confidence in the profession and in the NMC as its regulator would be undermined if a finding of impairment were not made in this case.

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

The original panel determined the following with regard to sanction:

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. 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 seriousness of the case and the public protection issues identified, an order that does not restrict Miss Cheema'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 Miss Cheema's misconduct 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 placing conditions of practice on Miss Cheema'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 also considered the seriousness of a finding of dishonesty. The panel took into account the SG.

The panel is of the view that there are no practical or workable conditions that could be formulated, given the dishonest nature of the charges in this case. In the panel's view dishonesty is not something that can be addressed through retraining.

The panel was satisfied that Miss Cheema's actions required removal from the NMC register on either a temporary or more permanent basis.

The panel therefore went on to consider whether a suspension order or a striking-off order would be the more appropriate sanction in this case. The panel had regard to the SG in respect of both orders.

The panel was not satisfied that there was no evidence of a harmful deep-seated attitudinal problem. It noted that this was not a single instance of misconduct and that the dishonesty was for financial gain. Further, the panel had determined, at the impairment stage, that Miss Cheema had limited insight. However, the panel noted that Miss Cheema made recent admissions to the charges and has taken early steps in developing her insight. Miss Cheema had also engaged with the NMC to some extent. It concluded therefore that Miss Cheema may develop further insight to help her remediate her actions.

The panel therefore considered that it was possible at this stage to maintain public confidence in the profession without removing Miss Cheema permanently from the register. The panel was of the view that a striking-off order was not the only sanction which would be sufficient to protect patients, members of the public or maintain professional standards. It considered that a suspension order would be sufficient to address the public protection and public interest issues identified.

In the panel's view a suspension order for the maximum period of 12 months with a review is the appropriate and proportionate sanction. A suspension order would allow Miss Cheema an opportunity to undertake meaningful reflection, to develop and demonstrate full insight into the dishonest conduct found proved, and provide evidence of remediation of her past misconduct to a future reviewing panel should she wish to continue in her nursing career.

The panel considered a striking-off order but decided it would be disproportionate at this stage. Whilst the panel acknowledged that a suspension order may have a punitive effect, it would be unduly punitive

in Miss Cheema's case to impose a striking-off order at this time. Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause Miss Cheema. However it considered that this is outweighed by the public interest in this case.

The panel considered that this order is 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.

The panel determined that a suspension order for a period of 12 months was appropriate in this case to mark the seriousness of the misconduct.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Miss Cheema's continued engagement with the NMC;*
- Miss Cheema's attendance at any future hearing;*
- A written reflective piece using a recognised model of reflection, with particular reference to this panel's findings, and demonstrating insight and remediation of the concerns identified;*
- Evidence of any professional development, including documentary evidence of completion of any courses, or how Miss Cheema is keeping her skills and knowledge up to date;*
- Any professional references/testimonials from any paid or unpaid work.*

Decision on current fitness to practise

This panel considered carefully whether Miss Cheema'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 carried out a comprehensive review of the order in light of the current circumstances. It noted the decision of the last panel. However, it exercised its own judgment as to current impairment.

The panel had regard to all of the documentation before it, the decision and reasons of the original panel.

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.

This panel noted that the substantive panel had determined that Miss Cheema had showed limited insight and no evidence of remorse or remediation. The panel considered that there had been no material change of circumstances since the substantive panel made this finding in June 2020. Miss Cheema has not communicated with the NMC since the suspension order was imposed and had not provided any new evidence of insight, remorse, remediation or continued professional development. She has not provided any of the information suggested by the previous panel.

In the absence of any new information, the panel determined that a finding of current impairment on public protection grounds continued to be required, for the same reasons identified by the substantive panel in June 2020.

The panel also determined that a finding of current impairment also continued to be required to uphold professional standards and to maintain confidence in the nursing profession and the regulatory process.

Determination on sanction

Having found Miss Cheema'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 Articles 29 and 30 of the Order. The panel also took into account the NMC's Sanctions Guidance and bore 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. It noted that Miss Cheema has previously expressed a desire to leave the nursing profession and taking no further action would cause Miss Cheema's registration to lapse. She would then be removed from the register. However, the panel had regard to the NMC guidance on 'Allowing orders to expire when a nurse or midwife's registration will lapse'. It noted that it had no engagement with Miss Cheema and no clear evidence of her plans away from the nursing profession. The panel therefore determined that it would not be appropriate to take no further action.

The panel then considered whether to impose a caution order but concluded that this would be inappropriate in view of the risk of repetition identified and seriousness of the case. A caution order would not restrict Miss Cheema's practice and would therefore not protect the public. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel agreed with the substantive panel that there were no practical or workable conditions that could be formulated, given the dishonest nature of the charges in this case. The panel agreed that Miss Cheema's dishonesty is not something that can be addressed through retraining.

The panel next considered a further suspension order. It noted that the previous panel '*was not satisfied that there was no evidence of a harmful deep-seated attitudinal problem*' and gave serious consideration to a striking-off order. However, it had decided to make a 12 month suspension order to give Miss Cheema an opportunity to develop her insight and re-engage with the NMC.

Miss Cheema has not taken this opportunity. This panel considered that Miss Cheema's correspondence with the NMC in April 2020 showed a profound lack of insight and understanding of the seriousness of her actions, which involved repeated deception for personal financial gain. Despite being suspended for 12 months Miss Cheema has provided no additional evidence of any further insight or remediation.

In these circumstances, the panel was of the view that a further period of suspension would serve no useful purpose and would therefore not be an appropriate or proportionate sanction.

The panel had regard to the NMC's guidance on cases involving dishonesty, in particular:

'The law regarding healthcare regulation makes it clear that a nurse, midwife, or nursing associate who has acted dishonestly will always be at risk being removed from the register.'

Nurses, midwives and nursing associates who behaved dishonestly can engage with the Fitness to Practise Committee to show that they feel remorse, that they realise they acted in a dishonest way, and tell the panel that it will not happen again. They can do this in person, through anyone representing them, or by sending information they want the Committee to consider. If they do this, they may be able to reduce the risk that they will be removed from the register.'

Miss Cheema acted dishonestly for her own personal gain. She has shown a lack of insight and remorse for her actions. Despite the substantive panel giving her an opportunity to develop her insight and re-engage, Miss Cheema has not provided any further evidence of her insight for this reviewing panel. The panel also considered the effect that the current Covid pandemic may have had regarding Miss Cheema's opportunity to re-engage and develop her insight.

However, the panel had no further information before it regarding Miss Cheema's current circumstances.

In these circumstances, the panel considered that the seriousness of Miss Cheema's original misconduct, taken together with her persistent lack of insight and engagement, now meant that her behaviour had become fundamentally incompatible with remaining on the register. The panel therefore concluded that the only sanction which would protect the public and satisfy the public interest was a striking-off order.

This decision will be confirmed to Miss Cheema in writing.

That concludes this determination.