

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

Restoration Hearing

10 February 2021

Virtual Hearing

Name of Registered Nurse: Dominic Joannou

NMC PIN: 90J1139E

Part(s) of the register: Registered Nurse (Sub Part 1)
Mental Health Nursing – September 1993

Area of Registered Address: Essex

Panel Members: Nick Cook (Chair, lay member)
Michael Duque (Registrant member)
Rachel Ellis (Lay member)

Legal Assessor: Trevor Jones

Panel Secretary: Caroline Pringle

Mr Joannou: Present and represented himself

Nursing and Midwifery Council: Represented by Michael Bellis, Case Presenter

Outcome: Application granted subject to satisfying the
NMC's return to practice standards

Decision and reasons on application under Rule 19

During the hearing Mr Bellis made an application that any references to your health be heard in private, in order to protect your right to privacy. The application was made pursuant to Rule 19 of the Rules.

You supported the application.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel was satisfied that your right to privacy in respect of your health outweighed the public interest in these parts of the hearing being held in public. It therefore determined to hold any parts of the hearing which referred to your health in private.

Determination of application for restoration to the NMC Register

On 18 July 2014 a panel of the NMC Conduct and Competence Committee directed that your name be removed from the NMC register.

This is your first application for restoration to the NMC register following that decision. Your application is made in accordance with Article 33 of the Nursing and Midwifery Order 2001, as at least five years have now elapsed since the date on which you were struck-off.

At this hearing the panel may reject your application or it may grant your application unconditionally. It may grant your application subject to your satisfying the requirements of Article 19(3) and it may make a conditions of practice order.

Background

You were referred to the NMC on 30 July 2013 after concerns emerged that you had an inappropriate working relationship and had crossed professional boundaries with a client, ('Client A').

At the relevant time, you were employed as a Community Development Worker for the Harrow Community Recovery Team by Central and North West London NHS Trust, ('the Trust'). You also worked as a Care Coordinator with the Assessment and Brief Treatment Team ('the ABT') due to your specialist knowledge in assisting asylum seekers. The ABT offered mental health and social care assessment and brief treatment to those with mental health problems and treated clients with a range of moderate to severe health problems, such as schizophrenia, anxiety and depression.

You engaged with the NMC via your legal representative and agreed a consensual panel determination ('CPD') agreement with the NMC. In this CPD you admitted all of the allegations against you and admitted that your fitness to practise was impaired. The CPD proposed that a striking-off order was the appropriate sanction. This CPD agreement was placed before a Conduct and Competence Committee panel on 18 July 2014. The panel accepted the CPD agreement and directed that you be struck-off the NMC register.

The charges which you admitted were:

That you, a Registered Nurse, whilst employed by Central and North West London NHS Foundation Trust ('the Trust'):

- 1. In November 2012, did not inform colleagues and/or managers that in your previous involvement with Client A between July 2008 and November 2011:*
 - a) You had sexual feelings towards Client A.*
 - b) Client A had made sexual comments towards you.*

- 2. On or around 20 December 2012, you crossed professional boundaries in that you:*
 - a) Told Client A that if you were not a nurse, sex would be possible, or words to that effect.*
 - b) Pressured Client A to admit that he was bisexual.*

- c) *Pressured Client A to admit that he would have enjoyed a sexual experience with you.*
 - d) *Told Client A that he was playing a sexual and/or mind game with you¹.*
 - e) *Told Client A that he was a very good looking bisexual person.*
 - f) *Told Client A that he could make a lot of money as a male prostitute.*
 - g) *Told Client A that he could be a male model because he was so handsome, or words to that effect.*
3. *On 9 January 2013:*
- a) *Met with Client A without a chaperone.*
 - b) *Inappropriately discussed Client A's physical appearance with a third party.*
4. *On one or more occasion between December 2012 and February 2013, disclosed confidential information about Client A to a third party without his consent.*
5. *Were sexually motivated in your actions at charges 1 and/or 2 and/or 3.*

In accepting the CPD agreement, the substantive panel stated the following with regard to impairment:

'The panel determined that Mr Joannou's conduct fell substantially below the standards expected of a registered nurse and that he had breached the paragraphs of the Code as outlined in the CPD. The panel considered that Mr Joannou had abused his position of trust over a prolonged period of time (5 years) and exposed a vulnerable young adult, who had already been the victim of sexual abuse, to a risk of harm. This, in the panel's view, amounted to egregious behaviour. The panel took into account the fact that Mr Joannou was not fully open and honest with his second employer by not advising them of his previous interaction with Client A and thereby circumvented safeguarding procedures. Further, the panel took the view that Mr Joannou

¹ Charge 2d) was admitted on the basis that you accepted that you told Client A that he was playing a mind game with you.

was fully aware that what he was doing was wrong and yet continued to abuse his position of trust. In those circumstances, the panel concluded that Mr Joannou's behaviour amounted to serious misconduct.

As to impairment, the panel again concurred with the provisional agreement that Mr Joannou's fitness to practise is currently impaired. The panel had regard to Mr Joannou's reflective statement and found that whilst there was some recognition of wrongdoing, he continued to show a significant lack of insight into the impact of his behaviour. The panel was very concerned that Mr Joannou, in his reflective account, makes the following statement: "I began slowly realize all of the times that I inadvertently got the boundaries wrong over the last 20 years of nursing." The panel therefore found that there remains a real risk of repetition of his behaviour. Further, it took the view that Mr Joannou's conduct was not remediable. It found that the first three limbs of Dame Janet Smith's Fifth Report to the Shipman enquiry as set out by Mrs Justice Cox in the case of CHRE v NMC and Grant were engaged in this case. Accordingly, the panel concluded that a finding of current impairment was required to protect the public and preserve public confidence in the profession and the NMC as its regulator.'

The substantive panel went on to say with regard to sanction:

'The panel first considered taking no action but concluded that, given the seriousness of the misconduct, this would be wholly inappropriate.

The panel next considered imposing a caution order but concluded that, given the seriousness of Mr Joannou's misconduct, such an order would be insufficient to protect the public and would not serve the purpose of upholding public confidence in the nursing profession and in the NMC as its regulator.

The panel next considered imposing a conditions of practice order but determined that a such an order would not be workable in this case and would not address the risk of harm to the public or satisfy the public interest.

The panel considered a suspension order. The panel considered that the facts found proved amounted to serious and fundamental departures from the Code. The panel found that a suspension order would not adequately protect the public from a potential risk of harm. Crossing professional boundaries with Client A for a period of 5 years and disclosing confidential information about Client A amount to wholly unacceptable conduct for a registered nurse. The panel concluded that Mr Joannou's behavior was fundamentally incompatible with remaining on the register. Furthermore, a suspension order would not be in the public interest, nor would it adequately uphold the reputation of the profession in these circumstances.

The panel next considered a striking-off order. In light of its conclusions and the contents of the CPD, the panel approves and accepts the course proposed and therefore imposes a striking-off order. The panel considered it to be the only sanction sufficient and proportionate to protect the public and uphold the public interest in this case.'

Submissions and evidence

This panel had regard to the submissions made by Mr Bellis, on behalf of the NMC. It also took account of your application for restoration and supporting documentation, which included three references, a copy of your CV, confirmation of your educational qualifications, professional boundaries training certificates from 2013 and 2014, a draft article written by you entitled 'UK mental health nurses' boundary violations within a legal framework', communication with the Disclosure and Barring Service and information about your health. It took account of your sworn evidence and that of two of your referees, who also gave evidence on your behalf.

Mr 1, who provided a reference as part of your restoration application, gave evidence on your behalf. Mr 1 has known you for seven years as you are both Directors of Worcester Court Residents Association. Mr 1 also summarised his professional background and current activities which include involvement as a trustee for a number of charities. Mr 1 gave evidence that, as the Director who lives closest to the site, you have more

interaction with the tenants and leaseholders than any of the other Directors. Mr 1 confirmed that he carried out due diligence before appointing you as a Director and was aware of the circumstances which led to you being struck off the NMC register. Mr 1 told the panel he did have some concerns at the time and 'kept a careful eye' on you for the first few years 'to make sure that history didn't repeat itself'. However, he confirmed that he is now satisfied with your probity and has been impressed with the way you have handled your responsibilities as a Director.

Ms 2 provided a reference as part of your restoration application and also gave evidence to the panel on your behalf. Ms 2 is your Modern Greek teacher and teaches you once a week as part of a small class of eight people. She confirmed that you disclosed that you had been struck off the NMC register and that Essex County Council had put in place a number of safeguarding measures before you embarked on your adult learning courses. Ms 2 was unable to comment on the specific details of these safeguarding measures but confirmed that, to the best of her knowledge, you adhered to the safeguarding plan and your conduct has always been appropriate during her classes.

[PRIVATE].

You also gave evidence to the panel. You confirmed that you have not been in paid employment since you were dismissed in 2013 but have spent your time doing voluntary roles and studying, particularly in the areas of statistics and research methodologies. You have completed two articles analysing the outcomes of NMC fitness to practise hearings, one of which you provided to this panel as part of your application. You applied for a role as a care assistant in September 2019 and were offered the position, however this fell through and you never took up the role.

You told the panel that you have spent the past several years reflecting on your misconduct and the issue of professional boundaries. You said that you now recognise the warning signs and would take appropriate action to ensure that you did not cross professional boundaries again. You stated that the warning signs included becoming too familiar with your patients, disclosing information about yourself, or picturing yourself

fulfilling roles in your client's life outside of your professional capacity. You stated that you can struggle with recognising the subtleties of human communication and recognise that this is a risk factor for you, but said that you have learned to use others as your 'social eyes' to help you recognise when you may be too close to a situation.

You told the panel that if you were allowed to return to practice then you would ensure that one of the key areas of your clinical supervision would be managing your professional boundaries. You gave evidence that if you found yourself in a similar situation in the future then you would be open with your manager and arrange for the patient's care to be transferred to another member of staff.

[PRIVATE]

In your evidence you told the panel that you recognised that you failed to live up to the standards expected of you and that your actions could lead to a mistrust of the service and the nursing profession. You said that you felt awful about the fact that your actions could have impacted on Client A's asylum application.

When asked about training, you said that you have continued to read clinical articles but mainly from a research methodology perspective. You stated that you have not completed any further training on maintaining professional boundaries since 2014 but that this would be a priority for you if you returned to practice and that you intended to do regular refresher training.

Mr Bellis, on behalf of the NMC, outlined the background of the case and the facts that led to the striking-off. He referred this panel to the previous panel's decision which resulted in your removal from the NMC's register. He referred the panel to the test set out in Article 33(5) of the Order and the NMC's guidance on restoration applications. He submitted that the key issues for the panel to consider were the risk of repetition and whether, in its view, you are a fit and proper person to be restored to the register. In considering these issues Mr Bellis submitted that the panel should have regard to your insight and remediation and the overarching objectives of the NMC.

The panel accepted the advice of the legal assessor who reminded the panel of the test, as provided in Article 33(5) of the Nursing and Midwifery Order 2001. First you must satisfy the panel that you satisfy the requirements of Article 9(2)(a) (approved qualification and prescribed education, training and experience) and Article 9(2)(b) (capable of safe practice). Secondly, you must satisfy the panel whether, having regard in particular to the circumstances which led to the making of the striking-off order in 2015, you are a *'fit and proper person to practise as a registered nurse'*. He advised the panel that it is for you to satisfy the panel of these two matters and it is for the panel to use its own independent judgment as to whether it is so satisfied.

Decision on the application for restoration

The panel has considered your application for restoration to the NMC register carefully. It has decided to allow your application subject to your successful completion of the NMC's return to practice standards and readmission requirements.

In reaching its decision the panel recognised its statutory duty to protect the public as well as maintain public confidence in the reputation of the profession, which includes the declaring and upholding of proper professional standards. The panel bore in mind that the burden was upon you to satisfy it that you are a fit and proper person who is able to practise safely and effectively as a nurse.

The panel noted that you have chosen not to undertake work in the healthcare sector since you were struck off the NMC register. However, you have been open and honest with the various organisations with which you are involved and have adhered to the safeguarding measures put in place as a result. While neither Mr 1 or Ms 2 were in a position to comment on your conduct as a nurse, both spoke highly of your probity and conduct in your interactions with them and there have been no further concerns regarding your professionalism or conduct.

Regarding your insight, the panel considered that you have evidently spent considerable time reflecting on your misconduct and the effect that this had on Client A and the reputation of the nursing profession. [PRIVATE]. In your evidence to this panel today you were able to describe how you would maintain appropriate professional

boundaries in the future, how you would recognise if boundaries were becoming blurred, and what action you would take if you found yourself in this situation. The panel considered that while your insight could perhaps be developed further, you have demonstrated a satisfactory level of insight.

The panel noted that you have not undertaken any further training in maintaining professional boundaries since you were removed from the NMC register. However, you have conducted independent research into this topic, including relevant professional guidance on how to handle these situations.

Taking account of the insight and remediation demonstrated today, the panel was satisfied that you are highly unlikely to repeat similar misconduct in the future, and that the risk of repetition identified in 2014 has been resolved.

The panel also bore in mind that the overarching aim of the NMC includes the maintenance of public confidence. It was of the view that your original misconduct, while serious, was not so serious that readmission to the register would necessarily undermine public confidence in the profession and the NMC. It was satisfied that the severity of your wrongdoing had been marked by the striking-off order. It bore in mind that the public interest also included returning safe and effective nurses to the NMC register and that, in light of your insight and remediation, public confidence would not be undermined by restoring you to the register.

For these reasons, the panel was satisfied that you have demonstrated that you are a fit and proper person to be restored to the register. Accordingly, it decided to allow your application.

Having decided to allow your application, the panel noted that you have not practised as a registered nurse since 2013 and therefore you no longer meet the requirements for registration with the NMC. However, the panel determined to allow your application for

restoration subject to your successful completion of the NMC's return to practice standards and readmission requirements².

That concludes this determination.

This decision will be confirmed to you in writing.

² <https://www.nmc.org.uk/registration/returning-to-the-register/returning-to-practice/>