

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

**Substantive Order Review Meeting
Monday 22 November 2021**

Virtual Meeting

Name of registrant: Saji Kunnel Bhaskaran

PIN: 03H11920

Part(s) of the register: Registered Nurse
Adult Nursing (29 August 2003)

Area of registered address: Greater Manchester

Type of case: Misconduct

Panel members: David Crompton (Chair, Lay member)
Jane Jones (Registrant member)
David Lancaster (Lay member)

Legal Assessor: Nigel Mitchell

Panel Secretary: Teige Gardner

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: **Strike off order to come into immediate effect
in accordance with Article 30 (2)**

Decision and reasons on service of Notice of Meeting

The panel noted that the Notice of Meeting had been sent to Mr Bhaskaran's registered email address on 7 October 2021.

The panel took into account that the Notice of Meeting provided details of the substantive order being reviewed, that it would take place no sooner than 22 November 2021 and if Mr Bhaskaran wished to have a hearing, he could request one.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Bhaskaran 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 impose a strike-off order.

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

This is the first review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 7 December 2021.

The current order is due to expire at the end of 4 January 2022.

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

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

"That you, a Registered nurse employed as a Senior Carer:

- 1) On 3 October 2018 attended for duty at Yew Tree Care Home **[PRIVATE]**
[PROVED]
- 2) On 1 November 2018 **[PRIVATE]** **[PROVED]**
- 3) From 9 September 2019 to date, failed to cooperate with a request from your regulatory body, the Nursing and Midwifery Council, **[PRIVATE]**. **[PROVED BY ADMISSION]**

AND in light of the above, your fitness to practise is impaired by reason of your misconduct”

The original panel determined the following with regard to impairment:

*“The panel determined that patients in Mr Bhaskaran’s care would have been exposed to an unwarranted risk of harm as he attended two shifts **[PRIVATE]**. The panel noted that Mr Bhaskaran would have been working with vulnerable residents.*

*The panel considered Mr Bhaskaran’s actions in attending work **[PRIVATE]** to have breached a fundamental tenet of the nursing profession and to have brought its reputation into disrepute. Whilst the concerns raised do not directly relate to Mr Bhaskaran’s clinical nursing practice, the panel considered his professional conduct to have been brought into question as he was the senior carer in charge of staff and patients.*

*In considering Mr Bhaskaran’s level of insight, the panel noted that he denies charges 1 and 2 and is not engaging with the NMC to any significant extent or **[PRIVATE]**. In reaching its decision, the panel considered Mr Bhaskaran’s position. The panel noted Mr Bhaskaran’s responses dated 27 November 2018 and 16 November 2020. The panel was not in possession of any evidence to determine his insight into his misconduct. The panel did not have any information from Mr Bhaskaran regarding how his actions put patients at a risk of harm, an*

understanding of why what he did was wrong or how this impacted negatively on the reputation of the nursing profession.

The panel noted that whilst it had [PRIVATE]. However, as Mr Bhaskaran [PRIVATE], the panel had no information in relation to this. The panel was of the view that the misconduct in this case is capable of remediation, however the panel had no information before it to suggest that Mr Bhaskaran has attempted to improve his [PRIVATE] or to demonstrate that anything has improved since the allegations arose in 2018.

Accordingly, the panel determined that Mr Bhaskaran's behaviour has the potential to expose patients in his care to a risk of unwarranted harm, should he be permitted to continue practising as a registered nurse without some form of restriction.

The panel therefore decided 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. In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Mr Bhaskaran's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mr Bhaskaran'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 as this would not address the misconduct identified, nor would it safeguard patients.

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 Bhaskaran'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 Bhaskaran'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 Mr Bhaskaran's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. It was of the view that the misconduct identified in this case was not something that can be addressed through retraining. Furthermore, Mr Bhaskaran has not demonstrated any insight, remorse or remediation in respect of his misconduct. It appears that Mr Bhaskaran has not engaged with the process, so it is unclear whether he would be willing to comply with a conditions of practice order. In any event, the panel determined that a conditions of practice order at this stage would not sufficiently address the public protection or public interest concerns identified in this case.

The panel then went on to consider whether a suspension order would be a sufficient and appropriate sanction. The panel considered whether the concerns identified could be addressed by temporary removal from the register and whether a period of suspension would be sufficient to protect patients and satisfy the wider public interest concerns.

The panel considered Mr Bhaskaran's misconduct to be serious. The panel took account of the NMC's written submissions in the statement of case, and that it had

invited the panel to impose a suspension order for a period of nine months. It agreed with the recommendation for a suspension order to be imposed, but disagreed with the length of time. The panel was of the view that a 12 month suspension order would allow time for Mr Bhaskaran to develop a level of insight and to demonstrate remediation. It determined that 12 months would also allow time for Mr Bhaskaran to meaningfully engage with the NMC, [PRIVATE].

In having regard to all the above, the panel concluded that a 12 month suspension order would be the appropriate and proportionate response in this case. It was of the view that this would also mark the seriousness of the misconduct and to sufficiently address the public interest.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Mr Bhaskaran's case to impose a striking-off order. The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction."

Decision and reasons on current impairment

The panel has considered carefully whether Mr Bhaskaran's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the Nursing and Midwifery Council (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 a **[PRIVATE]**.

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 Bhaskaran's fitness to practise remains impaired.

The panel noted that there has been no real change in the circumstances of this case since the original hearing, save that Mr Bhaskaran, on 18 August 2021, informed the NMC **[PRIVATE]**.

The panel noted that the original panel found that Mr Bhaskaran had insufficient insight. At this meeting the panel was of the view that Mr Bhaskaran has not demonstrated any insight or remorse whatsoever. The panel noted that Mr Bhaskaran **[PRIVATE]**. The panel was of the view that this highlights an attitudinal problem. Therefore, the panel was of the view that the risk posed by Mr Bhaskaran to the public has not changed since the original hearing. In light of this the panel determined that Mr Bhaskaran is liable to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

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. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

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

Decision and reasons on sanction

Having found Mr Bhaskaran 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 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 Mr Bhaskaran'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 Bhaskaran'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 a conditions of practice order on Mr Bhaskaran'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 meeting 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 Bhaskaran's misconduct.

The panel next considered imposing a further suspension order. The panel noted that Mr Bhaskaran has not shown any remorse for or insight into his misconduct. The panel further took into consideration Mr Bhaskaran's **[PRIVATE]**, which it considered to be an aggravating feature, and highlighted an attitudinal problem. The panel was of the view that this raises fundamental questions about his professionalism. In addition, the panel noted that Mr Bhaskaran had not responded to any of the suggestions made by the previous

panel. The panel noted that considerable evidence would be required to show that Mr Bhaskaran no longer posed real risk to the public. The panel determined that a further period of suspension would not serve any useful purpose in all of the circumstances, as Mr Bhaskaran **[PRIVATE]** and is not currently engaging with the NMC process. The panel determined that it was necessary to take action to prevent Mr Bhaskaran 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 take immediate effect in accordance with Article 30(2).

This decision will be confirmed to Mr Bhaskaran in writing.

That concludes this determination.