

# Nursing and Midwifery Council Fitness to Practise Committee

## Substantive Meeting 4 August 2022

Virtual Meeting

**Name of registrant:** Vijayan Rajoo

**NMC PIN:** 81F1334E

**Part(s) of the register:** Sub part 1  
RN5: Learning disabilities nurse, Level 1  
20 November 1984

**Relevant Location:** Essex

**Type of case:** Misconduct

**Panel members:** Tracy Stephenson (Chair, Lay member)  
Sandra Lamb (Registrant member)  
Asmita Naik (Lay member)

**Legal Assessor:** Graeme Henderson

**Hearings Coordinator:** Max Buadi

**Facts proved:** All

**Facts not proved:** None

**Fitness to practise:** Impaired

**Sanction:** **Striking-off order**

**Interim order:** **Interim suspension order (18 months)**

## **Decision and reasons on service of Notice of Meeting**

The panel noted that notice of this substantive meeting was sent to Mr Rajoo via email to an email address held on the NMC register on 23 June 2022. The notice informed Mr Rajoo that his case would be heard at a meeting on or after 1 August 2022 and that he could make written submissions and provide evidence until 22 July 2022.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegations, the date and time for the substantive meeting.

In the light of all of the information available, the panel was satisfied that Mr Rajoo 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).

## **Details of charge**

That you, a registered nurse:

1. Between 1 June 2019 to 22 June 2019;
  - a. On one or more occasions failed to check the contents of the controlled drug cupboard at the start and/or end of every shift.
  - b. On one or more occasions signed the controlled drugs book to say that you had checked the controlled drugs cupboard when you had not checked it.
2. Your actions at 1(b) were dishonest in that you knowingly intended to give the misleading impression you had checked the controlled drugs cupboard when you had not.
3. Between 14 November 2018 to 22 June 2019;
  - a. On one or more occasions administered sugar and water to Patient A instead of Oramorph as prescribed.

- b. On one or more occasions failed to administer Oramorph to Patient A as prescribed.
  - c. On one or more occasions failed to record on Patient A's MAR chart that you had administered sugar and water to Patient A.
  - d. On one more occasions failed to record your reason for refusing to administer Patient A his prescribed dose of Oramorph.
4. Your actions at 3(a) were dishonest in that you knowingly intended to give the misleading impression to Patient A that you had administered Oramorph when you had not.

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

## **Background**

Mr Rajoo was admitted on to the NMC register in 1984. On 23 July 2019, the NMC received a referral about Mr Rajoo's fitness to practise. The referral came from Excelcare, who manage St Fillans Care Home ('the Home'). At the time of the concerns raised in the referral, he was employed as a registered nurse on Charter Unit ('the Unit') within the Home.

Mr Rajoo began working at the Home as a registered nurse in January 2018. The Home has 71 beds spread over two floors. Each floor has two units. He was based on the unit which has 16 beds, and provides care for residents with complex needs. During the day the Unit would have a nurse and 5 carers. During the night there would be a nurse and 3 carers. All other units would have a nurse present too. There would always be 4 nurses working at any given time.

In June 2019, it was discovered that 20ml of Oramorph was unaccounted for at the Home. The Oramorph was prescribed for a resident on the Unit, Patient A, for pain relief. A local investigation was carried out by Ms 1, Deputy Manager at the Home.

Ms 1 interviewed Mr Rajoo whilst conducting the investigation. During the interview on 28 June 2019, Mr Rajoo made several admissions relating to the administration of medication.

Mr Rajoo was meant to check the CD cupboard at the start of his shift and at the end of his shift with the outgoing/incoming nurse. It is alleged that Mr Rajoo signed the book but did not carry out the checks.

Mr Rajoo made admissions to this at investigative meeting held on 28 June 2019 and the disciplinary meeting held on 18 July 2019.

Mr Rajoo also admitted to Ms 1 during the interview, that he did not administer Oramorph to Resident A, and instead administered sugar and water. Patient A had a brain tumour and suffered from chronic headaches. Patient A had been at the Home since November 2018 and was 53 years old at the time. He had come to the Home for palliative care as he was suffering from a brain tumour. Patient A needed 1:1 support as he had challenging behaviours and needed assistance with personal care and medications. The Oramorph was prescribed for Patient A for when he needed a stronger pain relief than paracetamol. He presented with challenging behaviours if he had an episode and it could have been down to pain.

### **Decision and reasons on facts**

In reaching its decisions on the facts, the panel took into account all the documentary evidence in this case together with the written representations made by the NMC and from Mr Rajoo.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel had regard to the written statements of the following witness on behalf of the NMC:

- Ms 1: Deputy Manager at the Home;

The panel also had regard to written representations from Mr Rajoo.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the documentary evidence provided by both the NMC and Mr Rajoo.

The panel then considered each of the charges and made the following findings.

### **Charge 1**

1. Between 1 June 2019 to 22 June 2019;
  - a. On one or more occasions failed to check the contents of the controlled drug cupboard at the start and/or end of every shift.
  - b. On one or more occasions signed the controlled drugs book to say that you had checked the controlled drugs cupboard when you had not checked it.

### **These charges are found proved.**

The panel considered each of these charges separately but as the evidence in relation to each is similar it has dealt with them under one heading. In reaching this decision, the panel took account of the evidence of Ms 1. With regards to charge 1a) the panel bore in mind that the NMC has to prove the existence of a duty to check the contents of the controlled drug cupboard at the start and/or end of every shift.

The panel took account of the witness statement of Ms 1.

*“...I met with Vijay on 28 June 2019 and I produce the minutes... I can confirm these are accurate and Vijay would have seen these notes. I was asking Vijay questions about the missing Oramorph and I wanted to know the last time he gave*

*[Patient A] Oramorph. Vijay was honest and said he did not give Oramorph to [Patient A] when he requested it because Vijay felt [Patient A] did not need it. Vijay also did not check the Controlled Drugs (“CD”) cupboard. I produce a copy of the policy...*

*“...Vijay was meant to check the CD cupboard at the start of his shift and at the end of his shift with the outgoing/incoming nurse. Vijay was signing the book to say that the CD stock was fine and there was no discrepancy. Vijay was not carrying out the check but was completing the book.”*

The panel took account of the Medicines Management policy of the Home. It noted the information at “6.17.2 Receipt and Storage of Controlled Drugs”. The panel was satisfied that there was a duty for Mr Rajoo to check the contents of the CD cupboard.

The panel noted that Mr Rajoo admitted during his interview with Ms 1 that he did not check the controlled drugs (‘CDs’) at the beginning and end of each of his shifts, as set out in the Home’s policy and he hadn’t checked it for some time. It noted that the CD check was also countersigned by other nurses.

The panel noted that in the investigatory interview on 28 June 2019 Mr Rajoo stated:

*“I did not feel the need to check the medications for some time... I did not check for some time probably due to laziness.”*

In his response to the regulatory concerns to the NMC on 20 September 2019, he stated that:

*“I accept on this occasion, I did not carry out the checks. He later states he doesn’t know how often this happened”.*

The panel also noted that Mr Rajoo made admissions at the disciplinary meeting held on 18 July 2019. During that meeting he states in relation to checking the CD cupboard with another member of staff: “I take responsibility, I didn’t follow protocol. I know what I did and I have not done it since.”

The panel noted that in Mr Rajoo's "Regulatory concerns response form", dated 20 September 2019, he accepted that he did not carry out checks of the CDs.

In these circumstances, the panel was satisfied on the balance of probabilities that Mr Rajoo on one or more occasions failed to check the contents of the controlled drug cupboard at the start and/or end of every shift.

The panel was also satisfied that on one or more occasions Mr Rajoo signed the controlled drugs book to say that he had checked the controlled drugs cupboard when he had not checked it

The panel therefore find this charge proved.

## **Charge 2**

2. Your actions at 1(b) were dishonest in that you knowingly intended to give the misleading impression you had checked the controlled drugs cupboard when you had not.

### **This charge is found proved.**

In reaching this decision, the panel had to determine what Mr Rajoo's actual state of mind was as to the facts and decide whether his conduct with that state of mind would be considered dishonest by the standards of ordinary honest and decent people.

The panel had already concluded that Mr Rajoo on one or more occasions signed the controlled drugs book to say that he had checked the controlled drugs cupboard when he had not checked it. The panel bore in mind that Mr Rajoo admitted this during his interview with Ms 1. Further, he would have been required to do this as per the "6.17.2 Receipt and Storage of Controlled Drugs".

The panel was satisfied that Mr Rajoo would have known that he had to sign the controlled drugs book. By signing to say that he had checked when he knew he had not was a

deliberate and dishonest act and therefore, it was satisfied that his actions specified in charge 1b were dishonest.

### **Charge 3**

3. Between 14 November 2018 to 22 June 2019;
  - a. On one or more occasions administered sugar and water to Patient A instead of Oramorph as prescribed.
  - b. On one or more occasions failed to administer Oramorph to Patient A as prescribed.
  - c. On one or more occasions failed to record on Patient A's MAR chart that you had administered sugar and water to Patient A.
  - d. On one more occasions failed to record your reason for refusing to administer Patient A his prescribed dose of Oramorph.

### **This charge is found proved.**

The panel considered each of these charges separately but as the evidence in relation to each is similar it has dealt with them under one heading. In reaching this decision, the panel took account of the evidence of Ms 1.

The panel took account of the witness statement of Ms 1:

*"...I was asking Vijay questions about the missing Oramorph and I wanted to know the last time he gave [Patient A] Oramorph. Vijay was honest and said he did not give Oramorph to [Patient A] when he requested it because Vijay felt [Patient A] did not need it...Vijay told me he would give sugar and water mixed together to [Patient A] but say it was Oramorph. [Patient A] did say it didn't taste right and after Vijay telling me this it made sense..."*

The panel noted that Mr Rajoo admitted during the investigation meeting on 28 June 2019, that he did not give Oramorph to Resident A when he requested it, because he felt Patient A did not need it. Mr Rajoo told Ms 1 that he would give sugar and water mixed together to Patient A, but say it was Oramorph.



At the same investigation meeting, Mr Rajoo admitted that he did not administer Oramorph to Patient A and gave him a solution of water and sugar. At the disciplinary meeting on 8 July 2019, Mr Rajoo also stated that he had given Patient a sugar and water when he asked for pain relief.

The panel also noted that it had no evidence on the MAR charts provided that Mr Rajoo had administered sugar water to Patient A and had not recorded his reason for refusing to administer Patient A his prescribed dose of Oramorph.

In light of the above, the panel was satisfied that charges 3a, 3b, 3c, and 3d are proved.

#### **Charge 4**

4. Your actions at 3(a) were dishonest in that you knowingly intended to give the misleading impression to Patient A that you had administered Oramorph when you had not.

#### **This charge is found proved.**

In reaching this decision, the panel had to determine what Mr Rajoo's actual state of mind was as to the facts and decide whether his conduct with that state of mind would be considered dishonest by the standards of ordinary honest and decent people.

The panel bore in mind that Patient A had asked for pain relief.

The panel had already concluded that Mr Rajoo on one or more occasions administered sugar and water to Patient A instead of Oramorph as prescribed. The panel bore in mind that Mr Rajoo admitted this during his interview with Ms 1.

The panel was satisfied that Mr Rajoo would have known that he had to administer Oramorph to Patient A but chose not to and instead chose to administer a placebo solution which would have had no pain-relieving effect. By doing this, it was satisfied that his actions specified in charge 3a were dishonest.

## **Fitness to practise**

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mr Rajoo's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

## **NMC written representations on misconduct**

The NMC submitted that Mr Rajoo's failings are so serious that they amount to misconduct. They referred to the comments by Lord Clyde

*"[331B-E] Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rule and standards ordinarily required to be followed by a [nursing] practitioner in the particular circumstances'. The comments of Jackson J in Calheam v GMC [2007] EWHC 2606 (Admin) and Collins J in Nandi v General Medical Council [2004] EWHC 2317 (Admin), may also assist: '[Misconduct] connotes a serious breach which indicates that the doctor's (nurse's) fitness to practise is impaired'.*

The panel accepted the advice of the legal assessor.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Mr Rajoo's fitness to practise is currently impaired as a result of that misconduct.

## **Decision and reasons on misconduct**

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that Mr Rajoo's actions did fall significantly short of the standards expected of a registered nurse, and that Mr Rajoo's actions amounted to a breach of the Code. Specifically:

### ***1. Treat people as individuals and uphold their dignity***

*To achieve this you must:*

*1.1 treat people with kindness, respect and compassion*

### ***2. Listen to people and respond to their preferences and concerns***

*To achieve this you must:*

*2.1 work in partnership with people to make sure you deliver care effectively*

### ***3. Make sure that people' physical, social and psychological needs are assessed and responded to***

*To achieve this you must:*

*3.1 pay special attention to promoting wellbeing, preventing ill health and meeting the changing health and care needs of people during all life stages.*

### ***10 Keep clear and accurate records relevant to your practice***

*To achieve this you must:*

*10.1 complete records at the time or as soon as possible after an event, recording if the notes are written sometime after the event*

***18 Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations***

*To achieve this you must:*

*18.2 keep to appropriate guidelines when giving advice on using controlled drugs and recording the prescribing, supply, dispensing or administration of controlled drugs.*

***20 Uphold the reputation of your profession at all times***

*To achieve this you must:*

*20.1 Keep to and uphold the standards and values set out in the Code*

*20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress.*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct.

The panel was of the view that the charges found proved are serious and are a departure from the standards expected of a registered nurse.

With regards to charge 1, in its entirety, is serious. It was of the view that there can be serious consequences for not following protocol and checking the contents of the controlled drugs cupboard. It was of the view that this would prevent the Home from knowing what medication had been administered and being accountable for the medication that they have.

The panel was also of the view that the dishonesty in relation to this is serious as it creates a misleading impression for any colleagues looking at the record as they would think that patients had been given their medication when they had not.

With regards to charge 3, in its entirety, the panel found it was serious. The panel was of the view that withholding pain relief medication from a vulnerable patient, with learning difficulties, who had requested, it demonstrated a lack of compassion and understanding on the part of Mr Rajoo. It was of the view that members of the public, Patient A's family and colleagues would be concerned by this.

The panel also bore in mind that Mr Rajoo intentionally acted in a way to conceal his actions. He misled Patient A into believing that the sugar and water was Oramorph.

In light of this, the panel found that Mr Rajoo's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

### **Decision and reasons on impairment**

The panel had regard to the written submissions contained within the NMC's statement of case.

The panel next went on to decide if as a result of the misconduct, Mr Rajoo's fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

*'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'*

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

*'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/their fitness to practise is impaired in the sense that S/He/They:*

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

For reasons already set out above in relation to misconduct, the panel considered that limbs a, b, c and d were engaged by Mr Rajoo's misconduct in this case.

The panel concluded that Mr Rajoo had in the past acted so as to put patients at unwarranted risk of harm. The panel determined that his failings breached fundamental

tenets of nursing practice and that his misconduct is liable to bring the nursing profession into disrepute. In the panel's judgement, the public do not expect a nurse to act as Mr Rajoo did as they require nurses to adhere at all times to the appropriate professional standards and to safeguard the health and wellbeing of patients. It was also satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel however recognised that it had to make a current assessment of Mr Rajoo's fitness to practice, which involved not only taking account of past misconduct but also what has happened since the misconduct came to light. The panel had regard to the case of *Cohen* and considered whether the concerns identified in Mr Rajoo's nursing practice were capable of remediation, whether they have been remedied and whether there was a risk of repetition of a similar kind at some point in the future. In considering those issues the panel had regard to the nature and extent of the misconduct and considered whether Mr Rajoo had provided evidence of insight and remorse.

Regarding insight, the panel also bore in mind that Mr Rajoo was aware of the policy regarding the CDs. However, it noted that he stated that he was just being lazy.

The panel also noted that Mr Rajoo had failed to address the impact his actions had on Patient A, his colleagues and the wider public. It noted that in his response to the NMC, he stated that he was acting in the best interest of Patient A. However, the panel bore in mind that Oramorph was prescribed to Patient A and he requested it. It was of the view that Mr Rajoo has not accepted that he was not authorised to make this decision and could have raised this with colleagues if he had concerns.

The panel noted that Mr Rajoo demonstrated a serious lack of compassion, understanding and insight into actions and omissions in not providing Oramorph when it had been prescribed and requested.

The panel considered whether Mr Rajoo's misconduct is capable of remediation, whether it has been remediated, and whether there is a risk of repetition of similar concerns occurring at some point in the future.

The panel was satisfied that some of the regulatory concerns identified by the NMC were capable of remediation. It also bore in mind misconduct involving dishonesty is often said to be less easily remediable than other kinds of misconduct. However in the panel's judgment, evidence of insight, remorse and reflection together with evidence of subsequent and previous integrity are all highly relevant to any consideration of the risk of repetition, as is the nature and duration of the dishonesty itself.

The panel noted that Mr Rajoo had stated on 29 January 2021 during a phone call to the NMC, that he did not 'want anything to do with it' and he has 'packed up nursing'. He further stated that he did not plan on going back to nursing and will not provide any response.

In an email in response to the NMC on 23 March 2021, Mr Rajoo again reiterated that 'I have not been practising as a nurse or have any intention of practising in near or distant future. I am 64 years old and I have completely retired from nursing in all capacity. So whatever the outcome, it is of no relevance to me anymore'.

The panel noted that it had no information regarding Mr Rajoo's current employment. As a result, it had no evidence before it that Mr Rajoo had taken steps to strengthen his practice and remediate the concerns identified. The panel is of the view that Mr Rajoo's lack of insight, lack of successful remediation and limited engagement with the NMC, indicate that there remains a real risk of repetition of the concerns raised.

In the panel's judgment, the absence of any evidence of remediation or insight and the fact that Mr Rajoo tried to conceal his actions means the risk of repetition is high. In light of the above, the panel had no evidence before it to allay its concerns that Mr Rajoo currently poses a risk to patient safety.

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.

The panel was satisfied that having regard to the nature of the misconduct in this case including the dishonesty, “the need to uphold proper professional standards and public confidence in the profession would be undermined” if a finding of current impairment were not made. It was of the view that a fully informed member of the public would be seriously concerned by Mr Rajoo’s professional conduct in being dishonest and demonstrating the identified clinical failings should he be permitted to practice as a registered nurse in future without some form of restriction.

Having regard to all of the above, the panel was satisfied that Mr Rajoo’s fitness to practise is currently impaired.

### **Sanction**

The panel considered this case very carefully and decided to make a striking-off order. It directs the registrar to strike Mr Rajoo off the register. The effect of this order is that the NMC register will show that Mr Rajoo has been struck-off the register.

In reaching this decision, the panel had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

### **NMC written representations on sanction**

The panel had regard to the written submissions contained within the NMC’s statement of case where it was indicated that it sought a striking off order.

### **Decision and reasons on sanction**

Having found Mr Rajoo’s fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate. The panel has borne in

mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Abuse of a position of trust
- This was not an isolated incident
- Lack of insight into failings
- Conduct which put patients at risk of suffering harm.

The panel also took into account the following mitigating features:

- Mr Rajoo admitted his failings at the investigation stage

With regards to the aggravating feature “Abuse of a position of Trust”, the panel reminded itself of the vulnerability of Patient A. It was of the view that he would have been reliant on Mr Rajoo for care and should have been able to trust that he would receive the correct pain relief from the registered nurse looking after him. By withholding a medication which was prescribed specifically for Patient A, without any explanation or discussion, Mr Rajoo has abused his position.

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 Rajoo’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 Rajoo’s misconduct was not at the lower end of the spectrum and that a caution order 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 impose a caution order.

The panel next considered whether placing conditions of practice on Mr Rajoo's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case.

The panel was of the view that Mr Rajoo, as a registered nurse, admitted that he was aware of what the policy was with regards to CDs and he admitted that he was just being lazy. Additionally, it bore in mind that Mr Rajoo deliberately administered a placebo as opposed to the pain relief medication that had been prescribed, especially when it has been requested. It was of the view that there were deep seated attitudinal concerns arising from this. The panel was satisfied that such an attitude would not respond positively to retraining.

The panel also bore in mind that Mr Rajoo had retired from nursing, therefore he may not be able to comply with any conditions placed on his registration. Additionally, the panel was of the view that the misconduct and dishonesty identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Mr Rajoo's registration would not adequately address the seriousness of this case and would not protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. It was of the view that Mr Rajoo's actions were not an isolated incident and noted that the deep-seated attitudinal problems reflected in his own responses to the NMC makes a suspension order inappropriate. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mr Rajoo's actions, and the absence of insight, remorse and remediation and lack of engagement with the NMC regulatory process is fundamentally incompatible with him remaining on the register.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

Mr Rajoo's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with him remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mr Rajoo's actions were serious and to allow him to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body. The panel identified public protection concerns and risk of harm to patients and allowing Mr Rajoo to remain on the Register would pose a risk to the public in the future.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order.

The panel considered that this order was necessary to protect the public, 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.

### **Interim order**

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Mr Rajoo's own interest until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

### **Representations on interim order**

The panel took account of the representations made by the NMC that:

*“...It is also necessary for the protection of the public and otherwise in the public interest for there to be an interim suspension order of 18 months to cover the appeal period...”*

### **Decision and reasons on interim order**

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months.

If no appeal is made, then the interim suspension order will be replaced by the substantive suspension order 28 days after Mr Rajoo is sent the decision of this hearing in writing.

This will be confirmed to Mr Rajoo in writing.

That concludes this determination.