

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

**Substantive Hearing
4-5 July 2022**

Virtual Hearing

Name of registrant: Sukhjit Dhanoa

NMC PIN: 18A3178E

Part(s) of the register: Nursing, Sub part 1 RNA, Registered Nurse –
Adult (12 May 2018)

Relevant Location: Derbyshire

Type of case: Conviction

Panel members: Denford Chifamba (Chair, Registrant member)
Mary Karasu (Registrant member)
Ian Dawes (Lay member)

Legal Assessor: Sean Hammond

Hearings Coordinator: Roshani Wanigasinghe

Nursing and Midwifery Council: Represented by Anthony James, Case Presenter

Miss Dhanoa: Present and unrepresented

Facts proved: All

Fitness to practise: Impaired

Sanction: Suspension order – 12 months (with a review)

Interim order: n/a

Details of charge

That you a registered nurse

1) *On 7 June 2021 at Derby Crown Court were convicted of the following offences:-*

a) Between 14 September 2020 and 18 November 2020 at Derby, with intent to pervert the course of public justice, did a series of acts, namely gave false details to a police officer and responded to a fixed penalty notice issued in a false name, which had a tendency to pervert the course of public justice. Contrary to common law.

b) On 15 September 2020 used a motor vehicle on a road or other public place when there was not in force in relation to that use such a policy of insurance or such a security in respect of third party risks as complied with the requirements of Part VI of the Road Traffic Act 1988. Contrary to section 143 of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

c) On 15 September 2020 drove a motor vehicle on a road otherwise than in accordance with a licence authorising you to drive a motor vehicle of that class. Contrary to section 87(1) Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

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

Decision and reasons on application for hearing to be held in private

At the outset of this hearing Mr James, on behalf of the Nursing and Midwifery Council (NMC), made an application, pursuant to Rule 19 of the Rules, for parts of the hearing to be held in private on the basis that there would be reference to your health.

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.

Having heard that there may be reference to your health, the panel determined to hold such parts of the hearing in private. The panel determined to rule on whether or not to go into private session in connection with these matters should such matters arise.

Background

At the time of the allegations before the panel, you were working as a registered nurse at the University Hospitals of Derby and Burton NHS Foundation Trust (Royal Derby Hospital).

On 2 December 2020 you had a meeting with HR and the Deputy Divisional Nursing Director. You informed them that on 15 September 2020, you had been driving your father's car when you were stopped by police who were conducting a routine check on all vehicles. It was found that you did not hold a current licence to drive motor vehicles nor were you insured to drive your father's car. When a police officer had asked if you had your licence with you, you had replied that you did not have it with you at the time. The police had asked you for your details and you had given them your sister's details. You were advised by the Deputy Divisional Nursing Director to make a self-referral and write a reflective piece.

On 5 November 2020 you received a penalty notice in your sister's name which included a £300 fine and 6 points. You paid the fine.

On 17 November 2020, you telephoned the police to inform them that in fact it was you who had been the driver on 15 September 2020.

You made a self-referral on 4 December 2020 to the NMC.

As a result of the above, you were charged with the criminal offences of perverting the course of public justice, driving a motor vehicle without a licence and insurance. You pleaded guilty to these offences at first instance and were subsequently sentenced at Derby Crown Court on 30 November 2021 to six months imprisonment suspended for two years with a condition that you complete 150 hours of unpaid work and 12 days of Rehabilitation Activity Requirement (RAR).

It is your position that you take full responsibility for your actions. **[PRIVATE]**.

Decision and reasons on facts

You told the panel that you admitted charges 1a, 1b and 1c in its entirety. You also told the panel that your fitness to practise was impaired at the time of the allegations but that you did not consider that your fitness to practice is currently impaired.

The panel noted that the charges concern your conviction and, having been provided with a copy of the certificate of conviction, and by way of your admission, the panel finds that the facts at charges 1a, 1b and 1c are found proved in accordance with Rule 24 (5) and 31 (2).

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, your fitness to practise is currently impaired by reason of your conviction. 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.

Submissions on impairment

Mr James presented the panel with an impairment bundle which contained a printout from the police national computer confirming that you had a previous motor vehicle conviction.

You gave evidence under oath. You explained to the panel your account of the events and explained your family and personal circumstances at the time of the events from which your conviction arose. You referred the panel to your reflective piece. You said that you have completed the rehabilitation sessions which is required for your RAR days. You said that you have completed your 150 hours of community service by working in a Cancer Research charity shop. You said that you attended every week and you have become a valued team member. You said you help train new volunteers who start within the shop and teach them the routine as well as some health and safety guidance. You also have been given the opportunity to work on the counter to greet and serve customers.

You said that you are currently a cancer coordinator at the Royal Derby Trust. You said that your seniors and colleagues are very supportive of you. You told the panel that you are a valued member of the team and that your clinical skills are of a high standard. You said that you would not want the public to lose that trust in you because of your convictions.

You told the panel that you understand why and how your actions impacted on patients, colleagues, family, the profession and the wider public. You said that you panicked when you gave your sister's name to the police. **[PRIVATE]**. You said that the criminal

conviction and these regulatory proceedings have had a salutary lesson and that you would never repeat this conduct.

[PRIVATE]. You reaffirmed that this whole experience has taught you how much you love nursing and how your life is all about helping others and making a difference. You told the panel that you will continue to go above and beyond your nursing duties and that you want to make a difference if given the opportunity to go back to nursing.

Mr James addressed the panel on the issue of impairment and reminded the panel to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin). Mr James submitted that the conviction is serious and relates to dishonesty. He referred the panel to the sentencing remarks of the Judge in your criminal case in which they said: "*What you did strikes at the heart of the criminal justice system. People who, as it were, do what you did commit a serious offence*", and that this "*Clearly passes the custody threshold.*" He further referred the panel to the case of *Fleischmann* [2005] EWHC 87 (QB) and submitted that your sentence is still operational until November 2023. He therefore submitted that it is undesirable for someone with a criminal sanction that remains current to return to work during that period.

Mr James submitted that you put yourself above others, including your own family by using the details of your sister when you were stopped by the police. He submitted that public protection concerns arise out of your actions in that; there is a danger you may put yourself above your patients (should you make a mistake and seek to cover it up). Further he reminded the panel that your actions were dishonest and that there is a potential for that to apply to a clinical situation. **[PRIVATE]**. He further submitted that it was a further two months before you confessed to the police and made a self-referral. He told the panel that you have a recent conviction for driving under the influence of alcohol, he therefore submitted that there was a real risk of repetition of the conduct found proved.

Mr James also submitted that your actions have caused damage to the reputation of the profession which cannot easily be remedied. He submitted that if a member of the public were to hear that a registered nurse perverted the course of justice, this would cause a “*serious dent to public confidence in the profession*”. He therefore invited the panel to find that your fitness to practise is currently impaired.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments.

Decision and reasons on impairment

The panel next went on to decide if as a result of the conviction, your fitness to practise is currently impaired.

The panel considered that 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 She/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.'*

The panel finds that limbs (b), (c) and (d) of the *Grant* "test" are engaged in this case. The panel reminded itself that the concerns raised occurred in your private life. It noted that no patient harm was caused as a result of your misconduct. It determined that you prioritised your needs as you saw fit at the time of the events, over the interests of anyone else. Therefore, the panel was of the view that your actions had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to your dishonesty extremely serious.

The panel determined that you have brought the nursing profession into disrepute, by reason of your convictions; you committed a serious crime, and received a sentence of 6 months imprisonment, suspended for two years. It reminded itself that your actions brought negative media attention to the profession. The panel also determined that these actions have breached fundamental tenets of the nursing profession; in reaching this decision, the panel had sight of the following sections of *The Code: Professional standards of practice and behaviour for nurses and midwives* (2015) (The Code):

***“You uphold the reputation of your profession at all times. You should display a personal commitment to the standards of practice and behaviour set out in the Code. You should be a model of integrity and leadership for others to aspire to. This should lead to trust and confidence in the professions from patients, people receiving care, other health and care professionals and the public.*”**

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

20.2 act with honesty and integrity at all times...

20.4 keep to the laws of the country in which you are practising

20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to.”

Regarding insight in respect of your conviction, the panel considered your evidence and the documentation provided to it. It noted that you displayed good insight into your actions, you were extremely remorseful and have attempted to address these concerns. The panel noted that the suspended sentence period following your conviction will be completed in

November 2023. It reminded itself that you had made admissions at the criminal courts and during these NMC proceedings. You have also demonstrated an understanding of how your actions put the public and others at a risk of harm. The panel was satisfied that you showed a positive understanding of how your conduct has impacted negatively on the reputation of the nursing profession.

However, the panel took into account that dishonesty is difficult to remediate. The panel considered that by acting dishonestly you had brought the nursing profession into disrepute. Trust and integrity are the bedrock of the nursing profession. Furthermore, the panel considered that your actions resulted in a breach of some of the fundamental tenets of the nursing profession, particularly in terms of the breaches of the Code identified above. **[PRIVATE]**.

The panel also took into account that this did not rule out entirely the risk of repetition, especially if you were placed in similar situations against a challenging background. The panel considered whether your previous convictions may be demonstrative of a pattern or risk of repetition, however, **[PRIVATE]** and since then you have taken positive steps to address these concerns. and it had no information of any incidents since. The panel appreciated however, that the effects of your actions and these proceedings have had a salutary effect on you. The panel therefore concluded that the risk of repetition is very low. The panel did not accept the NMC's comments that your dishonest behaviour may reflect your actions in a clinical setting. It was of the view that there was no evidence before it to reflect such a statement. Taking all the above into consideration, the panel decided that a finding of impairment is not necessary on the grounds of public protection.

However, the panel bore in mind the overarching objective of the NMC: to protect the public and the wider public interest which includes promoting and maintaining public confidence in the nursing profession and upholding proper professional standards. In the judgement of the panel, taking into account the circumstances and seriousness of your conviction which involved dishonesty in your private life, public confidence in the profession and the regulator would be undermined, and the need to declare and uphold

proper standards of behaviour compromised if a finding of impairment was not made in the particular circumstances of your case.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired, on grounds of public interest alone.

Sanction

The panel has considered this case very carefully and has decided to make a suspension order for a period of one year with a review. The effect of this order is that the NMC register will show that your registration has been suspended.

In reaching this decision, the panel has 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.

Submissions on sanction

Mr James informed the panel that, whilst recognising that the decision on sanction was for the panel alone, the NMC is seeking the imposition of a striking-off order as the appropriate sanction in this case.

He took the panel through the aggravating and mitigating features of your case and referred the panel to the sanctions available and, for each, set out the view of the NMC. He further referred the panel to the legal principles set out in the cases of *Bolton v Law Society* [1994] 1 W.L.R. 512, *Parkinson v NMC* [2019] EWHC 1898 (Admin) and *Fleischmann* [2005] EWHC 87 (QB). He stated that the panel should consider the NMC guidance on 'determining serious cases' in its decision making. He submitted that these were serious breaches, which involved a conviction where you were sentenced to a six-month custodial sentence, suspended for two years, which is still being served. He further added that this case involves dishonesty which is inherently serious. Mr James submitted

that given the seriousness of the concerns identified and the need to have regard to the public interest, the appropriate outcome is a striking off order to uphold trust and confidence in the nursing profession and the NMC as a regulator.

You told the panel that a caution order would be fair and appropriate in your case. You said that you are already subject to an interim suspension order and have already served a period of seven months. **[PRIVATE]**.

You reminded the panel that your current employer, who was also your employer at the time of these events, are very supportive of you returning to the cancer care ward if possible once these proceedings are concluded. You said that you have learnt your lesson as a result of these proceedings and understand how your behaviour in your private life can impact on your professional work. You said that these proceedings have only reaffirmed your commitment to nursing and wished to return to care for patients.

Decision and reasons on sanction

Having found your 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 and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG, the NMC guidance on '*Considering sanctions for serious cases - Cases involving dishonesty*' and '*Considering sanctions for serious cases - Cases involving criminal convictions*'. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel noted that Mr James submitted that your previous criminal conviction to be an aggravating feature. However, the panel was not satisfied that this was an aggravating feature. It was of the view that although this was a feature of your case, it did not consider this to be an aggravating factor in these allegations. The panel did not identify any other aggravating factors in your case.

The panel took into account the following mitigating features:

- Personal mitigation **[PRIVATE]**;
- Early admissions during your criminal hearing and these proceedings;
- You are supported by your current employer who was your employer at the time of the incidents and are fully aware of your conviction;
- You provided evidence of insight and steps taken to address the concerns;
- You have shown significant remorse for your conduct and the impact it has had on others;
- The concerns relate to your private life and there are no issues before the panel regarding your clinical practice; and
- **[PRIVATE]**.

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.

Next, in considering whether a caution order would be appropriate, the panel took into account the SG, which 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 was clear that your conduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the conviction, your dishonesty and also in view of the nature of the case. It reminded itself of the sentencing court’s decision that your conviction crossed the custodial threshold. 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 your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be relevant, proportionate, measurable and workable. It is not possible to

formulate conditions of practice that would address the concerns in this case. The panel is mindful that your clinical competence has not been called into question. In any event, even if workable conditions of practice could have been formulated, the panel determined that given the serious nature of the conviction and your dishonesty they would not address the wider public interest.

The panel then went on to consider whether a suspension order would be an appropriate sanction.

The panel took into account the judgement in the case of *Parkinson* when assessing the seriousness of the dishonesty. It noted that your dishonesty stemmed from a spontaneous decision you took when the police stopped you driving your father's car. You told the panel that you had panicked and provided the police with your sister's particulars. This incident happened in your private life and was not work related. **[PRIVATE]**. For these reasons, the panel was of the view that your conduct was not fundamentally incompatible with remaining on the NMC register and that a suspension order would be appropriate in your case.

The panel took into account the judgement of the case of *CHRE v Fleischmann* [2005] EWHC 87 (QB), which indicates that a nurse or midwife, convicted of a serious offence, ought not to be permitted to resume their clinical practice until they have completed their sentence. The panel reminded itself that this is a general rule, but considered that there would have to be a good reason to justify the panel to depart significantly from that rule in its deliberation on sanction. The panel noted that in this case, you have you have completed the punitive and rehabilitation element of the sentence, namely the unpaid work and the RAR.

The panel further noted that although the operational period of your suspended sentence of six months imprisonment will remain in effect until November 2023, the panel considered that a suspension order would be an appropriate and proportionate sanction. It would temporarily remove you from the register and would mark the seriousness of the

case, declare and uphold the relevant professional standards expected of a registered nurse, and maintain trust and confidence in the professions and the NMC as regulator. A period of suspension will provide you with the appropriate opportunity to further develop your insight into the seriousness of your actions and their effect on others. The panel also took into account that the suspension order would be reviewed before its expiry. In reaching this decision the panel took into account that you had already been subject to a seven-month interim suspension order.

The panel further considered whether a striking-off order would be proportionate in your case. Taking account of all the information before it, the panel concluded that this would be disproportionate. The panel determined that, although there had been a clear breach of fundamental tenets of the profession, your actions are not fundamentally incompatible with remaining on the register. The panel had no evidence before it that you had repeated this behaviour, or had any regulatory concerns since the incident. In fact, the panel noted that you have been described as an otherwise good nurse and it was encouraged by your employer's trust in you and its continued support after your conviction. The panel noted that you are a nurse who is relatively young in terms of your career, and you clearly care very much about your work. Whilst the panel acknowledges that a suspension order may have a punitive effect, it would be unduly punitive in your case to impose a striking off order.

Balancing all of these factors, the panel concluded that a suspension order for a period of 12 months would be the appropriate and proportionate sanction in this case.

The panel noted the hardship such an order will inevitably cause you. The panel was conscious of your personal circumstances, both at the time of the incident and today. However, these are 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.

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 may be assisted by evidence of:

- A further reflective statement that addressed the impact of your dishonesty on your colleagues, the profession and the wider public interest;
- Your continued engagement with the NMC and attendance at the review hearing;
- Evidence that you have kept your health care skills up to date;
- References or testimonials from any paid or unpaid work undertaken following the imposition of this suspension order before the review hearing; and
- **[PRIVATE]**.

This will be confirmed to you in writing.

That concludes this determination.