

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

**Substantive Meeting
Tuesday 31 May 2022**

Nursing and Midwifery Council
Virtual Meeting

Name of registrant:	Miss Carol Molly Casey
NMC PIN:	12G2123E
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing – January 2013
Relevant Location:	Sheffield City
Type of case:	Conviction
Panel members:	Melissa D’Mello (Chair, Lay member) Mark Gibson (Registrant member) David Anderson (Lay member)
Legal Assessor:	Ben Stephenson
Hearing Co-ordinator:	Ruth Bass
Consensual Panel Determination:	Accepted
Facts proved:	Charge 1
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 had regard to the Notice of Meeting sent to Miss Casey's email address, as recorded on the Nursing and Midwifery Council's (NMC's) Register, on 27 May 2022 informing her of today's substantive meeting. It further noted that the Notice of Meeting was also sent to Miss Casey's representative at the Royal College of Nursing (RCN).

The panel took into account that the Notice of Meeting provided details of the allegations, and the time and date of the Meeting. It noted that Miss Casey had not been given 28 days' notice of the meeting, as required by The Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004 (as amended 2012) (the Rules). However, it had regard to an email from Miss Casey's RCN representative dated 27 May 2022, confirming that they had instructions to waive the notice period required.

The panel accepted the advice of the legal assessor.

In light of all of the information available, the panel was satisfied that Miss Casey has been served with the Notice of Meeting in accordance with the requirements of Rules 11 and 34, taking into account the waiver provided.

Details of charge

'That you, a registered nurse,

1. At Black Country Magistrates Court, on 8 June 2021, were convicted of three offences of Burglary (stealing- in dwelling).

And in light of the above, your fitness to practise is impaired by reason of your conviction.'

Consensual Panel Determination

At the outset of this meeting, the panel was made aware that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between the NMC and Miss Casey.

The agreement, which was put before the panel, sets out Miss Casey's full admission to the facts alleged in the charge, and that her fitness to practise is currently impaired by reason of her conviction. It is further stated in the agreement that an appropriate sanction in this case would be a striking off order.

The panel has considered the provisional CPD agreement reached by the parties.

That provisional CPD agreement reads as follows:

'Consensual panel determination: provisional agreement

Miss Casey is aware of the CPD meeting.

The Nursing & Midwifery Council and Carol Molly Casey, PIN 12G2123E ("the Parties") agree as follows:

1. Miss Casey is content for her case to be dealt with by way of a CPD meeting. Miss Casey understands that if the panel determines that a more severe sanction should be imposed, the panel will adjourn the matter for this provisional agreement to be considered at a CPD hearing.

Preliminary issues

2. There are no preliminary issues that need to be addressed.

The charge

3. Miss Casey admits the following charges:

That you, a registered nurse,

1. At Black Country Magistrates Court, on 8 June 2021, were convicted of three offences of Burglary (stealing- in dwelling).

And in light of the above, your fitness to practise is impaired by reason of your conviction.

The agreed facts

4. Miss Casey appears on the register of nurses, midwives and nursing associates maintained by the NMC as a RNA – Registered Nurse – Adult and has been a registered nurse since 18 January 2013.

5. Miss Casey was referred to the NMC on 30 March 2020 by her employer, Sandwell and West Birmingham NHS Trust (the “Trust”) and on 1 April 2020 by West Midlands Police.

6. At the material time, Miss Casey was working as a nurse for the Trust and her duties included attending the homes of palliative care patients to administer drugs and offer support.

7. The concerns raised were that on three occasions Miss Casey entered the homes of palliative care patients and removed medication without justification. On one occasion Miss Casey gave a false name to gain entry into the patient’s home. On another occasion Miss Casey used the pretence of recovering defective medication. One patient was left without adequate pain medication overnight as a result of Miss Casey removing medication from his home.

8. On 28 March 2020 Miss Casey was arrested and a search of her home and vehicle conducted. A large quantity of medication **[PRIVATE]** were recovered. Some of the medication was labelled with patient names.

9. Miss Casey was charged with three counts of burglary and appeared at the Magistrates Court on 8 June 2021 where she pleaded guilty.

10. A sentence hearing took place on 2 September 2021 at Wolverhampton Crown Court and Miss Casey was sentenced to 16 months imprisonment suspended for 18 months.

11. In addition, Miss Casey was ordered to complete 15 days of rehabilitation activity requirements and 150 hours of unpaid work.

12. Miss Casey made admissions to the charges and impairment on her returned Case Management Form on 8 March 2022.

Impairment

13. Miss Casey's fitness to practise is currently impaired by reason of her conviction.

14. According to the principles laid down in *CHRE v. (1) NMC and (2) Grant [2011] EWHC 927 (Admin)* it is accepted that this is a case where a finding of impairment is required to uphold proper professional standards and maintain public confidence in the profession in declaring and upholding proper standards of conduct and behaviour.

15. The parties have had regard to the questions formulated by Dame Janet Smith in her Fifth Shipman Report as noted in Grant, the following of which are relevant:

- Has in the past acted and is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and
- Has in the past brought and is liable in the future to bring the professions into disrepute; and

- Has in the past breached and is liable in the future to breach one of the fundamental tenets of the professions; and
- Has in the past acted dishonestly and is liable to act dishonestly in the future.

16. All four of the above limbs are engaged in this case.

17. Miss Casey's actions in stealing medication from patients demonstrates a breach of trust and the conviction involves dishonesty which clearly damages the reputation of, and undermines trust and confidence in, the nursing profession. Honesty and integrity should be considered to be the bedrock of any nurse's career and the criminal conviction undermines the good reputation of the profession.

18. Miss Casey has breached fundamental tenets of the profession by failing to '*uphold the reputation of the profession at all times*', failing to '*keep to the laws of the country*' and not '*acting with honesty and integrity at all times...*', as per the NMC's Code of Conduct, 10 October 2018.

19. In considering the question of whether Miss Casey's fitness to practise is currently impaired, the Parties have considered *Cohen v GMC* [2007] EWHC 581 (Admin), in which the court set out three matters which it described as being 'highly relevant' to the determination of the question of current impairment:

- Whether the conduct that led to the charge(s) is easily remediable.
- Whether it has been remedied.
- Whether it is highly unlikely to be repeated.

20. The concerns in this case are not easily remediable and have not been remedied. Miss Casey demonstrated dishonest behaviour and abused her position as a registered nurse. Dishonesty is attitudinal and concerns associated with it are difficult, but not impossible, to put right.

21. Miss Casey has not made any attempt to remediate and a high risk of repetition remains.

Remediation, reflection, training, insight, remorse

22. On 3 November 2021 the RCN submitted a letter to the NMC on behalf of Miss Casey. A copy of the letter is appended as **Appendix 1** and states the following:

The Registrant accepts that this matter will be referred to the fitness to practice committee for disposal. She does not wish for any unnecessary time or resources to be spent in her case and does not make any submissions here to the case examiners to the contrary. Her intention is to apply for a removal from the register via consensual disposal and we trust that this can be agreed in due course, and that this early indication is of assistance to the regulator.

Whilst we have not disclosed evidence of previous or subsequent good character, or any reflective piece, we do wish to state that the registrant has of course reflected on these matters and is coming to terms with them. She accepts that her actions were in contravention of her code.

Public protection impairment

23. A finding of impairment is necessary on public protection grounds.

24. Miss Casey abused her position as a nurse and behaved in a way that is completely unacceptable.

25. Miss Casey's conduct placed vulnerable patients at a real risk of significant harm. On one occasion there was actual patient harm whereby the patient was left without adequate pain medication overnight as a result of Miss Casey removing medication from his home.

Public interest impairment

26. A finding of impairment is necessary on public interest grounds.

27. In *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) at paragraph 74 Cox J commented that:

“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.”

28. Miss Casey's conduct suggests an underlying issue with her attitude to people in her care and undermines the public's trust in nurses.

29. As a registered nurse, Miss Casey is required to keep to the laws of the Country, which she has failed to do. Her offending was deemed serious enough to merit a custodial sentence, albeit a suspended one.

30. Miss Casey's fitness to practice is impaired on public protection and public interest grounds.

Sanction

31. The appropriate sanction in this case is a striking off order.

32. The parties agree that the aggravating features are as follows:

- a) Abuse of trust and position
- b) Conviction for dishonesty related offences
- c) Patients placed at a real risk of harm with actual harm to one patient
- d) Serious criminal offences – suspended custodial sentence received

33. The parties agree that there are no mitigating features.

34. The NMC's guidance on sanction for serious cases makes reference to cases involving criminal convictions. As per the guidance, "*...the purpose of the Fitness to Practise Committee when deciding on a sanction in a case about criminal offences is to achieve our overarching objective of public protection. When doing so, the Committee will think about promoting and maintaining the health, safety and wellbeing of the public, public confidence in nurses, midwives and nursing associates, and professional standards. Cases about criminal offending by nurses, midwives or nursing associates illustrate the principle that the reputation of the professions is more important than the fortunes of any individual member of those professions.*

What about criminal sentences that haven't yet been fully served?

The law says that, when making its decision on sanction, the Fitness to Practise Committee should consider:

- *the fact that a nurse, midwife or nursing associate convicted of a serious offence is still serving their sentence (even if on probation)...*

35. Miss Casey was sentenced to 16 months imprisonment suspended for 18 months on 2 September 2021. Her sentence has not yet been fully served.

36. The NMC's guidance on sanction for serious cases also makes reference to cases involving dishonesty. Miss Casey's conviction is for dishonesty related offences.

37. As per the guidance, "*In every case, the Fitness to Practise Committee must carefully consider the kind of dishonest conduct. Not all dishonesty is equally serious. Generally, the forms of dishonesty which are most likely to call into question whether a nurse, midwife or nursing associate should be allowed to remain on the register will involve:*

- *misuse of power*
- *vulnerable victims*
- *direct risk to patients*

- *premeditated, systematic or longstanding deception*

The law about healthcare regulation¹ makes it clear that a nurse, midwife or nursing associate who has acted dishonestly will always be at risk being removed from the register”.

38. Miss Casey has misused her power as a nurse by entering patient homes to remove medication without a clinical reason to do so. The patients involved were vulnerable and Miss Casey’s conduct placed them at a direct risk. Her actions were premeditated and systematic.

39. The full range of sanctions available as per the NMC’s guidance on sanction have been considered in this case. The issues are serious, raise public protection concerns and engage the public interest. As such, taking no further action would be neither appropriate nor proportionate.

40. Furthermore, it cannot be said that the regulatory concerns in this case are at the lower end of the spectrum in terms of seriousness, as such a caution order would not adequately meet the wider public interest in upholding proper standards of conduct and behaviour.

41. A conditions of practice order would not be appropriate in this case as there are no conditions that can be formulated to address a breach of trust or dishonesty related criminal conviction.

42. A suspension order has been considered but is not appropriate here as the concerns do not relate to a single instance of misconduct and there is evidence of some attitudinal problems.

43. The parties agree that a striking off order is the appropriate sanction.

44. Miss Casey's actions are fundamentally incompatible with being a registered professional. Her conduct gives rise to serious concerns about her trustworthiness as a professional nurse.

45. Miss Casey's behaviour and resulting conviction undermine public confidence in the profession.

46. A striking off order is the only sanction that will be sufficient to protect patients, members of the public and maintain professional standards.

Referrer's comments

47. The Trust agrees with the proposed Consensual Panel Determination. A written response was received from the Group Director of Nursing Primary Care Community and Therapies at the Trust on 19 April 2022 and she commented "*it is my professional opinion that MC has breached professional standards registered nurse must uphold. I agree with the sanction striking off from the NMC register*".

48. West Midlands Police made the second referral for the same concerns in this case under its statutory obligation. As such, the parties agree it is not necessary to obtain comments from the Police.

Interim order

49. An interim order is required in this case. The interim order is necessary for the protection of the public and is otherwise in the public interest for the reasons given above. The interim order should be for a period of 18 months in the event Miss Casey seeks to appeal against the panel's decision. The interim order should take the form of an interim suspension order.

The parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings impairment and sanction is a matter for the panel. The parties understand that, in the event that a panel does not agree with

this provisional agreement, the admissions to the charges and the agreed statement of facts set out above, may be placed before a differently constituted panel that is determining the allegation, provided that it would be relevant and fair to do so.'

Here ends the provisional CPD agreement between the NMC and Miss Casey.

The provisional CPD agreement was signed by Miss Casey's RCN representative and the NMC on 26 April 2022 and 28 April 2022, respectively.

Decision and reasons on the CPD

The panel decided to accept the CPD.

The panel heard and accepted the legal assessor's advice. He referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. He reminded the panel that they could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Miss Casey. Further, the panel should consider whether the provisional CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the professions and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

The panel noted that Miss Casey admitted the facts of the charge. Accordingly, the panel was satisfied that the charges are found proved by way of Miss Casey's admission as set out in the signed provisional CPD agreement.

Decision and reasons on impairment

The panel then went on to consider whether Miss Casey's fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Miss Casey, the

panel has exercised its own independent judgement in reaching its decision on impairment.

The panel determined that Miss Casey's fitness to practise is currently impaired. It had regard to The Code: Professional standards of practice and behaviour for nurses and midwives (2015') (the Code) and was of the view that the following standards had been breached:

3 Make sure that people's 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

19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice

To achieve this, you must:

19.1 take measures to reduce as far as possible...harm and the effect of harm if it takes place

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

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

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

In considering whether Miss Casey's fitness to practise is currently impaired by reason of conviction, the panel had regard to the case of *Cohen v General Medical Council* [2008] EWHC 581 (Admin). The panel was of the view that the conduct in this case was not easily remediable, noting that Miss Casey had taken advantage of vulnerable patients undergoing palliative care, and that her actions involved premeditated dishonesty. The panel noted that there was no evidence of remediation before it and determined that the conduct had not been remedied. Further, with regard to whether the conduct was highly likely to be repeated, given that Miss Casey has shown no remorse or insight and that she had not remediated her conduct, the panel determined that there was a high risk of repetition in the future.

The panel also had regard to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) and was satisfied that all four limbs were engaged in the past and in the future. The panel found that Miss Casey had put patients at an unwarranted risk of harm by dishonestly removing medication from vulnerable patients who required it. The panel was satisfied that Miss Casey had brought the profession into disrepute by these actions and was also satisfied that Miss Casey had breached fundamental tenets of the profession, as set out in the provisions of the Code listed above. Further, the panel was satisfied that Miss Casey had acted dishonestly by gaining entry into patient's homes under false pretences and removing medication by deceit. The panel endorsed paragraphs 17 and 18 of the CPD agreement in this regard.

The panel was of the view that Miss Casey's actions caused a clear risk to the safety of vulnerable patients. Her actions were premeditated and occurred on at least three occasions. The panel was satisfied that, due to Miss Casey's lack of remorse and insight, lack of remediation, and the high risk of repetition, a finding of impairment was required on the ground of public protection. The panel endorsed paragraphs 23 – 25 of the CPD agreement in this regard.

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 of the view that Miss Casey's actions fell far below the standards expected of a registered nurse. Miss Casey engaged in deliberate criminal activity by deceiving to steal medication from vulnerable patients in need of the medication. She gave a false name to gain entry into a patient's home, and gave false reasons when retrieving medicine. The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case. In this respect the panel endorsed paragraphs 27 to 29 of the provisional CPD agreement.

Therefore the panel determined that Miss Casey's fitness to practise is currently impaired on both public protection and public interest grounds.

Decision and reasons on sanction

Having found Miss Casey's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel accepted the advice of the legal assessor. 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. It 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:

- Patients were put at significant risk of harm, and actual harm was caused to one patient
- Miss Casey abused her position of trust
- Miss Casey has not shown any insight into her failings
- Miss Casey has demonstrated a pattern of dishonesty

- The dishonesty manifested in different ways in addition to the theft, to include giving a false name to gain entry to a patient's home, and stealing medicine under the false pretence of recovering defective medicines
- A large quantity of medication, labelled with patient names, was taken by Miss Casey
- These were a series of premeditated incidents
- This was a serious criminal offence for which Miss Casey received a custodial sentence, albeit suspended
- Miss Casey's criminal offending was directly linked to her professional practice.

The panel was of the view that there were no mitigating features in this case.

The panel had particular regard to the NMC's guidance 'Considering sanctions for serious cases', Reference SAN-2, last updated 17/12/2021. The panel determined that the dishonesty in this case was extremely serious in that Miss Casey had:

- Misused her power
- Exploited vulnerable victims
- Acted in breach of trust
- Placed patients at a direct risk of harm
- Acted in a repeated, premeditated way to deceive

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case and the public protection issues identified. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Miss Casey'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 determined

that Miss Casey's actions were not at the lower end of the spectrum and that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Miss Casey's registration would be a sufficient and appropriate response. The panel is of the view that there are no relevant, proportionate or workable conditions that could be formulated, given the nature of the charge in this case, namely serious dishonesty. The panel was of the view that these were deep seated attitudinal issues which could not be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Miss Casey's registration 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;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel was of the view that these factors were not relevant in Miss Casey's case. It was satisfied that the conduct, as highlighted by the proved charge, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Miss Casey's actions is fundamentally incompatible with Miss Casey remaining on the register. It had regard to the high level of dishonesty, multiple instances of deception and disregard for patient safety demonstrated by Miss Casey, and was satisfied that this was evidence of deep-seated attitudinal issues. The panel was not satisfied that a period of suspension would address the public protection issues, or address sufficiently the public interest in this case. 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?*

Miss Casey's actions comprised significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with her remaining on the register. The panel endorsed paragraphs 39 – 46 in this regard.

The panel came to its own decision on the information before considering the comments from the referrers in the CPD. It noted that paragraphs 34 and 38 of the CPD were consistent with its own decision.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel agreed with the CPD that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the matters it identified, in particular the effect of Miss Casey's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of this would be sufficient in this case.

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

Decision and reasons on interim order

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 Miss Casey's own interest. The panel heard and accepted the advice of the legal assessor.

The panel was satisfied that an interim order is necessary for the protection of the public and that it is otherwise in the public interest. The panel had regard to the seriousness of the dishonesty in 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 agreed with the CPD 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 to allow for any appeal.

If no appeal is made, then the interim suspension order will be replaced by the striking off order 28 days after Miss Casey is sent the decision of this hearing in writing.

That concludes this determination.