

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

**Substantive Meeting
Wednesday 7 June 2023**

Virtual Meeting

Name of Registrant: Rebecca Lynda Searing

NMC PIN 89A1761E

Part(s) of the register: Sub part 1 RN1: Adult nurse, level 1 (8 July 1992)

Relevant Location: Essex

Type of case: Conviction

Panel members: Clara Cheetham (Chair, Lay member)
Lorraine Shaw (Registrant member)
Dr Sally Underwood (Registrant member)

Legal Assessor: Ian Ashford-Thom

Hearings Coordinator: Taymika Brandy

Facts proved: Charge 1

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 was informed at the start of this meeting that that the Notice of Meeting had been sent to Mrs Searing via His Majesty's Prison ('HMP') Peterborough, where she is currently serving her prison sentence. The Notice of Meeting was sent by recorded delivery and first-class post on 2 May 2023.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, dates and the fact that this meeting was heard virtually.

In the light of all of the information available, the panel was satisfied that Mrs Searing 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) On 25 August 2022, At Chelmsford Crown Court were convicted on indictment of Murder (victim one year old or over.) under common Law.

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

Background

Mrs Searing joined the NMC Register on 8 July 1992. The NMC received a referral on 16 February 2022 from the Associate Director of Professional Development for South Essex Partnership University NHS Foundation Trust ('the Trust'), following Mrs Searing's conviction. Mrs Searing was employed by the Trust as a Charge Nurse for the Community Health Services.

On 8 August 2022 Mrs Searing pleaded not guilty to the offence of murder but entered a plea of guilty to Manslaughter. Mrs Searing was found guilty of murder on 25 August 2022. On 7 September 2022, at Chelmsford Crown Court, Mrs Searing was sentenced to life imprisonment, to serve a minimum term of 17 years.

Mrs Searing has made no submissions to the panel with regards to the facts of the allegation.

Decision and reasons on facts

The panel heard and accepted the advice of the legal assessor.

The charge concerns Mrs Searing's conviction and, having been provided with a copy of the certificate of conviction dated 14 September 2022, the panel finds that the facts of charge 1 are found proved in accordance with Rule 31 (2) and (3) of the Rules which states:

(2) Where a registrant has been convicted of a criminal offence —

(a) a copy of the certificate of conviction, certified by a competent officer of a Court in the United Kingdom (or, in Scotland, an extract conviction) shall be conclusive proof of the conviction; and

(b) the findings of fact upon which the conviction is based shall be admissible as proof of those facts.

(3) The only evidence which may be adduced by the registrant in rebuttal of a conviction certified or extracted in accordance with paragraph (2)(a) is evidence for the purpose of proving that (s)he is not the person referred to in the certificate or extract.

Representations on impairment

The NMC requires the panel to bear in mind its overarching objective to protect 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. The panel has referred to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

The NMC invited the panel to find Mrs Searing's fitness to practise impaired on public interest grounds.

The NMC submit that Mrs Searing has clearly brought the profession into disrepute by the very nature of the conduct displayed. Nurses occupy a position of trust and must act and promote integrity at all times. Professionalism and integrity are fundamental tenets of the profession that have been severely breached in this case. The public has the right to expect high standards of registered professionals. The seriousness of the conviction is such that it calls into question her professionalism in her workplace. This therefore has a negative impact on the reputation of the profession and, accordingly, has brought the profession into disrepute.

The NMC consider that the conduct displayed is fundamentally incompatible with being a registered professional because the qualities required of Mrs Searing have been significantly undermined and compromised.

The NMC next considered Mrs Searing's insight. The NMC submit that Mrs Searing has not displayed any insight as she has failed to provide any responses to the charges as they stand and has further failed to provide any insight into her action that led to her conviction.

The NMC consider there is a continuing risk to the public due to the severity of the concerns. The concerns are more difficult to put right. Our guidance states that generally, there are certain concerns that are more difficult to put right and often mean that the nurse, midwife or nursing associate's right to practise needs to be restricted. In cases involving criminal convictions, it's likely that we would need to take action to uphold public confidence in nurses, midwives or nursing associates, or to promote proper professional standards. Mrs Searing's conduct can be deemed to be particularly serious as she has been convicted and sentenced to life in prison for murder.

The NMC consider that whilst the offence took place outside of Mrs Searing's professional duties, the offence has resulted in Mrs Searing being sentenced to life imprisonment with a minimum term of 17. A finding of impairment is thus also essential to maintain public confidence in the profession. In light of this and the fact that her

actions caused the death of her husband, the NMC submit that a finding of impairment is necessary on public interest grounds.

Mrs Searing made no substantive submissions on impairment.

Decision and reasons on impairment

The panel next went on to decide if, as a result of this conviction, Mrs Searing's fitness to practise is currently impaired.

The panel accepted the advice of the legal assessor.

The panel had regard to the terms of *The Code: Professional standards of practice and behaviour for nurses and midwives* (2015) ("the Code"), and considered that the following sections were engaged in this case:

'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

[...]

[...]

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

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 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 judgement of Mrs Justice Cox in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) 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. [...]

The panel found limbs *b* and *c* engaged in the *Grant* test.

The panel considered that there was no evidence to suggest that Mrs Searing has placed patients at risk of harm, noting that the behaviour surrounding her conviction occurred in her private life. Furthermore, there was no evidence before the panel of any concerns relating to Mrs Searing's clinical practice. The panel therefore considered that limb *a* of the above test was not directly engaged by Mrs Searing's past actions.

The panel found that Mrs Searing has received a conviction for an extremely serious criminal offence, namely murder, which would undermine trust in the nursing profession and bring it into disrepute. The panel considered that Mrs Searing's conduct has breached fundamental tenets of the nursing profession.

Regarding insight, the panel considered whether Mrs Searing has reflected and taken opportunities to demonstrate her insight into what happened. The panel noted that there is no evidence of insight before it and that Mrs Searing has informed the NMC that she shall be appealing her conviction within the Response to Charges Form dated 12 May 2023. However, the panel did not have sight of any further evidence to confirm whether this appeal has been made. The panel also considered that Mrs Searing does not accept that her fitness to practise is impaired by reason of her conviction and that in her response to the NMC dated 1 February 2023 she states that:

'I don't see any point in any of you wasting your time, is there even a case?'

Whilst the panel has considered that there is no evidence that Mrs Searing's behaviour placed patients at risk of harm, taking into consideration the seriousness of the crime that she has been convicted of and her lack of insight, the panel finds that the very nature of her conviction does engage public protection. Accordingly, the panel determined 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 are to protect, promote and maintain the health safety and well-being of the public and patients, and to uphold/protect the wider public interest, which 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 also determined that a finding of impairment was also necessary on public interest grounds as a member of the public, aware of all the circumstances in this case would be concerned that a nurse convicted of murder, would be allowed to practise unrestricted, albeit currently in prison.

Having regard to all of the above, the panel was satisfied that Mrs Searing's fitness to practise is currently impaired.

Sanction

In considering the range of sanctions at its disposal the panel had regards to the NMC's guidance at SAN-2 which states that:

'...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...'

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

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.

Representations on sanction

The NMC invited the panel to impose a striking-off order and to consider the guidance on criminal convictions and cautions (FTP-2c) states:

'If the criminal offending took place in the nurse, midwife or nursing associate's private life, and there's no clear risk to patients or members of the public, then it is unlikely that we'll need to take regulatory action to uphold confidence in nurses, midwives or nursing associates, or professional standards. We'd only need to do that if the nurse, midwife or nursing associate was given a custodial sentence (this includes suspended sentences), or the conviction was for a specified offence.'

The NMC submit that the conduct displayed by Mrs Searing, her conviction for murder is incompatible with her remaining on the register and therefore a Striking off Order would be the most appropriate and proportionate sanction in this matter. Mrs Searing has brought the profession into disrepute and trust and confidence in the profession is likely to be seriously eroded by the fact that she has committed an offence considered so serious that it requires a sentence of life imprisonment. This sanction is required to maintain confidence in the profession and the NMC as regulator. Mrs Searing's criminal offending and subsequent sentence is fundamentally incompatible with being a registered professional. Only a Striking Off Order will be sufficient to maintain public confidence in the profession and maintain professional standards.

Decision and reasons on sanction

Having found Mrs Searing'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 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 first considered what it deemed to be the aggravating and mitigating features in this case and determined the following:

Aggravating features:

- Mrs Searing has received a conviction for an extremely serious criminal offence;
- Mrs Searing has been sentenced to life imprisonment with a minimum term of 17 years;
- A degree of premeditation was identified in the Judge's sentencing remarks.

When considering mitigating features in this case the panel noted the Judge's sentencing remarks that state:

'I am prepared to accept that you have been a victim of domestic violence and it should be reflected in mitigation.'

'You are plainly a lady that has no previous relevant convictions of any nature [...] you had a positive good character.'

Prior to considering the sanctions available to it in ascending order, the panel had regard to the NMC's guidance on considering sanctions for serious cases. The guidance states that, in general, a nurse or midwife should not be permitted to start practising again until they have completed their sentence for a serious offence, a principle established in the case of *CHRE v GDC and Fleischmann* [2005] EWHC 87 (QB). The panel bore in mind that Mrs Searing is currently serving a 17-year sentence for her conviction.

The panel first considered whether to take no action but concluded that this would be wholly inappropriate in view of the seriousness of Mrs Searing's conviction. The panel determined that taking no action would not protect the public and it would not satisfy the wider public interest.

The panel next considered whether a caution order would be appropriate in the circumstances. 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, however the Fitness to Practise Committee wants to mark that the behaviour was unacceptable and must not happen again.”

The panel considered that Mrs Searing’s conduct resulting in her conviction 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 to impose a conditions of practice order. The panel noted that this case did not involve concerns regarding Mrs Searing’s clinical practice. Notwithstanding this, the panel was of the view that there are no practical or workable conditions that could be formulated, which could address the behaviour for which Mrs Searing has been convicted and given that she is currently serving her sentence in prison. Furthermore, having regard to the high public interest in this case, the panel considered that conditions of practice would not address the seriousness of the case and would fail to uphold confidence in the nursing profession and in the NMC as a regulator.

The panel next considered whether to impose a suspension order. The panel had regard to the SG, and the factors to consider when deciding whether to impose a suspension order. 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 repetition of behaviour since the incident;*

Whilst there was no evidence that Mrs Searing had repeated her behaviour since receiving the conviction, the panel reminded itself of the seriousness of the offence for

which Mrs Searing was convicted. Taking this into account and Mrs Searing's lack of insight into her conviction as well as the high public interest in this case, the panel determined that in this particular case, a suspension order would not be a sufficient, appropriate or proportionate sanction.

The panel went on to consider whether to impose a striking-off order.

The panel bore in mind the severity of the crime Mrs Searing has been convicted and that her conviction is a significant departure from the standards expected of a registered nurse and are fundamentally incompatible with her remaining on the register.

Balancing all of these factors and after taking into account all the documentary evidence before it during this case, the panel determined 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 Mrs Searing's behaviour 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 a striking-off order would be sufficient in this case.

The panel considered that this order was 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.

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 Mrs Searing's own interests until the striking-off sanction takes effect.

The panel 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 necessary for the protection of the public and otherwise in the public interest for there to be Interim suspension order of 18 months to cover the appeal period.

Decision and reasons on interim order

The panel was satisfied that an interim suspension 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 fact found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order. To do otherwise would be incompatible with its earlier findings.

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 to cover the appeal period.

The period of this order is for 18 months to allow for the possibility of an appeal to be made and determined.

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

That concludes this determination.