

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

**Substantive Order Review Hearing
Thursday 10 July 2025**

Virtual Hearing

Name of Registrant:	Adrian Prostire
NMC PIN	21D0345E
Part(s) of the register:	Registered Nursing Associate Adult NAR – April 2021
Relevant Location:	West Sussex
Type of case:	Misconduct
Panel members:	Sarah Lowe (Chair, Lay member) Penelope Howard (Registrant member) Lorraine Chalk (Lay member)
Legal Assessor:	Gelaga King
Hearings Coordinator:	Antonnea Johnson
Nursing and Midwifery Council:	Represented by Mr Nawazish Choudhury, Case Presenter
Mr Prostire:	Not present and not represented
Order being reviewed:	Suspension order (12 months)
Fitness to practise:	Impaired
Outcome:	Suspension order (12 months) to come into effect at the end of 19 August 2025 in accordance with Article 30 (1)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Prostire was not in attendance and that the Notice of Hearing had been sent to Mr Prostire's registered email address by secure email on 11 June 2025.

Mr Choudhury, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mr Prostire's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In the light of all of the information available, the panel was satisfied that Mr Prostire has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mr Prostire

The panel next considered whether it should proceed in the absence of Mr Prostire. The panel had regard to Rule 21 and heard the submissions of Mr Choudhury who invited the panel to continue in the absence of Mr Prostire. He submitted that Mr Prostire had voluntarily absented himself.

Mr Choudhury submitted that there had been no meaningful engagement by Mr Prostire with the NMC in relation to these proceedings aside from him confirming his non-attendance in an email Mr Prostire submitted on 11 June 2025 which stated:

'Hello, thank you for contacting me. I will not attend the hearing, i am sorry'.

As a consequence, there was no reason to believe that an adjournment would secure his attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mr Prostire. In reaching this decision, the panel has considered the submissions of Mr Choudhury, the correspondence from Mr Prostire, and the advice of the legal assessor. The panel has had particular regard to any relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mr Prostire;
- Mr Prostire's engagement with the NMC has been limited to his communication confirming his non-attendance at this hearing;
- There is no reason to suppose that adjourning would secure his attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mr Prostire.

Decision and reasons on review of the substantive order

The panel decided to extend the current suspension order.

This order will come into effect at the end of 19 August 2025 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 19 July 2024.

The current order is due to expire at the end of 19 August 2025.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charge found proved which resulted in the imposition of the substantive order was as follows:

‘That you, a registered nursing associate:

- 1. On 02 February 2023, slapped Resident A on the back of their neck.*

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

The original panel determined the following with regard to impairment:

‘In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

‘The question that will help decide whether a professional’s fitness to practise is impaired is:

“Can the nurse, midwife or nursing associate practise kindly, safely and professionally?”

If the answer to this question is yes, then the likelihood is that the professional’s fitness to practise is not impaired.’

Nursing associates occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their families must be able to trust nursing associates with their lives and the lives of their loved ones. To justify that trust, nursing associates must 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/ fitness to practise is impaired in the sense that S/He:

- 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*
- The panel concluded that limbs a, b and c of the Dame Janet Smith test applied in this case.*

The panel finds that a patient was put at an unwarranted risk of harm as a result of Mr Prostire's misconduct. Mr Prostire's misconduct has breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel acknowledged that Mr Prostire apologised following the incident and has offered the explanation that he was attempting to move Resident A out of the way, and while doing this accidentally slapped Resident A's neck. This account is contained in the reflection provided in the registrant defence bundle.

However, the panel concluded that this is not a credible explanation for what took place and Mr Prostire was unable to explain his actions, initially saying to Witness 2 that he "did not know why he did it". The panel further took into account Mr Prostire's written reflection which says, in relation to the incident: "I did not know why I did it that way". It noted that Mr Prostire has not taken responsibility for his actions. It noted that he attempted to excuse his action based upon the height difference between himself and Resident A as well as his poor English language skills. However, the panel noted that witnesses attested to his good understanding of English and that he was trained in manual handling and that Mr Prostire acted as a manual handling trainer. Moreover, the panel judged that the height difference between Mr Prostire and Resident A was not significant enough to make accidental slapping of the neck area plausible.

The panel acknowledged that Mr Prostire has provided some relevant documentation, including training certificates and positive testimonials which spoke highly of his character. However, it found that these did not speak to whether Mr Prostire would repeat the charges of the kind found proved in the future. The panel also noted that the training certificates were for mandatory training that Mr Prostire would have already received prior to the incident and did not assure it that they were evidence of a reduced risk of repetition.

The panel therefore decided that there is a risk of repetition, and 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 determined that a finding of impairment on public interest grounds is required because a member of the public and of the nursing profession would be very concerned if Mr Prostire were allowed to practise without a finding of impairment. In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Mr Prostire's fitness to practise impaired on the grounds of public interest.

The panel concluded that, in asking the question as to whether Mr Prostire can practise safely, kindly and professionally, given his conduct and the nature of the charge found proved, Mr Prostire has not demonstrated this. He did not exhibit safe practice on this occasion, he was unkind to Resident A, and his behaviour was not professional. Since he has demonstrated limited insight and has been unable to give a credible explanation for what occurred, the panel concluded that there is a risk of repetition.'

The original panel determined the following with regard to sanction:

'Having found Mr Prostire'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 took into account the following aggravating features:

- *Abuse of position of trust relating to a vulnerable resident*
- *Limited insight into failings*

- *Conduct which put a resident at risk of suffering harm.*

The panel also took into account the following mitigating features:

- *Isolated incident*
- *Under a period of stress in personal life*
- *Has been apologetic from the beginning and his apologies continue throughout his statements and reflection*
- *Has engaged with the NMC*
- *Demonstrated some insight*

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 Prostire'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 Prostire's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mr Prostire's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*

- *Potential and willingness to respond positively to retraining;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force;*
and
- *Conditions can be created that can be monitored and assessed.*

The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charge in this case. In particular, the option of imposing a condition that Mr Prostire be supervised by a senior nurse whenever he is with a patient/resident was found to not be workable. It concluded that while the misconduct identified can potentially be mitigated, Mr Prostire has been on an interim conditions of practice order and has not been able to secure employment in a nursing associate role. Therefore, he has been unable to demonstrate compliance with the current interim conditions of practice order and the risk of repetition and harm has not been mitigated. Further, it was of the view that the charge found proved was serious in nature as it related to the slapping of a vulnerable resident, and a conditions of practice order may not adequately reflect the seriousness of the charge. In particular, an informed member of the public or a nursing professional may conclude that this sanction is insufficient to maintain public trust in the profession.

The panel concluded that the placing of conditions on Mr Prostire's registration would not adequately address the seriousness of this case and would not protect the public or satisfy the public interest.

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, midwife or nursing associate has insight and does not pose a significant risk of repeating behaviour. The panel was satisfied that in this case, the misconduct, although serious, was not fundamentally incompatible with remaining on the register.*

In making this decision, the panel carefully considered the submissions of Ms Fergus- Simms in relation to the sanction that the NMC was seeking in this case. However, the panel considered that a striking-off order was disproportionate considering the degree of seriousness in this matter. The panel acknowledged that the charge found proved in this case is serious, however, it took into account that this was a single, isolated incident with no evidence of repetition. Mr Prostire has not demonstrated deep-seated attitudinal issues and has remained apologetic since the incident. There was no evidence of actual harm caused to Resident A, and the panel was of the view that, although there is a risk of repetition, this can be addressed through further insight and reflection. The panel was therefore satisfied that a suspension order is appropriate, proportionate and sufficiently protects the public from the risk of harm and meets the public interest.

Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Mr Prostire's case to impose a striking-off order. Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause Mr Prostire. However this is 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 nursing associate.

The panel determined that a suspension order for a period of 12 months was appropriate in this case to mark the seriousness of the misconduct and to allow sufficient time for Mr Prostire to develop insight into his misconduct and develop

strategies to ensure this is not repeated in the future. The length of the suspension order would also satisfy the public interest in this case.'

Decision and reasons on current impairment

The panel has considered carefully whether Mr Prostire's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle, and email correspondence from Mr Prostire. It has taken account of the submissions made by Mr Choudhury on behalf of the NMC. He submitted that Mr Prostire remains impaired due to his limited engagement with the NMC. He submitted that the purpose of this review is to assess whether the current order in place or a different order is needed to protect the public from risk of harm, to maintain public confidence in the NMC and declare and uphold proper standards of conduct and behaviour. He referred the panel to the case of *Abrahaem v GMC* [2008] EWHC 183, paragraph 23 which states "in practical terms there is a persuasive burden on the practitioner at a review to demonstrate that he or she has fully acknowledged why past professional performance was deficient and through insight, application, education, supervision or other achievement sufficiently addressed the past impairments."

Mr Choudhury submitted that Mr Prostire had taken no steps to satisfy the previous panel's recommendations. He submitted that Mr Prostire had not addressed outstanding fitness to practise concerns.

Mr Choudhury further submitted that on the account of the absence of any new evidence, Mr Prostire's fitness to practise remains impaired.

Mr Choudhury invited the panel to consider that Mr Prostire's fitness to practise is still currently impaired on both public protection and public interest grounds due to a lack of

evidence of his insight into his failings and the absence of steps to strengthen his practice. Therefore concerns pertaining to risk of patient safety remain.

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

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether Mr Prostire's fitness to practise remains impaired.

The panel noted that the original panel found that Mr Prostire had insufficient insight and made clear suggestions of what evidence would assist a reviewing panel. At this hearing the panel took into account the absence of any new evidence.

In considering whether Mr Prostire had taken steps to strengthen his practice, the panel noted the absence of evidence since the imposition of the suspension order. The panel noted that it had not received any testimonials or details of employment, an up to date reflective piece written by Mr Prostire or evidence of relevant training, or personal development, nor had it had any information as regards Mr Prostire's wishes and his future career.

The panel concluded there was no new evidence on which it could say risk of repetition has diminished. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of both public protection and public interest.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is required.

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

Decision and reasons on sanction

Having found Mr Prostire's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

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

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mr Prostire'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 Prostire's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice on Mr Prostire's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not be proportionate, measurable or workable at this time, nor would it adequately protect the public or satisfy the public interest, as Mr Prostire has not provided any details on how he intends to strengthen his practice or undertake further training and his work intentions, reflection or insight, professional and personal development to avoid repetition or any testimonials as to his working practices since. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Mr Prostire's misconduct.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mr Prostire further time to fully reflect on his previous failings, demonstrate insight, consider carefully his career moving forward and use the time provided by this further suspension order to undertake continuing professional and personal development and secure training to put him in a position to safely practise as a nurse associate in the future. It considered that Mr Prostire needs to gain and demonstrate a full understanding of how his actions as a nursing associate and how it can impact upon the profession as a whole and not just the organisation that he worked for. The panel concluded that a further 12-month suspension order would be the appropriate and proportionate response and would afford Mr Prostire adequate time to further develop his insight and take steps to strengthen his practice. It would also give Mr Prostire an opportunity to approach current employers and colleagues to attest to his conduct in his workplace since the substantive hearing.

The panel considered whether a strike-off order would be appropriate. The panel was of the view that an absence of engagement and lack of evidence of reflection, strengthening of practice, professional and personal development to address the concerns may raise questions about Mr Prostire's professionalism. However, the panel did not consider it did so at this point in time to warrant the imposition of a striking off order. The panel noted that it was an isolated incident at a particular time in Mr Prostire's life and he had shown some remorse. Therefore it considered a strike-off order was disproportionate at this stage.

The panel determined therefore that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of 12 months would provide Mr Prostire with an opportunity to engage with the NMC in a meaningful way and to provide evidence of compliance with recommendations put forward by the panel. It considered this to be the most appropriate and proportionate sanction available.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 19 August 2025 in accordance with Article 30(1).

Before 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 reviewing this case would be assisted by:

- Information on employment whether paid or voluntary; and
- Testimonials from employers and colleagues who are aware of these proceedings; and
- Evidence of further training and personal development; and
- A reflective statement including Mr Prostire's understanding of the seriousness and impact of his actions on public confidence in the nursing profession and on patients; and
- Evidence of developing reflection and insight; and
- Evidence of efforts made to keep his nursing knowledge up to date

This will be confirmed to Mr Prostire in writing.

That concludes this determination.