

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

**Substantive Meeting
Friday, 3 September 2021**

Virtual Meeting

Name of registrant:	Wilfred Mvikeli Jacob	
NMC PIN:	99C2447E	
Part(s) of the register:	Registered Nurse – Sub-part 1 Mental Health Nursing – Level 1 – 25 April 2003	
Area of registered address:	Essex	
Type of case:	Conviction	
Panel members:	Anthony Griffin Susan Jones Suzanna Jacoby	(Chair, Lay member) (Registrant member) (Lay member)
Legal Assessor:	Peter Jennings	
Panel Secretary:	Philip Austin	
Facts proved:	Charge 1	
Facts not proved:	None	
Fitness to practise:	Currently impaired	
Sanction:	Striking-off order	
Interim order:	Interim suspension order (18 months)	

Decision and reasons on service of Notice of Meeting

The panel received information, and advice from the legal assessor, concerning service of the notice of meeting.

The notice of meeting was sent to Mr Jacob's current known address by recorded delivery on 2 August 2021, stating that a meeting would be held on or after 3 September 2021. The Royal Mail Signed For service indicated that the notice of meeting had been delivered to that address on 3 August 2021 and signed for by 'HMP BEDFORD'.

As Mr Jacob is currently in prison, the NMC decided to list this matter as a substantive meeting, as it would not be possible for him to attend in any event. In taking account of this, the panel was satisfied that this case could be properly dealt with by way of a substantive meeting.

The panel noted that Mr Jacob had been sent all of the evidence relating to this matter, and was asked to provide comment no later than Friday, 27 August 2021 by using the Case Management Form ("CMF") attached to the notice of meeting, if he had anything additional that he wanted the panel to take into account in considering this matter. This CMF was not returned by Mr Jacob.

Therefore, the panel was of the view that referring this matter to a substantive hearing would not serve any useful purpose. It determined that it had all the information necessary before it to reach a decision on this matter, having regard to the documentary evidence received.

The panel noted that the notice of meeting had been sent on 2 August 2021, as is treated under the Rules as served the following day, which was more than 28 days before this meeting. The panel was satisfied that there was good service of the notice of meeting in accordance with Rules 11A and 34 of the Fitness to Practise Rules 2004 (as amended) ("the Rules").

Details of charge

That you, a registered nurse:

- 1) On 12 January 2021, at Chelmsford Crown Court, were convicted of the offence of murder.

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

Background

The NMC received a referral on 9 September 2019 in relation to Mr Jacob, alleging that he had murdered his wife on 19 August 2019.

Mr Jacob initially entered a 'not guilty' plea to murder, and so a criminal trial began on 16 March 2020. However, the criminal trial went part heard and was adjourned until January 2021 due to the Covid-19 pandemic.

On 12 January 2021, Mr Jacob was convicted of murdering his wife in a sustained attack where he stabbed and strangled her. Mr Jacob's wife was stabbed three times: once to the chest and twice to her back.

On 13 January 2021, Mr Jacob was sentenced to life imprisonment with a specified minimum term of 18 years (508 days spent on remand to be deducted). He was also ordered to pay a victim surcharge of £181 and is currently serving his sentence at HMP Bedford.

Decision and reasons on facts

The charge concerns Ms Jacob's conviction and, having been provided with a copy of the certificate of conviction, the panel found the matter proved in accordance with Rule 31 (2) and (3). These state:

- ‘31.—** (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 she is not the person referred to in the certificate or extract.’*

The panel also had sight of the sentencing remarks from the Judge at Chelmsford Crown Court on 13 January 2021 which supported this finding. The panel was satisfied that the conviction related to Mr Wilfred Mvikeli Jacob, as named on the NMC Register.

Therefore, the panel found charge 1 proved.

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, Mr Jacob’s fitness to practise is currently impaired by reason of his 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.

Representations on impairment

The panel had sight of the NMC’s statement of case, which reads as follows:

- 10 *“It is submitted that Wilfred Jacob’s fitness to practice is impaired by reason of his conviction on both the grounds of public protection and public interest.*
- 11 *Impairment needs to be considered as at today’s date, i.e. whether the nurse’s fitness to practice is currently impaired. The NMC defines impairment as a nurse’s suitability to remain on the register without restriction.*
- 12 *At all relevant times, Wilfred Jacob was subject to the provisions of the Nursing and Midwifery Council’s Code of Conduct (2015) (‘the Code’). The Code sets out the professional standards that nurses must uphold. These are the standards that patients and members of the public expect from health professionals. On the basis of the charge alleged, it is submitted, that the following parts of the Code are engaged in this case:*

Treat people as individuals and uphold their dignity

To achieve this, you must:

- 1.1 *treat people with kindness, respect and compassion*

Uphold the reputation of your profession at all times

- 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 nurse, midwives and nursing associates to aspire to*

- 13 *Additionally, the questions posed by Dame Janet Smith in the Fifth Shipman Report (as endorsed in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)) are instructive. Those questions as are relevant in this case being:*

a. has [the Registrant] 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 [the Registrant] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or

c. has [the Registrant] in the past committed a breach of one of the fundamental tenets of the [nursing] profession and/or is liable to do so in the future; and/or

d. has [the Registrant] in past acted dishonestly and/or is liable to act dishonestly in the future.

14 In this case, limbs a, b and c are engaged.

15 Although the conviction in question was not related to Wilfred Jacob's clinical practice and occurred in a domestic setting, he still acted violently. It is therefore not guaranteed that he wouldn't behave in this violent way towards a member of the public and therefore there are real concerns with the safety of any patients in Wilfred Jacob's care. His conduct involved a serious departure from the provisions of the Code; the charge covers a conviction for murder; conduct that is the very antithesis of kindness and compassion that nurses are expected to show in their profession. Patients will therefore be put at unwarranted risk of harm if his conduct is not addressed. As such, there is a real public protection risk present here.

16 Wilfred Jacobs's conviction has also brought the profession into disrepute. The conviction is very serious. The public has the right to expect high standards of registered professionals.

17 Nurses are expected to uphold the laws of the country in which they practise. The seriousness of the custodial sentence is such that it calls into question the safety of any patient under Wilfred Jacob's care. This therefore has a negative impact on the reputation of the profession and, accordingly, has brought the profession into disrepute. There is a need to take action now on a public interest ground because the public may not feel able to trust nurses and as a result the public might take risks with their own health and wellbeing so as to avoid receiving treatment or care from nurses.

18 The provisions of the Code constitute fundamental tenets of the profession and Wilfred Jacob's actions have clearly breached these in so far as they relate to prioritising people and promoting professionalism and trust.

19 *With regard to future risk it may assist to consider the comments of Silber J in Cohen v General Medical Council [2008] EWHC 581 (Admin) namely, whether the concerns are easily remediable, whether they have in fact been remedied and whether they are highly unlikely to be repeated.*

20 *The aggressive conduct appears to be attitudinal in nature and it is often said that conduct of an attitudinal nature is difficult to remediate. The NMC guidance entitled: Is the concern remediable?(Reference: FTP-13a) is likely to be of assistance:*

“Decision makers should always consider the full circumstances of the case in the round when assessing whether or not the concerns in the case can be remedied. This is true even where the incident itself is the sort of conduct which would normally be considered to be particularly serious.

The first question is whether the concerns can be remedied. That is, are there steps that the nurse or midwife can take to remedy the identified problem in their practice?

It can often be very difficult, if not impossible, to put right the outcome of the clinical failing or behaviour, especially where it has resulted in harm to a patient. However, rather than focusing on whether the outcome can be put right, decision makers should assess the conduct that led to the outcome, and consider whether the conduct itself, and the risks it could pose, can be remedied.

Decision makers need to be aware of our role in maintaining confidence in the professions by declaring and upholding proper standards of professional conduct. Sometimes, the conduct of a particular nurse or midwife can fall so far short of the standards the public expect of professionals caring for them that public confidence in the nursing and midwifery professions could be undermined. In cases like this, and in cases where the behaviour suggests underlying problems with the nurse or midwife’s attitude, it is less likely the nurse or midwife will be able to remedy their conduct.

Examples of conduct which may not be possible to remedy, and where steps such as training courses or supervision at work are unlikely to address the concerns include:

- *Criminal convictions that led to custodial sentences*
- *Violence, neglect or abuse of patients.”*

21 *Wilfred Jacob’s conduct which led to a criminal conviction and custodial sentence is such that it is not possible to remedy and falls so far short of the standards the public expect of professionals caring for them that public confidence in the nursing and midwifery professions could be undermined. It is therefore submitted that there is no evidence that the concerns in this case have been, or can be, remediated. Should such conduct be repeated, there is a risk of putting other members of the public at risk of harm and also the risk of further damage to the reputation of the profession.*

22 *With regard to public protection, it is submitted that any member of the public would be put at risk under Wilfred Jacob’s care. The nurse has not provided any evidence of remediation, and indeed, it is unlikely that this would even be possible given the nature and seriousness of his conduct. Thus, at present, there is a risk that Wilfred Jacob could repeat his conduct which would put further members of the public at risk. Accordingly, this is a matter in which a finding of impairment is required on public protection grounds.*

23 *Also relevant are the comments of Cox J in Grant at paragraph [101]:*

“The Committee should therefore have asked themselves not only whether the Registrant continued to present a risk to members of the public, but whether the need to uphold proper professional standards and public confidence in the regulator and in the profession would be undermined if a finding of impairment of fitness to practice were not made in the circumstances of this case”.

24 *With regard to the public interest, the NMC guidance entitled: Serious concerns based on public confidence or professional standards (Reference: FTP- 3c) is likely to be useful. This explains that sometimes the NMC may need to take regulatory action against a nurse, midwife or nursing associate not because their practice presents a risk of harm to patients, but because of the NMC’s objectives to promote and maintain professional standards and public confidence in nurses, midwives and nursing associates. Thus, the NMC may need to take action in cases where the concerns*

were not directly related to the care the nurse, midwife or nursing associate provided to people, but which call into question the basics of their professionalism. Indeed Wilfred Jacob's case falls into this category and although the concerns relate to his private life, it is submitted that a member of the public appraised of the facts, would be shocked to hear that he would be entitled to practice without restriction. The concerns in this case are of such a serious nature that the need to protect the wider public interest calls for a finding of impairment to uphold standards of the profession, maintain trust and confidence in the profession and the NMC as its regulator. Without a finding of impairment, public confidence in the profession, and the regulator, would be seriously undermined.

25 *Accordingly, this is a matter in which a finding of impairment is required on public protection grounds and also public interests grounds*"[sic].

Decision and reasons on impairment

The panel next went on to decide if, as a result of the conviction, Mr Jacob's fitness to practise as a registered nurse is currently impaired.

The panel accepted the advice of the legal assessor.

Registered 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 registered nurses with their lives and the lives of their loved ones. 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 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] ..., conviction, ... 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*
- d) ...*

The panel finds that limbs a, b and c are engaged in this case.

The panel had no doubt that Mr Jacob's conviction for murder was of the utmost seriousness. It determined that Mr Jacob had shown himself capable of causing significant harm to others as a result of his actions and was in no doubt that there was an ongoing risk of harm to patients in the future should he be permitted to practise as a registered nurse.

The panel was of the view that Mr Jacob had breached fundamental tenets of the nursing profession by murdering his wife. The panel considered that he had undoubtedly brought the nursing profession into disrepute. The panel noted that Mr Jacob initially denied the allegation of murder, and maintained this position during his criminal trial. He had sought to change his story on multiple occasions, and had attempted to minimise the role he

played in the murder by suggesting that his wife had been the aggressor, and that he had acted in self-defence. He had also sought to blame an underlying health condition for his actions, a suggestion which was dismissed during the criminal trial.

The panel noted that Her Honour Judge Lynch in Chelmsford Crown Court stated in her sentencing remarks:

“...And the jury have found you guilty of murdering her and I have to add as part of your defence, you have further sought to besmirch her character by saying that as far as she is concerned, she was the person who produced the knife and she was the assailant. Through the course of this trial, I have gone through a series of defences that were going to be raised as far as you were concerned. At first, it was self-defence coupled with your background with [PRIVATE]. In your defence case statement, it was self-defence coupled with loss of control because of [PRIVATE]. Then when the experts made it perfectly, perfectly clear that it could not have been your [PRIVATE] or indeed that if you had been suffering a seizure, you wouldn't have been capable of the actions in disarming and stabbing your wife and so then the defence moved on to well, in those circumstances, I have no recollection but I adopt what I said in the 999 call and I didn't intend to kill my wife...

What is an aggravating feature here is the use of the knife. Although it is accepted that the knife was not taken to the scene, therefore the starting point remains at 15 years, I look to the injuries that your wife sustained in the attack and we are not here dealing with a single stab wound on the spur of the moment. She died from three stab wounds: one to the chest and two to her back. She also bore signs of attempted strangulation and that was supported not only by the classic petechial haemorrhaging that is found in the eyes where there is strangulation but the fact that the muscles in her throat were damaged and injured demonstrating the force of the choke hold that she had sustained. So there were the fatal wounds; there was attempted strangulation and there were classic defensive injuries which indicates a sustained assault and attack upon your wife...”

Mr Jacob's conviction led to a sentence of life imprisonment, with a minimum term of 18 years.

The panel considered the following standards of *The Code: Professional standards of practice and behaviour for nurses and midwives* (2015) (“the Code”) to be engaged in this case:

“1.1 *Treat people as individuals and uphold their dignity*

To achieve this, you must:

1.1 *treat people with kindness, respect and compassion*

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

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...*”

The panel noted that Mr Jacob did not provide it with any explanation for his behaviour. He did not return the CMF document sent to him by the NMC. The panel had no evidence before it of any insight, remorse, or remediation demonstrated by Mr Jacob, although it recognised that remediation would be extremely difficult given the nature of his conviction.

Therefore, the panel determined that a finding of impairment on public protection grounds is required.

The panel bore in mind that the overarching objectives of the NMC are not only to protect, promote and maintain the health, safety and well-being of the public and patients, but also 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. It determined that a fully informed member of the public would be appalled by Mr Jacob’s conviction, and extremely concerned should a finding of current impairment not be made in the circumstances of this case.

Having regard to all of the above, the panel was also satisfied that Mr Jacob’s fitness to practise as a registered nurse is currently impaired on public interest grounds.

Sanction

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

Representations on sanction

The panel had regard to the NMC's statement of case in considering sanction:

26. The proportionate sanction in this matter is that of a striking-off order.

27. The aggravating features of this case are as follows:

a) The injuries that Wilfred Jacob's wife sustained do not demonstrate a single stab wound carried out on the spur of the moment. Rather, his wife died from three stab wounds: one to the chest and two to her back. His wife also bore signs of attempted strangulation.

b) Initially, Wilfred Jacob argued that his wife, the victim, was the initial aggressor.

28. It is difficult to identify any mitigating features in this matter except, perhaps, Wilfred Jacob admitting the regulatory concern and that he has never had any previous referrals made against him.

29. The panel will be assisted by considering the NMC sanction guidance and in particular the guidance entitled: Considering sanctions for serious cases – cases involving criminal convictions or cautions (Reference: SAN-2) which provides:

“In the criminal courts, one of the purposes of sentencing is to punish people for offending. When making its decision passing sentence, the criminal court will look carefully at the personal circumstances of the offender. In contrast, 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 and midwives, and professional standards.

It's clear that the Committee's purpose isn't to punish the nurse or midwife for a second time. Because of this, the sentence passed by the criminal court isn't necessarily a reliable guide to how seriously the conviction affects the nurse or midwife's fitness to practise. So, the personal circumstances or mitigation of the nurse or midwife is also less likely to be useful or helpful to the Fitness to Practise Committee when making a sanction decision than it would have been to the criminal court.

Cases about criminal offending by nurses and midwives illustrate the principle that the reputation of the professions is more important than the fortunes of any individual member of those professions. Being a registered professional brings many benefits, but this principle is part of the 'price'.

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 or midwife convicted of a serious offence is still serving their sentence (even if on probation), and*
- whether the nurse or midwife should be able to restart their professional practice before they have completed their sentence.”*

30. None of this means that the Fitness to Practise Committee only has choice between suspending a nurse or midwife or removing them from the register in cases about a

criminal conviction or caution. It's vital that, like any other case, the Fitness to Practise Committee should start by considering the sanction with the least impact on the nurse or midwife's practice, and work upwards to the next most serious sanctions if it needs to. In general, the rule in Council for the Regulation of Health Care Professionals v (1) General Dental Council and (2) Fleischmann [2005] EWHC 87 (QB) ('Fleischmann') is that a nurse or midwife should not be permitted to start practising again until they have completed a sentence for a serious offence. This is a general rule that it would be right for the Fitness to Practise Committee to consider, but it does not mean that the Committee has no choice but to remove the nurse or midwife from the register permanently.

31. The allegations are too serious to take no further action. So as to achieve the NMC's overarching objective of public protection, action does need to be taken to secure patient safety, to secure public trust in nurses and to promote and maintain proper professional standards and conduct.

32. A caution order is only appropriate if there is no risk to the public or the patients requiring the nurse's practice to be restricted. There is a risk of repetition present in this case as Wilfred Jacob's behaviour and conduct is such that it is not possible to remediate and therefore a future risk remains present. In those circumstances, a caution order would not be appropriate as it would not be a sufficient sanction to ensure the public are protected. Further, Wilfred Jacob's conduct involved attitudinal concerns and with reference to the NMC's sanctions guidance cannot be said to be at the lower end of the spectrum of impaired fitness to practise. As such, a caution order would also fail to address the public interest in this case.

33. A conditions of practice order would not be appropriate, in that there are no identifiable areas of retraining required or any workable conditions to meet the concerns in this case. Such an order would also not mark the seriousness of the conduct and would not be sufficient to maintain trust and confidence in the profession.

34. A suspension order would restrict Wilfred Jacob's practice for a period of up to 12 months. However, such an order would not mark the seriousness of the conduct in question nor sufficiently protect patients and the public confidence in nurses. Wilfred Jacob's has committed a serious crime for which he has been sentenced to prison for a

minimum term of 18 years. There appears evidence of deep- seated personality and attitudinal problems and his conduct is not such that can be remediated and therefore poses a significant risk to patients and the reputation of the profession. A suspension order is therefore not to be considered a response to the concerns raised.

35. A striking-off order must be the most appropriate order in the circumstances as Wilfred Jacob's actions are fundamentally incompatible with being a registered professional. The courts have supported decisions to strike off healthcare professionals where there has been lack of probity, honesty or trustworthiness, notwithstanding that in other regards there were no concerns around the professionals' clinical skills or any risk of harm to the public (see Parkinson v NMC [2010] EWHC 1898). Similarly, in our case, although there were no concerns around Wilfred Jacob's clinical skills and although he has had no previous history of convictions, he signed up to a caring profession, where care and consideration is at the heart of the profession. Committing a murder flies in the face of everything the profession stands for and undermines the basic principles of caring for human life. Furthermore, and as per their guidance the NMC will be mindful and rely on the case of Bolton v Law Society [1994] 1 WLR 512 which illustrates the principle that the reputation of the professions is more important than the fortunes of any individual member of those professions. Here, and as mentioned above, although there were no concerns around Wilfred Jacob's clinical skills and he has had no previous history of convictions, it can nonetheless be argued that a strike-off is still appropriate because this is the 'price' you pay for being a registered professional and maintaining the reputation of the profession. Wilfred Jacob's actions raise fundamental concerns about his professionalism and public confidence in nurses cannot be maintained if he is not removed from the register. A striking-off order is the only sanction which will be sufficient to protect patients, members of the public, maintain professional standards and address the public interest in this case.

36. Furthermore, and as mentioned above in the NMC guidance, another case in support of a striking-off order is the case of Fleischmann which says that as a general principle where a practitioner has been convicted of a serious criminal offence he should not be permitted to resume his practice until he has satisfactorily completed his sentence. This suggests that Wilfred Jacob should not be able to practice whilst a criminal sentence is

outstanding. As Wilfred Jacob's criminal sentence is for a minimum period of 18 years, Fleischmann suggests a striking-off is indeed required."

Decision and reasons on sanction

Having found Mr Jacob's fitness to practise as a registered nurse 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, specifically, the part relating to cases involving criminal convictions or cautions. It also accepted the advice of the legal assessor. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel considered the following aggravating factors to be present in this case:

- Mr Jacob has a criminal conviction of the utmost seriousness which has resulted in a lengthy prison sentence.
- Mr Jacob had stabbed his wife on three occasions, and there were strangulation marks according to the autopsy.
- Mr Jacob tried to minimise his conduct by initially trying to claim that his wife had been the aggressor during the altercation; and later tried to blame an underlying health condition.

The panel did not consider there to be any significant mitigating factors in this case. It was of the view that the overall weight of the evidence and the seriousness of the case meant that any mitigation was trivial or immaterial.

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 action.

Next, in considering whether a caution order would be appropriate in the circumstances, the panel took account of 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 of the view that Mr Jacob's behaviour was not at the lower end of the spectrum of fitness to practise and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing a conditions of practice order on Mr Jacob's nursing registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the conviction in this case. The panel noted that there were no identifiable deficiencies in respect of Mr Jacob's clinical nursing practice which needed to be addressed. Furthermore, the panel noted that he is currently imprisoned, which would affect the workability of any conditions of practice order imposed on his NMC registration.

In any event, the panel determined that the public interest elements of this case would not be met by the imposition of a conditions of practice order, given Mr Jacob's conviction. The panel determined that a conditions of practice order would not sufficiently protect the public, nor address the public interest considerations in this case. The panel had serious concerns regarding Mr Jacob's attitude and conduct.

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

The panel reminded itself that it had found Mr Jacob's conviction to be of the utmost seriousness. It had considered it to be a significant departure from the standards expected of a registered nurse.

The panel noted that Mr Jacob had stabbed his wife on three times during the incident, and there were also strangulation marks as stated in the autopsy report. The panel

considered Mr Jacob's behaviour to be demonstrative of a deep-seated attitudinal problem. He acted in a way that was completely contrary to all that nursing stands for.

The panel found that Mr Jacob had offered no insight, remorse or remediation in respect of his conduct, despite having a substantial amount of time to reflect on these incidents. The panel considered there to be a real risk of repetition and a significant risk of unwarranted harm to patients in Mr Jacob's care, should he be permitted to practise as a registered nurse at some point in the future.

The panel noted that the maximum period for the imposition of a suspension order is 12 months, and that this would expire prior to the conclusion of Mr Jacob's period of imprisonment. The panel bore in mind the principle laid down in Fleischmann, as referred to in the NMC's statement of case, that it is generally inappropriate for a registrant to return to practice before his sentence has been completed.

The panel therefore determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

The panel was of the view that the findings in this particular case demonstrate that Mr Jacob's actions were serious, and to allow him to remain on the NMC register as a registered nurse would undermine public confidence in the nursing profession and in the NMC as a regulatory body. With this in mind, and taking into account the decision in Fleischmann, the panel concluded that the only course of action available to it was to impose a striking-off order. It considered that any other sanction in this case would be wholly inappropriate given this panel's findings.

Taking account of the above, the panel determined that Mr Jacob's actions were not merely serious departures from the standards expected of a registered nurse and serious breaches of the fundamental professional tenets, of maintaining proper professional values, and of complying with the law. They were fundamentally incompatible with him remaining on the NMC register. In the panel's judgment, to allow someone who had behaved in this way to maintain registration with the NMC would undermine public confidence in the nursing profession and in the NMC as a regulatory body.

In reaching its decision, the panel bore in mind that its decision would have an adverse effect on Mr Jacob both professionally and personally, although it noted that he is not currently practising as a registered nurse due to him serving a sentence of imprisonment. The panel was satisfied that the need to protect the public interest outweighs the impact on Mr Jacob in this regard.

Considering all of these factors, the panel determined that the appropriate and proportionate sanction is a striking-off order. Having regard to the matters it identified, in particular, the effect of Mr Jacob's actions in damaging public confidence in the nursing profession, the panel has concluded that nothing short of this would be sufficient in this case.

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 is in Mr Jacob's own interest until the striking-off order takes effect.

Representations on interim order

The panel had regard to the NMC's statement of case, which stated:

"37 In the event that a sanction resulting in the restriction of Wilfred Jacob's practice is imposed, it is also necessary for the protection of the public and otherwise in the public interest for there to be an interim suspension order of 18 months to cover the appeal period."

Decision and reasons on interim order

The panel 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 it is otherwise in the public interest. In deciding this, the panel had regard to the seriousness of Mr Jacob's conviction and the reasons set out in its decision for the substantive order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case due to its earlier findings. There are no clinical deficiencies in need of retraining, and this type of interim order would not sufficiently address the public protection and public interest concerns identified.

The panel therefore decided to impose an interim suspension order for a period of 18 months. To do otherwise would be incompatible with its earlier findings.

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

That concludes this determination.