

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

**Substantive Meeting
Monday 18 July 2022**

Virtual Meeting

Name of registrant: Mrs Jennifer Ann Pritchard

NMC PIN: 97D0044W

Part(s) of the register: RNMH – Registered Nurse Mental Health

Relevant Location: Rhondda Cynon Taf

Type of case: Conviction

Panel members: John Penhale (Chair, Lay member)
Linda Pascall (Registrant member)
Rachel Barber (Lay member)

Legal Assessor: Paul Hester

Hearings Coordinator: Tyrena Agyemang

Facts proved: Charge 1(a)-(e) in its entirety

Facts not proved: N/A

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 Mrs Pritchard was not in attendance and that the Notice of Meeting had been sent to Mrs Pritchard's registered address by recorded delivery on 31 May 2022.

The panel had regard to the NMC's post book entry which showed that the notice of meeting was sent to Mrs Pritchard. Whilst proof of receipt is not a requirement of proof of service, the panel noted that the notice of meeting was signed for in the printed name of 'PRITCHARD' at 12:52pm on 1 June 2022.

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, date and venue of the meeting.

In the light of all of the information available, the panel was satisfied that Mrs Pritchard 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 26 October 2021 were convicted of the following offences:

- a. Doing acts tending to and intended to pervert the course of public justice
- b. Doing acts tending to and intended to pervert the course of public justice
- c. Doing acts tending to and intended to pervert the course of public justice
- d. Doing acts tending to and intended to pervert the course of public justice
- e. Doing acts tending to and intended to pervert the course of public justice

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

Background

The charges arose whilst Mrs Pritchard was employed as a Registered Disability Assessor by Capita Personal Independence Payment (PIP). Mrs Pritchard had been employed by in this role since 13 February 2017.

Mrs Pritchard was referred to the NMC on 16 January 2019 by South Wales Police in relation to allegations arising outside of her employment. The allegations related to her not telling the truth about her health; the making of false reports; the production of fraudulent documents and damaging her own property. At the time of the referral, Mrs Pritchard was on bail in relation to allegations of perverting the course of justice.

After some delays in the criminal court process due to the Covid-19 pandemic, Mrs Pritchard was convicted and found guilty on 26 October 2021 of 5 counts of perverting the course of justice at Merthyr Tydfil Crown Court. On 4 February 2022, Mrs Pritchard was sentenced to 12 months immediate imprisonment. Mrs Pritchard was released upon sentence due to the time that she had already served in custody on remand.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the documentary evidence in this case including the Certificate of Conviction, the Judge's sentencing remarks together with the submissions made by the NMC in its Statement of Case.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel accepted the advice of the legal assessor.

Charge 1

1. On 26 October 2021 were convicted of the following offences:

- a. Doing acts tending to and intended to pervert the course of public justice
- b. Doing acts tending to and intended to pervert the course of public justice
- c. Doing acts tending to and intended to pervert the course of public justice
- d. Doing acts tending to and intended to pervert the course of public justice
- e. Doing acts tending to and intended to pervert the course of public justice

This charge is found proved in its entirety.

The panel noted Rule 31(2) and (3) of the Rules which 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 carefully considered the Certificate of Conviction which certifies the five convictions for perverting the course of justice. The Certificate states that Mrs Pritchard was convicted at Merthyr Tydfil Crown Court on 26 October 2021 and was sentenced on 4 February 2022 to 12 months imprisonment. The Certificate is electronically signed by a competent officer of the Court and is dated 9 February 2022.

Having considered the Certificate of Conviction the panel decided that charge 1 is proved in its entirety and in accordance with Rule 31(2) of the Rules.

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, Mrs Pritchard's fitness to practise is currently impaired by reason of her convictions. The NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

Representations on impairment

The NMC made submissions in a Statement of Case which the panel carefully considered.

The NMC submitted that by being convicted of five counts of perverting the course of justice Mrs Pritchard's conduct has fallen seriously short of the standards expected of a registered nurse.

The NMC in its representations took the panel to *The Code: Professional standards of practice and behaviour for nurses and midwives (2015)* ('the Code') and submitted that Mrs Pritchard's conduct breached various paragraphs within the Code.

The NMC submitted that the convictions were serious and, in this respect, relied upon the Judge's sentencing remarks upon 4 February 2022. The NMC submitted that as a consequence:

Mrs Pritchard's 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. 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 are such that it calls into question her professionalism. This therefore has a negative impact on the reputation of the profession and, accordingly, has brought the profession into disrepute.

The NMC submitted in its Statement of Case that:

We consider that Mrs Pritchard has not displayed insight as during the trial she did not accept the verdict [PRIVATE]. Mrs Pritchard has also failed to engage with the NMC proceeding since July 2019, nor provided a reflective piece in relation to this matter. We therefore consider that there is a high likelihood of repetition. Mrs Pritchard furthermore informed the NMC on 9 July 2019 that she has not worked in any capacity since March 2019. But for the present proceedings her registration would have lapsed on 31 March 2021.

We consider there is a continuing risk to the public's trust and confidence in the profession due to the severity of the concerns. The concerns are more difficult to put right.

Whilst the offence took place outside of Mrs Pritchard's professional duties, the offence has resulted in a 12 months custodial sentence. Sometimes we may need to take action against a nurse or midwife not because their conduct presents a risk of harm to patients, but because of our objectives to promote and maintain professional standards and public confidence in nurses and midwives. Our guidance states that where we receive concerns that don't relate to clinical practice, for example criminal offending that occurs in a nurse or midwife's private life, we may need to take action to promote public confidence in nurses in midwives.

For the reasons already set out above, the NMC submits that a finding of current impairment should be made on public interest grounds to uphold standards in the nursing profession and maintain public confidence in the profession.

Mrs Pritchard has not responded to the Notice of Meeting and has not provided any information to the NMC in furtherance of this meeting.

Decision and reasons on impairment

The panel next went on to decide if as a result of the convictions, whether Mrs Pritchard'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. The panel was of the view that Mrs Pritchard's actions did fall significantly short of the standards expected of a registered nurse, and that her actions amounted to breaches of the Code as follows:

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

20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people

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

The panel acknowledged that this is a conviction case and that misconduct does not need to be established. However, the panel appreciated that a breach or breaches of the Code do not automatically result in a finding of misconduct. Nevertheless, the panel was of the view that Mrs Pritchard's behaviour and conduct did fall seriously below the standards expected of a registered nurse.

Nurses occupy a position of privilege and trust in society and are expected at all times to be uphold the standards and values set out in the Code and to be law abiding. To justify that position of privilege, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "Shipman 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) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

In considering whether Mrs Pritchard's fitness to practise is currently impaired, the panel noted that the concerns in her case do not relate to Mrs Pritchard's clinical practice, but to matters outside of her work as a registered nurse. The panel noted that the criminal convictions relate to perverting the course of justice which involves dishonesty. The panel

noted that the convictions relate to a course of criminal action over a period of time which attracted consecutive sentences in the Crown Court.

The panel firstly considered the Shipman Test and looked to the past. The panel decided that as a result of the convictions limbs b, c and d are engaged.

The panel then looked to the future and applied the Shipman Test. In this regard, the panel gave careful consideration as to whether the concerns behind the convictions are easily remediable; whether they have in fact been remedied; and whether they are highly likely to be repeated.

The panel noted that Mrs Pritchard has not engaged with the NMC since 9 July 2020. There is no information provided by Mrs Pritchard for this panel to consider when deciding upon current impairment. In particular, there is nothing from Mrs Pritchard expressing remorse for her actions or addressing insight. There is nothing showing that she now has the ability to step back from the situation and consider matters objectively. There is nothing recognising what went wrong or any acceptance of her role or responsibilities at the material time. There is nothing showing an understanding as to how Mrs Pritchard would act differently in the future to avoid a reoccurrence.

Matters of dishonesty are always difficult to remediate, but can with the right evidence be remediated. There is nothing before this panel to evidence any remediation. Accordingly, the panel decided that there is a high likelihood of repetition of similar conduct. In this regard, the panel also noted the Judge's sentencing remarks, in relation to Mrs Pritchard's health. [PRIVATE].

In light of the above, the panel decided that limbs b, c and d of the Shipman Test are engaged when looking to the future.

The panel in finding current impairment noted that the convictions do not relate to Mrs Pritchard's clinical practice or involve any unwarranted risk of harm to patients or the public. Accordingly, the panel did not decide that there is a need for a finding of impairment on the grounds of public protection.

The panel bore in mind that whilst the overarching objective of the NMC is to protect, promote and maintain the health safety and well-being of the public and patients there is a requirement to uphold and protect the wider public interest. The wider public interest 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 concluded that public confidence in the nursing profession would, in the circumstances of Mrs Pritchard's criminal convictions, be manifestly undermined if a finding of current impairment were not made. The panel was satisfied that a fully informed and reasonable member of the public being aware of the criminal convictions in this case would lose confidence in the nursing profession and the NMC as regulator, should a finding of impairment not be made. The panel determined that the threshold of finding Mrs Pritchard impaired on the grounds of public interest has been met.

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

Sanction

Representations on sanction

The panel noted that in the Notice of Meeting, dated 31 May 2022, the NMC had advised Mrs Pritchard that it would seek the imposition of a striking-off order if it found Mrs Pritchard's fitness to practise currently impaired.

The NMC submitted in its Statement of Case that a striking-off order was proportionate given the serious nature of the criminal convictions. The NMC submitted on sanction that:

With regard to our sanctions guidance the following aspects have led us to this conclusion:

- a. Taking the least serious sanctions first, it is submitted that taking no action and a caution order would not be appropriate in this case. The NMC*

Sanctions Guidance states that taking no action will be rare at the sanction stage and this would not be suitable where the nurse presents a continuing risk to patients. In this case, the seriousness of the conviction means that taking no action would not be appropriate. A caution order would also not be appropriate as this would not protect the public nor mark the seriousness and would be insufficient to maintain high standards within the profession or the trust the public place in the profession.

- b. A conditions of practice order would not be appropriate in this case as there are no conditions that can be formulated to address the criminal conviction.*
- c. A suspension order is not appropriate in this case. NMC guidance San-3d provides a checklist to help decide whether a suspension order is appropriate or not. This is a case of 5 criminal convictions, demonstrating repeated dishonesty. Mrs Pritchard has demonstrated an attitudinal issue in her conduct and a lack of insight. The NMC would submit that a suspension order simply does not satisfy the public interest concerns in this case.*
- d. A striking off order is the only order that is appropriate in this case. NMC guidance San-3e states:*

“Before imposing this sanction, key considerations the panel will take into account include:

- “Do the regulatory concerns about the nurse, midwife or nursing associate raise fundamental questions about their professionalism?”*
- Can public confidence in nurses, midwives and nursing associates be maintained if the nurse, midwife or nursing associate 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?”*

The convictions that occurred raises fundamental questions about Mrs Pritchard's professionalism and is incompatible with ongoing registration. Public confidence in the NMC can only be maintained if Mrs Pritchard is permanently removed from the register. It is the only sanction available which is sufficient to protect patients, members of the public and maintain professional standards. Mrs Pritchard has fallen seriously short of the standard expected of a nurse.

Decision and reasons on sanction

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

Having found Mrs Pritchard'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:

- Serious criminal offences leading to an immediate custodial sentence.
- Mrs Pritchard has not engaged in the NMC process since 9 July 2020
- No evidence of remorse or insight whatsoever

The panel took into account whether there are any mitigating features and decided that there are none to take into account.

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 Mrs Pritchard'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 Mrs Pritchard's misconduct 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 placing conditions of practice on Mrs Pritchard's registration would be a sufficient and appropriate response. The panel is of the view that there are no appropriate, workable or relevant conditions that could be formulated, given the nature of the criminality in this case. The identified convictions in this case are not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Mrs Pritchard's registration would not adequately address the seriousness of this case and 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;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel noted that this was not a single instance but relates to a five separate counts of perverting the course of justice over a period of time. The panel noted that some of the criminal counts attracted consecutive sentences. The panel noted that Mrs Pritchard was found guilty by a jury and appeared not to accept the verdict. There has been no evidence of repetition of similar behaviour since her conviction, but Mrs Pritchard has not shown any insight into her behaviour and is therefore at a similar risk of repeating her conduct.

The conduct, as highlighted by the facts found proved, 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 Mrs Pritchard's actions is fundamentally incompatible with Mrs Pritchard remaining on the register.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction. In coming to this conclusion, the panel decided that the nature and extent of the criminal convictions are such that a suspension order would not adequately address the wider public interest.

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?*

The regulatory concerns, whilst outside of Mrs Pritchard's clinical practise, do, in the panel's professional view, raise fundamental questions about her professionalism. In particular, the fact of being convicted of serious criminal offences goes, in the panel's view, to the core of being a registered professional.

In this regard, the panel noted its decision that Mrs Pritchard by her dishonesty has brought the nursing profession into disrepute and breached the fundamental tenets of nursing.

The panel was of the view that Mrs Pritchard's actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in Mrs Pritchard's case demonstrate that her actions were serious and to allow her to continue practising would seriously undermine public confidence in the nursing profession and in the NMC as regulator.

Balancing all of these matters, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. 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 standards of behaviour required of a registered nurse.

This will be confirmed to Mrs Pritchard in writing.

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 Pritchard's own interest until the striking-off sanction takes effect.

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

Representations on interim order

The panel took account of the representations made by the NMC and its submissions which stated:

If a finding is made that Mrs Pritchard's fitness to practise is impaired on a public interest basis and that her conduct was fundamentally incompatible with continued registration we consider an interim order of suspension should be imposed on the basis that it is otherwise in the public interest. Such an interim suspension order would protect the reputation of the profession and maintain public confidence during the appeal period, the period of 28 days before the substantive order comes into effect. The interim order should be made for a period of 18 months because, if there is an appeal, those proceedings may be protracted. If there is no appeal, the interim order will fall away automatically at the end of the appeal period and be replaced with the substantive sanction.

Decision and reasons on interim order

The panel is satisfied that an interim 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 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 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 28-day appeal period.

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

That concludes this determination.