

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

**Substantive Meeting
Wednesday 6 – Thursday 7 September 2023**

Virtual Meeting

Name of Registrant: Peter John Orsman

NMC PIN 89A2274E

Part(s) of the register: Nursing – Sub Part 1
Adult Nursing – Level 1 – December 1997

Relevant Location: Kent

Type of case: Misconduct

Panel members: Alan Greenwood (Chair, Lay member)
Allwin Mercer (Registrant member)
Linda Redford (Lay member)

Legal Assessor: Breige Gilmore

Hearings Coordinator: Elena Nicolaou (6 September 2023)
Roshani Wanigasinghe (7 September 2023)

Facts proved: All charges

Facts not proved: None

Fitness to practise: Impaired

Sanction: Striking-off order

Interim order: Interim suspension order- 18 months

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that that the Notice of Meeting had been sent to Mr Orsman's registered email address by secure email on 31 July 2023.

The panel accepted the advice of the legal assessor.

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

In the light of all of the information available, the panel was satisfied that Mr Orsman 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 an unknown date on or before 22 August 2021, created a document which purported to show an email from the police dated 16 August 2021. **[PROVED]**
- 2) On 22 August 2021, submitted the document as specified in charge 1 for the purpose of being used in a disciplinary hearing. **[PROVED]**
- 3) On 7 September 2021, when told at a disciplinary hearing that the police denied sending the email mentioned in charge 1, you asserted that the police were lying. **[PROVED]**
- 4) Your actions at charge 1 and/or 2, and/or 3 were dishonest in that you:
 - a) Created a document purportedly showing an email from the police when you knew that the email dated 16 August 2021 was not genuine; **[PROVED]**

- b) Submitted the documentation for the consideration of a disciplinary panel when you knew that the documentation was not genuine; **[PROVED]**
- c) Intended to mislead the disciplinary panel into believing that the documentation was genuine; **[PROVED]**
- d) Falsely asserted that the police were lying when you knew that the documentation was not genuine. **[PROVED]**

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

Background

Mr Orsman self-referred to the NMC on 21 July 2021, in respect of a police caution he received for being in possession of Class A Drugs, found during a search of his home address. At the time of the police caution, Mr Orsman was employed by East Kent Hospitals University NHS Foundation Trust ('the Trust'), as the Deputy Head of Nursing.

Mr Orsman was suspended from his role at the Trust on 13 July 2021, while the Trust investigated the circumstances around Mr Orsman's arrest and the police caution.

It is alleged that on an unknown date on or before 22 August 2021, Mr Orsman created a document which purported to show an email from the police dated 16 August 2021, and on 22 August 2021, he allegedly submitted the document as specified above for the purpose of being used in a disciplinary hearing.

It is alleged that on 7 September 2021, when told at a disciplinary hearing that the police denied sending the email mentioned above, Mr Orsman asserted that the police were lying.

It is alleged that Mr Orsman was dishonest in that he created a document purportedly showing an email from the police when he knew that the email dated 16 August 2021 was not genuine; that he submitted the documentation for the consideration of a disciplinary panel when he knew that the documentation was not genuine; that he intended to mislead the disciplinary panel into believing that the documentation was genuine, and; that he

falsely asserted that the police were lying when he knew that the documentation was not genuine.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the documentary evidence in this case together with the representations made by the NMC and from Mr Orsman.

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 had regard to the written statements of the following witness on behalf of the NMC:

- Witness 1: Chief Nursing Officer; the Trust

The panel also had regard to documentary evidence provided by Mr Orsman.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the documentary evidence provided by both the NMC and Mr Orsman.

The panel then considered each of the disputed charges and made the following findings.

Charge 1

- 1) *On an unknown date on or before 22 August 2021, created a document which purported to show an email from the police dated 16 August 2021.*

This charge is found proved.

In reaching this decision, the panel took into account the documentary evidence before it.

The panel considered that Mr Orsman has made an admission to this charge within his reflective response, dated 5 April 2023:

'I wish I had not compromised my integrity by providing a false email statement, despite being fearful of being dismissed as retaliation for my grievance regarding bullying and patient safety I should of been more assertive and queried the validity of a hearing whereby I could never have been guilty of the accusations put before me. [sic]

The panel also considered Witness 1's statement, which said:

'The night before the hearing, Peter submitted a statement, saying he wanted us to consider further evidence... The further evidence provided included a series of emails between Peter and [police constable]. The series of emails wasn't received in a trail format, rather it was cut and pasted into a word document... I was also suspicious of the emails because they were copied and pasted into a word document... I spoke to [police constable] by phone. When I read the email dated 16 August 2021 (which was supposedly sent by him) to him, he said 'I would never write that in an email'.'

In light of the above, the panel finds charge 1 proved.

Charge 2

- 2) *On 22 August 2021, submitted the document as specified in charge 1 for the purpose of being used in a disciplinary hearing.*

This charge is found proved.

In reaching this decision, the panel took into account the documentary evidence before it.

The panel considered that Mr Orsman has made an admission to this charge within his reflective response, dated 5 April 2023:

'...so terrified that they would dismiss me I did falsify an email confirming the conversation that the burglary detective and I had. However the detective later provided the trust with a different version of events.'

The panel also considered Witness 1's statement, which said:

'The night before the hearing, Peter submitted a statement, saying he wanted us to consider further evidence... The further evidence provided included a series of emails between Peter and [police constable] ... On the first day of the disciplinary hearing (on 23 August 2021), I adjourned the hearing advising the panel that I needed to determine whether the emails provided by Peter were legitimate. I could see from Peter's body language that he was nervous about this. I asked Peter to provide the original email trail (during the adjournment) which was never received.'

In light of the above, the panel finds charge 2 proved.

Charge 3

- 3) *On 7 September 2021, when told at a disciplinary hearing that the police denied sending the email mentioned in charge 1, you asserted that the police were lying.*

This charge is found proved.

In reaching this decision, the panel took into account the documentary evidence before it.

The panel noted within the NMC's bundle, and in their written submissions, that it stated Mr Orsman made admissions to all charges apart from charge 3.

The panel considered the summary of notes from the disciplinary hearing that took place, dated 7 September 2021, namely Mr Orsman's comments:

'Said that the Police were unorganised and reflected that they had mislaid the email'.

And

'Confirmed that he had made up the email of the 16th August. He stated that he had only made up this particular email and the content of that email was based on verbal conversations he had had with the Police. [Mr Orsman] suggested that the Police had been reluctant to put these verbal conversation in writing to him when he asked because they had already said too much and the they had disowned the email of the 16th in order to cover themselves...'

The panel also considered Witness 1's statement:

'Peter claimed that the police were lying, I responded 'I don't think that's the case'.

The panel considered that it does not have a verbatim transcript of the disciplinary hearing. However, when considering the evidence above, it is clear that Mr Orsman more likely than not implied and suggested that the police were lying during the disciplinary hearing.

In light of the above, the panel finds charge 3 proved.

Charge 4

- 4) *Your actions at charge 1 and/or 2, and/or 3 were dishonest in that you:*
 - a) *Created a document purportedly showing an email from the police when you knew that the email dated 16 August 2021 was not genuine;*
 - b) *Submitted the documentation for the consideration of a disciplinary panel when you knew that the documentation was not genuine;*
 - c) *Intended to mislead the disciplinary panel into believing that the documentation was genuine;*
 - d) *Falsely asserted that the police were lying when you knew that the documentation was not genuine.*

This charge is found proved in its entirety.

In reaching this decision, the panel took into account the documentary evidence.

The panel accepted the advice of the legal assessor. In particular the attention of the panel was drawn to the authority of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67.

Charge 4a:

The panel considered that Mr Orsman made an admission to charge 1 within his reflective response to the NMC, albeit this was not formally through a Case Management Form (CMF).

The panel considered that Mr Orsman knew that the email dated 16 August 2021 was not genuine because he created it, and therefore finds charge 4a proved.

Charge 4b:

The panel considered that Mr Orsman made an admission to this within his reflective response to the NMC, albeit this was not formally through a CMF.

The panel considered that Mr Orsman knew the documentation was not genuine when he submitted it. The panel therefore finds charge 4b proved.

Charge 4c:

The panel considered that Mr Orsman made an admission to this within his reflective response to the NMC, albeit this was not formally through a CMF.

The panel considered that Mr Orsman intended to mislead the disciplinary panel into believing that the documentation was genuine. The panel therefore finds charge 4c proved.

Charge 4d:

The panel considered that Mr Orsman did not make an admission to this incident. However, when taking into account the evidence already highlighted and the panel's previous findings, the panel considered that Mr Orsman knew the documentation was not genuine when he falsely asserted that police were lying. Accordingly, the panel found charge 4d proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mr Orsman's fitness to practise is currently impaired. 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.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Mr Orsman's fitness to practise is currently impaired as a result of that misconduct.

Representations on misconduct and impairment

In coming to its decision, the panel had regard to the case of *Roylance v GMC (No. 2)* [2000] 1 AC 311 which defines misconduct as a 'word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.'

The NMC, in its written submissions, invited the panel to take the view that the facts found proved amounted to misconduct. The NMC identified the specific, relevant standards within 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' ("the Code") which Mr Orsman had breached.

The NMC had submitted that Mr Orsman's conduct as detailed in the charges above fell far short of what would have been expected of a registered professional. His conduct would be seen as deplorable by fellow practitioners and would damage the trust that the public places in the profession.

In relation to impairment, the NMC requires the panel to bear in mind its overarching objective to protect the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. The panel has referred to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

The NMC invited the panel to find Mr Orsman's fitness to practise impaired on the grounds of public interest alone.

The NMC submitted that Mr Orsman has clearly brought the profession into disrepute by the very nature of the conduct displayed. Nurses occupy a position of trust and must act and promote integrity at all times. Professionalism and integrity are fundamental tenets of the profession that have been breached in this case. The public has the right to expect high standards from registered professionals. The seriousness of Mr Orsman's conduct is such that it calls into question his professionalism in the workplace. This therefore has a negative impact on the reputation of the profession and, accordingly, has brought the profession into disrepute. The NMC's position is that the conduct displayed by Mr Orsman is fundamentally incompatible with being a registered professional because the qualities required of Mr Orsman have been significantly undermined and compromised.

The NMC submitted that Mr Orsman has demonstrated limited insight and therefore there is a risk of repetition of the concerns found proved.

The NMC therefore invited the panel to find Mr Orsman's practice impaired on public interest grounds as it is essential to maintain public confidence in the profession.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council (No 2)* [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin).

Decision and reasons on misconduct

The panel was of the view that Mr Orsman's actions did fall significantly short of the standards expected of a registered nurse, and that his actions amounted to a breach of the Code. Specifically:

“20 Uphold the reputation of your profession at all times

To achieve this, you must:

20.1 *keep to and uphold the standards and values set out in the Code*

20.2 *act with honesty and integrity at all times,*

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

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that that Mr Orsman's actions did fall seriously short of the standards expected of a registered nurse and amounted to misconduct.

The panel determined that Mr Orsman's actions and subsequent behaviour was both inappropriate and unacceptable. It found that by intentionally creating an email that he purported to be from Kent Police was a sophisticated act of dishonesty. The panel has borne in mind that when questioned about this, Mr Orsman continued to maintain these false accounts both verbally and in written statements which he provided to the Trust. It further noted that Mr Orsman even suggested that the Police were lying and

only admitted to lying once he knew the Police had confirmed the emails which he had submitted were not genuine. The panel found the deliberate fabrication of evidence with the aim of undermining the professional standing of the Kent Police to be completely unacceptable. The panel also reminded itself that Mr Orsman is a very senior nurse, in a position of authority, and should have been a role model to other nurses in the profession.

Given all of the above, the panel found that Mr Orsman's actions, individually and cumulatively in this case, did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mr Orsman's fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be 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 "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*
- d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel finds that limbs b, c and d are engaged in this case. It determined that Mr Orsman's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious. The panel bore in mind that Mr Orsman's conduct, and the dishonest actions took place outside of his clinical duties. The panel was therefore satisfied that, although Mr Orsman's misconduct and associated dishonesty were completely unacceptable, they were not made directly to the patients and therefore does not engage patient harm.

Regarding insight, the panel considered that Mr Orsman has not demonstrated sufficient understanding of why what he did was wrong and how this impacted negatively on the reputation of the nursing profession. The panel found Mr Orsman's reflection piece dated 5 April 2023 to be lacking in detail and substance.

The panel noted that the nature of the charges and the proved associated dishonesty are such that remediation is not straightforward. It bore in mind that the dishonesty was premeditated, sophisticated and sustained throughout the local disciplinary hearing. Further, the panel bore in mind that Mr Orsman continued to maintain this false account both verbally and in written statements provided to the Trust and even suggested that the Police were lying. The panel could not be certain that there are no underlying attitudinal issues.

The panel took account of Mr Orsman's dishonest actions and considered whether they constituted a single instance of dishonesty designed to protect his job. The panel concluded that this was a course of conduct which could, in no sense, be characterised as just an isolated incident. The panel considered his dishonesty to be very serious. The fabrication of evidence was premeditated, and he later continued his deception over a period of time.

The panel was of the view, therefore, that there is a significant risk of repetition based on the fact that Mr Orsman has not been able to show to the panel sufficient insight into his conduct and also show any practical steps taken to address the concerns identified. The panel was therefore of the view that there is a real risk of repetition of the misconduct identified in Mr Orsman's case.

Given there was no patient harm caused and given Mr Orsman's actions did not engage any clinical concerns, the panel determined that no public protection concerns arise in this case.

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 had regard to the serious nature of Mr Orsman's conduct and determined that public confidence in the profession would be seriously undermined if a finding of current

impairment was not made. For this reason, the panel determined that a finding of current impairment on public interest grounds was required.

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

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 Orsman's name off the NMC register. The effect of this order is that the NMC register will show that Mr Orsman 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. The panel accepted the advice of the legal assessor.

The panel took into account the NMC's submissions with regards to sanction.

Decision and reasons on sanction

Having found Mr Orsman'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 decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Deliberate premeditated and sophisticated dishonesty which was sustained over a period of time;
- Very limited insight and reflection regarding his conduct and the impact on others;
- Mr Orsman's limited remorse for the consequences of his actions; and

- He was a senior and experienced nurse in a position of trust.

The panel also took into account the following mitigating features:

- Mr Orsman's actions did not put patients at direct risk of harm; and
- Mr Orsman accepted the majority of the charges in his reflective piece, albeit, to a limited extent.

The panel first considered whether to take no action but concluded that this would be wholly 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 Orsman'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 Orsman'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 was of the view that there are no practical or workable conditions that could be formulated, given the seriousness and the nature of the concerns in this case, which included dishonesty. The panel noted that the concerns in this case relate solely to Mr Orsman's conduct and behaviour; there were no identifiable areas of clinical nursing practice which needed to be addressed.

The panel also determined that the public interest elements of this case would not be met by the imposition of a conditions of practice order, given his dishonesty. The panel had

serious concerns regarding Mr Orsman's dishonesty and behaviour which was found to be deliberate, premeditated and sophisticated.

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

The panel reminded itself that it had found Mr Orsman's dishonesty and the underlying behaviour behind them to be serious. It had considered it to be a significant departure from the standards expected of a registered nurse. The panel considered that Mr Orsman's premeditated and calculated deception may well be indicative of a deep-seated attitudinal issue. He had acted in a way that was completely contrary to all that nursing stands for.

The panel found Mr Orsman to have offered very limited insight and remediation in respect of his conduct. The panel considered that, given the nature of his conduct, his limited insight and remorse and the way in which he sought to blame others for his conduct, there was a real risk of repetition.

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

The panel concluded that the findings in this particular case demonstrate that Mr Orsman'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, the panel concluded that the only appropriate and proportionate sanction available to it was to impose a striking-off order. It considered that any other sanction in this case would be inadequate given this panel's findings.

Taking into account all of the above, the panel determined that Mr Orsman'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. They were fundamentally incompatible with Mr Orsman 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. It would be insufficient to uphold and declare proper standards of professional conduct.

In reaching its decision, the panel bore in mind that its decision would have an adverse effect on Mr Orsman both professionally and personally. Nonetheless, the panel was satisfied that the need to protect the public interest outweighs Mr Orsman's interest 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 Orsman'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 Orsman's own interest until the striking-off order takes effect. The panel heard and accepted the advice of the legal assessor.

The panel took account of the submissions made by the NMC with regards to an interim order.

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary on the grounds of public interest. The panel had regard to the seriousness of Mr Orsman's concerns, 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. Owing to the seriousness of the case, along with the risk of repetition identified, it determined that Mr Orsman's actions were sufficiently serious to justify the imposition of an interim suspension order until the striking-off order takes effect. In the panel's judgement, public confidence in the regulatory process would be undermined if he was permitted to practise as a registered nurse prior to the substantive order coming into effect.

The panel decided to impose an interim suspension order in the circumstances of this case. To conclude otherwise would be incompatible with its earlier findings.

The panel therefore imposed an interim suspension order for a period of 18 months.

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

That concludes this determination.