

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

**Substantive Order Review Meeting  
Tuesday, 9 April 2024**

Virtual Meeting

**Name of Registrant:** Jennifer Barbara Mcleish

**NMC PIN:** 10I2533S

**Part(s) of the register:** Adult Nursing (September 2015)

**Relevant Location:** Scotland

**Type of case:** Misconduct

**Panel members:** Dave Lancaster (Chair, lay member)  
Donna Green (Registrant member)  
Paula Charlesworth (Lay member)

**Legal Assessor:** Tim Bradbury

**Hearings Coordinator:** Samara Baboolal

**Order being reviewed:** Suspension order (6 months)

**Fitness to practise:** Impaired

**Outcome:** **Striking-Off order to come into effect on 24 May 2024  
in accordance with Article 30 (1)**

## **Decision and reasons on service of Notice of Meeting**

The panel noted at the start of this meeting that the Notice of Meeting had been sent to Ms Mcleish's registered email address by secure email on 4 March.

The panel took into account that the Notice of Meeting provided details of the review that the review meeting would be held no sooner than 8 April 2024 and inviting Ms Mcleish to provide any written evidence seven days before this date.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Ms Mcleish 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).

## **Decision and reasons on review of the current order**

The panel decided to impose a striking-off order. This order will come into effect at the end of 24 May 2024 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (the Order).

This is the third review of a substantive suspension order originally imposed for a period of 6 months by a Fitness to Practise Committee panel on 27 October 2022. This was reviewed on 4 April 2023 where the order was extended for 6 months, and on 9 October 2023 where the order was extended for 6 months.

The current order is due to expire at the end of 24 May 2024.

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

The charges found proved which resulted in the imposition of the substantive order were as follows:

*'That you, a registered nurse:*

*1) On 27 September 2019;*

*a) Failed to advise Patient A of the risks associated with hyaluronic injections prior to their administration.*

*[PROVED]*

*b) Failed to obtain informed or any consent from Patient A prior to the administration of hyaluronic injections.*

*[PROVED]*

*2) On and/or after 28 September 2019 failed to provide any follow-up care to Patient A when you were informed Patient A had sustained a possible vascular occlusion. [PROVED]*

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

The first reviewing panel determined the following with regard to impairment:

*'This panel noted that the original panel found that there has been no evidence provided by Ms Mcleish that demonstrates her insight, reflection or remorse into her actions and the impact it had on Patient A, Colleagues and the wider profession, as well as her understanding of the significance of her actions.*

*This panel has found that there continues to be no evidence of Miss Mcleish having insight or remorse into the charges found proved against her. She has not engaged with the NMC since November 2022.*

*In its consideration of whether Miss Mcleish has strengthened her practice, the panel noted she has not provided any evidence of taking steps to improve her practice.*

*Miss Mcleish has not shown any insight or remorse about the impact of her actions on her clients. The panel found therefore that Miss Mcleish was*

*liable to repeat the matters found proved in the charges and concluded that a finding of current impairment is required in this case to protect the public.*

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

*For these reasons, the panel finds that Miss Mcleish's fitness to practise remains impaired.'*

The first reviewing panel determined the following with regard to sanction:

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

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

*It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Miss Mcleish'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 Miss Mcleish's misconduct was not at the lower end of the spectrum and

*that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.*

*The panel next considered whether a conditions of practice on Miss Mcleish registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing, Miss Mcleish's ongoing lack of engagement and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Miss Mcleish's misconduct.*

*The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would continue to protect the public whilst allowing Miss Mcleish further time to start to reflect and possibly gain insight into her previous failings. It considered that Miss Mcleish needs to gain a full understanding of how the misconduct of one nurse can impact upon the reputation of the nursing profession as a whole and not just the individual nurse or any organisation or client she may work for. The panel concluded that a further suspension order at this stage would be the appropriate and proportionate response and would afford Miss Mcleish a further period of time to engage with the NMC and show evidence of insight and steps taken to strengthen her practice.*

*The panel gave serious consideration to a strike-off order. The panel considered Miss Mcleish's lack of regard for her regulator and apparent misunderstanding of the purpose of the regulatory process. The panel also noted her lack of insight or remorse. Miss Mcleish has not formally expressed her intention in regard to any future nursing career. Taking everything into account, the panel found a strike-off order disproportionate in the current circumstances of this case.*

*The panel determined therefore that a suspension order remains the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of 6 months which would provide Miss Mcleish with an opportunity to engage with the NMC and make a clear statement to a future panel regarding her nursing career. It considered this to be the most appropriate and proportionate sanction available.'*

## **Decision and reasons on current impairment**

The panel has considered carefully whether Ms McLeish's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle.

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

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

The panel considered whether Ms McLeish's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Ms McLeish had insufficient insight. At this meeting, the panel determined that there was no evidence that there has been any change in the position since the last review and, in particular, there has been no engagement with the NMC, Ms Mcleish has not developed any further insight or strengthened her practice since that time.

The panel determined that the issues in Ms Mcleish's matter, which pertain to patient care, are very serious and there is a risk of harm to patients in her care.

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

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

### **Decision and reasons on sanction**

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

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

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

The panel next considered whether a conditions of practice on Ms Mcleish's registration would be a sufficient and appropriate response. The panel is mindful that any conditions

imposed must be proportionate, measurable and workable. The panel determined that, whereas it might be possible to formulate conditions of practice, any conditions of practice order that might be imposed would be unworkable as Ms Mcleish has not engaged with the NMC in any way, neither has she demonstrated any willingness or inclination to comply with a conditions of practice order if made.

The panel next considered imposing a further suspension order. The panel noted that Ms Mcleish has not shown remorse for her misconduct. Further, Ms Mcleish has not demonstrated any insight into her previous failings. The panel was of the view that considerable evidence would be required to show that Ms Mcleish no longer posed a risk to the public. It noted that Ms Mcleish has taken no steps to engage with the process or to provide any reflections and demonstration of strengthening of practice. The panel determined that a further period of suspension would not serve any useful purpose in all of the circumstances. Furthermore, it considered that Ms Mcleish had been given multiple opportunities to engage with this process and was warned in the previous panel's determination that continued failure to engage meant *'that a future reviewing panel may consider the imposition of a striking-off order if Ms Mcleish's position remains the same when this further period of suspension is reviewed'*.

The panel determined that it was necessary to take action to prevent Ms Mcleish from practising in the future and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 24 May 2024 in accordance with Article 30(1).

This decision will be confirmed to Ms Mcleish in writing.

That concludes this determination.